

**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY  
CONSERVATION PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

Management has reviewed the Request for Inspection of the Mexico Indigenous and Community Biodiversity Project (COINBIO) (GEF Trust Fund Grant No. TF24372), received by the Inspection Panel on January 26, 2004 and registered on January 30, 2004 (RQ04/1). Management has prepared the following response.



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- Annex 3. Project Effectiveness Letter, dated June 22, 2001
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- Annex 5. Letter from NAFIN to the State Coordinator for Oaxaca, dated July 30, 2003
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- Annex 8. Letter from the World Bank to NAFIN, dated July 29, 2003
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**Map**

Map 1. IBRD No. 32951

## ABBREVIATIONS AND ACRONYMS

BP	Bank Procedure
COINBIO	<i>Proyecto de Conservación de la Biodiversidad en Comunidades Indígenas</i> (Indigenous and Community Biodiversity Conservation Project)
CONAFOR	<i>Comisión Nacional Forestal</i> (National Forestry Commission)
GEF	Global Environment Facility
IBRD	International Bank for Reconstruction and Development
IPN	Inspection Panel
NAFIN	<i>Nacional Financiera</i> (National Financial Agency)
NGO	Non-Government Organization
OD	Operational Directive
OP	Operational Policy
PAD	Project Appraisal Document
POA	<i>Programa Operativo Anual</i> (Annual Operating Plan)
PROCYMAF	<i>Proyecto de Conservación y Manejo Sustentable de los Recursos Forestales en México</i> (Community Forestry Conservation Project)
PRODEFOR	<i>Programa de Desarrollo Forestal</i> (Forestry Management Program)
SDR	Special Drawing Rights
SEMARNAP	<i>Secretaria de Medio Ambiente, Recursos Naturales y Pesca</i> (Secretariat of Environment, Natural Resources and Fisheries)
SEMARNAT	<i>Secretaria de Medio Ambiente y Recursos Naturales</i> (Secretariat of Environment and Natural Resources)
TTL	Task Team Leader
USD	United States Dollar
WWF	Worldwide Fund for Nature

### Currency Unit

(as of February 20, 2004)

Currency Unit = Mexican Pesos

1 Mexican Peso = USD 0.0910913

USD 1.0 = 10.978 Mexican Pesos

## I. INTRODUCTION

1. On January 30, 2004, the Inspection Panel registered a Request for Inspection, IPN Request RQ04/1 (hereinafter referred to as “the Request”), concerning the Mexico Indigenous and Community Biodiversity Conservation Project (referred to hereinafter as the COINBIO Project or the Project) financed in part by the Global Environment Facility (GEF Trust Fund Grant No. TF24372).

2. This Management Response to the Request for Inspection contains the following sections: Section II briefly presents the Request; Section III provides the Project background; Section IV concerns issues of special relevance to the Request for Inspection, including community governance, implementation and compliance with Bank policies; and Section V summarizes the Management’s response. Annex 1 presents the Requestors’ claims, together with Management’s detailed responses, in table format. Annex 2 is a summary of the Independent Evaluation of the Project carried out between November 2003 and February 2004. Annexes 3–13 contain correspondence and other documents referred to in the text as appropriate.

## II. THE REQUEST

3. The Request for Inspection was submitted by five persons; three are members of the *Comité Estatal de COINBIO Oaxaca* (the Project’s State Committee for Oaxaca), one is the Secretary of the Project’s Natural Resources Committee representing Yautepec-Istmo, and one is the Chief, Office of the Commissioner of Ixtlán de Juárez, Oaxaca (hereinafter referred to as the “Requestors”).

4. The Request concerns two principal issues: termination of the contracts of the State Coordinators of Oaxaca and Guerrero without adequate consultation; and perceived restructuring of the COINBIO Project without consulting the State Committees, which the Requestors believed would subordinate the Project to another Bank Project.

5. Attached to the Request are the following:

- (i) Letter dated June 4, 2003 from the World Bank Task Team Leader (TTL) to the International Subdirector of *Nacional Financiera* (NAFIN) concerning suggestions for possible restructuring of the Project;
- (ii) Letters (same content) dated July 23, 2003 from the Oaxaca State Committees addressed to NAFIN and the National Coordinators of the COINBIO Project and Community Forestry Conservation (PROCYMAF) Projects, inviting them to participate in an evaluation of the Project to be carried out by the State Committee;
- (iii) Proposed contract dated July 29, 2003 for a mutually agreed separation between NAFIN and the COINBIO State Coordinator for Oaxaca (unsigned);

- (iv) Letters (same content) dated July 29 and 30, 2003 from various signatories from the Districts of Yautepec, Costa Sur, Sierra Norte and Yautepec Istmo, all located in the State of Oaxaca, addressed to the President of the United Mexican States, the President of the World Bank and other authorities alleging that the institutional partners of the Project intended to make significant changes in the COINBIO Project procedures without consulting the stakeholders;
- (v) Letter dated July 30, 2003 from the COINBIO State Committee of Oaxaca to the Director of International Financing, NAFIN, requesting his direct intervention in the Project;
- (vi) Letter dated August 1, 2003 from various signatories written on the letterhead of the Oaxaca State Institute of Ecology to the Director of International Financing, NAFIN, requesting his presence at the August 5 meeting of the State Committee;
- (vii) Minutes of Meeting No. 33 of the COINBIO State Committee of Oaxaca, August 5, 2003;
- (viii) Note No. 2 dated August 14, 2003 containing a progress report, prepared by the Project National Coordinator;
- (ix) Letter dated August 19, 2003 from the International Subdirector of NAFIN to the former COINBIO State Coordinator for Oaxaca explaining that the termination of her contract is irreversible;
- (x) Minutes of Meeting No. 34 of the COINBIO State Committee of Oaxaca, August 20, 2003;
- (xi) E-mail dated August 25, 2003 from COINBIO National Administrator to the Oaxaca State Administrator, declining an invitation to participate in an informal meeting of the State Committee;
- (xii) Letter dated August 29, 2003 from the Bank TTL to the International Subdirector of NAFIN concerning the proposed reinstatement of the former State Coordinator for Oaxaca;
- (xiii) Letter dated September 25, 2003 from the International Subdirector of NAFIN to the former State Coordinator for Oaxaca summarizing the Bank's response to NAFIN concerning the proposed reinstatement of said Coordinator;
- (xiv) Letter and petition (undated) from multiple signatories to the World Bank Resident Representative in Mexico protesting the dismissal of the State Coordinators for Oaxaca and Guerrero;
- (xv) Letter dated October 16, 2003 from the Deputy General Director of the National Forestry Commission (CONAFOR) to the President of the Office of Community Assets of Santa Maria Huatulco, Oaxaca explaining the

contract terminations and other measures taken to promote Project implementation;

- (xvi) Letter dated October 28, 2003 from the Bank Sector Leader to a Representative of the Costa Sur Region, in response to e-mail sent to the World Bank Country Director (dated October 10, 2003), stating the Bank's agreement to carry out an Independent Evaluation of the Project;
  - (xvii) Letter dated November 25, 2003 from members of the COINBIO State Committee of Oaxaca to the CONAFOR Adjunct Director, concerning the dismissal of the State Coordinator for Oaxaca and Project operation; and
  - (xviii) Photocopy of newspaper article (undated) alleging that a local project to protect sea turtles was in danger of not receiving continued funding.
6. No further materials were received by Management in support of the Request.
7. The Panel has indicated that the Request references issues that may constitute violations by the Bank of various provisions of its policies and procedures, specifically the following:
- OD 4.20 Indigenous People (September 1991); and
  - OD 13.05 and OP/BP 13.05 Project Supervision (January 1996 and July 2001, respectively).

### **III. PROJECT BACKGROUND**

#### **PROJECT FUNDING AND RESPONSIBILITIES**

8. The COINBIO Project was approved by the Board of Executive Directors on November 28, 2000 and became effective on June 21, 2001. The Project is financed by incremental GEF Grant resources of SDR 5.8 million (approximately USD 7.5 million) linked to the IBRD loan for the PROCYMAF Project. NAFIN, a government development agency, is the Recipient of the COINBIO Grant. As of February 9, 2004, approximately SDR 1.4 million has been disbursed, or about 24 percent of the total Grant. The expected closing date of the Grant is June 30, 2008.

9. At the outset, the technical agency responsible for the COINBIO Project was the National Environmental Secretariat (SEMARNAT).<sup>1</sup> Until 2001, SEMARNAT was responsible for forestry issues in Mexico and served as the implementing agency for the IBRD-financed PROCYMAF Project. In April 2001, the National Forestry Commission (CONAFOR), a semi-autonomous agency under SEMARNAT's mandate, was created with responsibility for forestry issues, including the PROCYMAF and COINBIO pro-

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<sup>1</sup> In mid 2001, the name SEMARNAP was changed to SEMARNAT, when responsibility for fisheries was passed to the National Agriculture Secretariat.

jects. In 2002, CONAFOR agreed to finance the taxes on goods and services for the COINBIO project from its own resources, since these expenditures could not be financed out of GEF Grant proceeds. CONAFOR's ongoing community forestry efforts are now supported by the IBRD-financed Second Community Forestry Project (hereinafter known as PROCYMAF II), which was approved by the Board of Executive Directors on December 9, 2003.<sup>2</sup>

## PROJECT OBJECTIVES

10. The objective of the COINBIO Project is to conserve areas of high biodiversity by strengthening and promoting community conservation initiatives on communally owned lands in priority areas in the States of Oaxaca, Michoacan and Guerrero (see Map 1). The Project supports a demand-driven program to finance the creation of community biodiversity conservation areas and complementary, biodiversity-friendly and sustainable land use activities. The Project takes advantage of the positive cultural values and traditional resource management practices that many communities in the priority areas have developed over a long period. It also builds on the technical assistance offered by the PROCYMAF Project in the three States. Project objectives are achieved by: (a) supporting the ongoing efforts of indigenous communities and *ejidos*<sup>3</sup> to establish permanent conservation areas, and establishing cooperative networks linking communities with significant conservation areas within a larger region of high biodiversity; (b) building capacity for community conservation and sustainable natural resource management among communities in areas of high biodiversity but with weak organizations and a poor economic base; and (c) supporting the creation of state and regional institutions that can promote and help finance community conservation initiatives over the medium to long term with strong ownership by the communities themselves.

11. Priority areas in the three States were identified through analyses and consultations undertaken during Project preparation as well as national priority setting studies by the National Commission for Biodiversity and WWF-Mexico. Within these areas there are 1,300 communities with important biodiversity values, comprising a population of approximately 650,000 people. Social assessments carried out during Project preparation categorized communities by their level of absorptive and organizational capacity. A typology of four categories of communities was developed, ranging from the least to the most organized, and COINBIO Project activities are tailored to the different levels of organization (see COINBIO Project Appraisal Document, PAD Annex 12). As of February 2004, 93 sub-projects have been approved for funding.

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<sup>2</sup> PROCYMAF II builds upon the success of PROCYMAF, consolidating and extending community forestry efforts in the States of Guerrero, Michoacan and Oaxaca and expanding the same services to the States of Durango, Jalisco and Quintana Roo.

<sup>3</sup> An *ejido* is a land-holding consisting of either indigenous or non-indigenous members with rights, stipulated in law, in communal resources under which an individual family has a right to an individual plot of land allocated by communal decision as well as access to communally owned lands (often forest lands, pasture and watercourses).



12. The COINBIO Project established State Committees for Oaxaca, Guerrero and Michoacan. These State Committees issue Calls for Proposals, evaluate sub-project concepts and approve them for funding according to criteria established during Project preparation. The State Committees include representatives of local indigenous communities and *ejidos*, as well as representatives of relevant State and Federal agencies (see Figure 1 in para. 21). Each State Committee has a Coordinator, who serves as executive secretary to the Committee, and an Administrator/Accountant. The initial Project strategy was to direct sub-project proposals appropriate for financing by PROCYMAF or PRODEFOR (a CONAFOR program promoting production forestry) to those projects, while targeting GEF funding to communities not eligible for financing from other CONAFOR sources. Early in Project implementation, however, it became apparent that there were significant areas of overlap among different CONAFOR programs, causing some confusion and, occasionally, competition among them.

## PROJECT COMPONENTS

### *Component 1: Local Capacity Building*

13. This component finances the costs of the three State Committees and the State Coordinating Units (composed of the State Coordinator and the State Administrator) which are the decision-making and oversight bodies for activities at state level.

### *Component 2: Community Conservation and Sustainable Use Sub-projects*

14. The Project provides grant resources directly to communities to finance sub-projects tailored to the level of organization and willingness of participating communities to undertake long-term conservation. Communities with limited experience are eligible for grants to help finance land use planning, community conservation action plans, diagnostic studies, natural resource inventories and training. More experienced communities are eligible for grants to finance activities that assist them to manage actively and protect areas designated for conservation. SEMARNAT, through CONAFOR, ensures that environmental standards are applied to proposals under review. There are four types of activities eligible for grant allocation, each with a different community counterpart requirement, and a progressively larger grant size:

- *Type A: Land Use Planning for the Establishment of Biodiversity Conservation Areas.* Activities include workshops, participatory rural appraisals, land use planning, mapping, inventories of existing biodiversity resources, and delimitation of conservation areas, including preparation of by-laws or communal statutes (where appropriate) for the creation of permanent conservation areas;
- *Type B: Training and Capacity-Building.* Activities include capacity-building for conservation activities, including community training provided by third parties and by more advanced communities to less advanced ones, strengthening of community networks, and carrying out of feasibility studies;

- *Type C: Community Investments for Conservation Areas and Sustainable Use.* Activities include forest certification studies, market studies, seed capital for ecotourism projects, support for other non-timber forest product enterprises, and fire prevention; and
- *Type D: Community Green Venture Funds.* Communities that are ready to create a permanent fund for continued financing of sustainable use activities and conservation areas are eligible for a larger grant and would agree to reimburse both the amount of the grant and their own matching investment into a community account specifically established for conservation investments. (Note: no sub-projects of this type have been approved to date.)

### *Component 3: Biological Monitoring and Evaluation*

15. The purpose of this component is to monitor both physical implementation as well as biodiversity changes over time. The Project design included participatory evaluation studies to document social organizational processes and issues, and biological monitoring; however, none of these activities has been undertaken to date. The Project design also called for a review of Project implementation at the end of the second year; this was recently carried out in the form of an Independent Evaluation and is now available at <http://www.coinbio.org> (Annex 2 of this Response contains an English translation of the Executive Summary, Conclusions and Recommendations). There will be a midterm review at the end of the fourth year.

### *Component 4: National Coordination*

16. This component supports the costs of a National Coordination Unit, the National Committee, supervision and monitoring activities, establishment of the legal and conceptual framework for community conservation as a valid protected areas model, and reporting to the Government of Mexico and the World Bank. Evaluation and dissemination activities will include documenting Project lessons and sharing these findings with other community and indigenous groups in Mexico and the Latin American region, to facilitate cross-fertilization of experiences with innovative programs across states and elsewhere in Latin America.

## **IV. SPECIAL ISSUES**

### **PARTICIPATORY NATURE OF THE PROJECT**

17. Pertinent to both the Request and the concerns of communities served by the Project is an understanding of how rural communities in Mexico are organized. A large portion of Mexico's rural population lives in either indigenous communities or *ejidos*. Both forms of social organization are characterized by communally held and managed resources in forest, cropland and pastureland. By law, forests must be managed communally, while cropland is generally managed by individuals who are granted rights to their plots by the community. About 70 percent of Mexico's forest lands are held by indige-

nous communities and *ejidos*. These lands correspond to some of the areas of highest biodiversity in the country.

18. The highest authority in indigenous communities and *ejidos* is the assembly (*asamblea*) of registered members who meet regularly (usually once a month) to discuss matters of common interest. Leadership is provided by a *comisariado* (literally “body of commissioned officials”) who are elected on a rotating basis to a two- or three-year term by the community assembly. Experience from the 1980s has shown that communities with strong communal organization, good attendance at assembly meetings, and empowered leaders enjoy many socio-economic advantages. A hallmark of a strong community organization is a community assembly that closely follows and regulates the public positions taken by its leaders; many communities insist that leaders speak on behalf of the entire community only after the particular matter at hand has been discussed by the assembly.

19. Among the benefits of strong community organization are greater access to resources from government programs, better management of communal resources and the capacity to enter into commercial relationships in a beneficial fashion. Poorly organized communities are more prone to poverty, illegal resource extraction, and exploitation by outsiders. Experience shows that well-organized communities are very concerned with protecting watersheds, soils, and their forests. Some communities have set aside part of their communal lands as protected areas and have agreed not to use timber from these areas.

20. As a result of historical conditions, stronger communities have developed in the Sierra Norte region of Oaxaca over the last twenty years than in the Yauatepec-Istmo or Costa Sur regions. The original idea for the COINBIO Project emerged in the Sierra Norte region, largely as an initiative of indigenous communities themselves. The scope of the Project was later expanded to include the same three States where the IBRD-financed PROCYMAF Project was under implementation, which included a large number of weaker or incipient community organizations. Consequently, both the COINBIO and PROCYMAF Projects were designed to devote resources to building community organizations through such instruments as participatory rural appraisals, development of community bylaws, and basic zoning plans for land use.

21. Both the PROCYMAF and COINBIO Projects have a strict requirement that communities must approve of any sub-project activities through a specific vote by the assembly and make a counterpart contribution to the costs of the sub-project. One specific difference between the two projects relates to the contracting of technical assistance: the PROCYMAF Project allows communities to contract for technical assistance services from a provider, but has CONAFOR pay the service provider directly. The COINBIO Project, in contrast, expands the role for community empowerment by depositing resources for community-based sub-projects directly into an account managed by the beneficiary communities. Communities, rather than NAFIN or CONAFOR, contract service providers themselves.

22. In the COINBIO Project, individual communities and *ejidos* are grouped together on a regional basis into Regional Natural Resource Councils consisting of community

officials duly elected by their respective community assemblies. Under the GEF Grant Agreement, these Councils elect representatives to the State Committee in each State. Each State Committee is comprised of six members, three representing the communities and *ejidos*, one representing SEMARNAT, one representing the relevant State government and one representing a civil society organization or academic institution. In practice, more than three representatives from the communities have been participating in the Committees. At the national level, a National Committee includes representation from forest communities, together with representatives of the Federal Government, including SEMARNAT, the National Commission for Protected Areas (CONANP), the National Biodiversity Commission (CONABIO), the National Forestry Advisory Group (CONAF), and NAFIN serving as an observer. (See Figure 1 below, based on the GEF Grant Agreement for COINBIO.)

23. Under traditional cultural practices within indigenous communities and *ejidos*, representatives of forest communities serving on the State Committees should be replaced when their terms as officials of their respective communities expire and new officers should be elected in their place. However, in practice, some COINBIO State Committee members have been allowed to remain in office beyond their elected mandates on the argument that they know the COINBIO Project better than others within their communities. This has created a problem regarding the standing of these persons, who are no longer authorized to speak in the name of their communities or the Regional Natural Resource Councils.

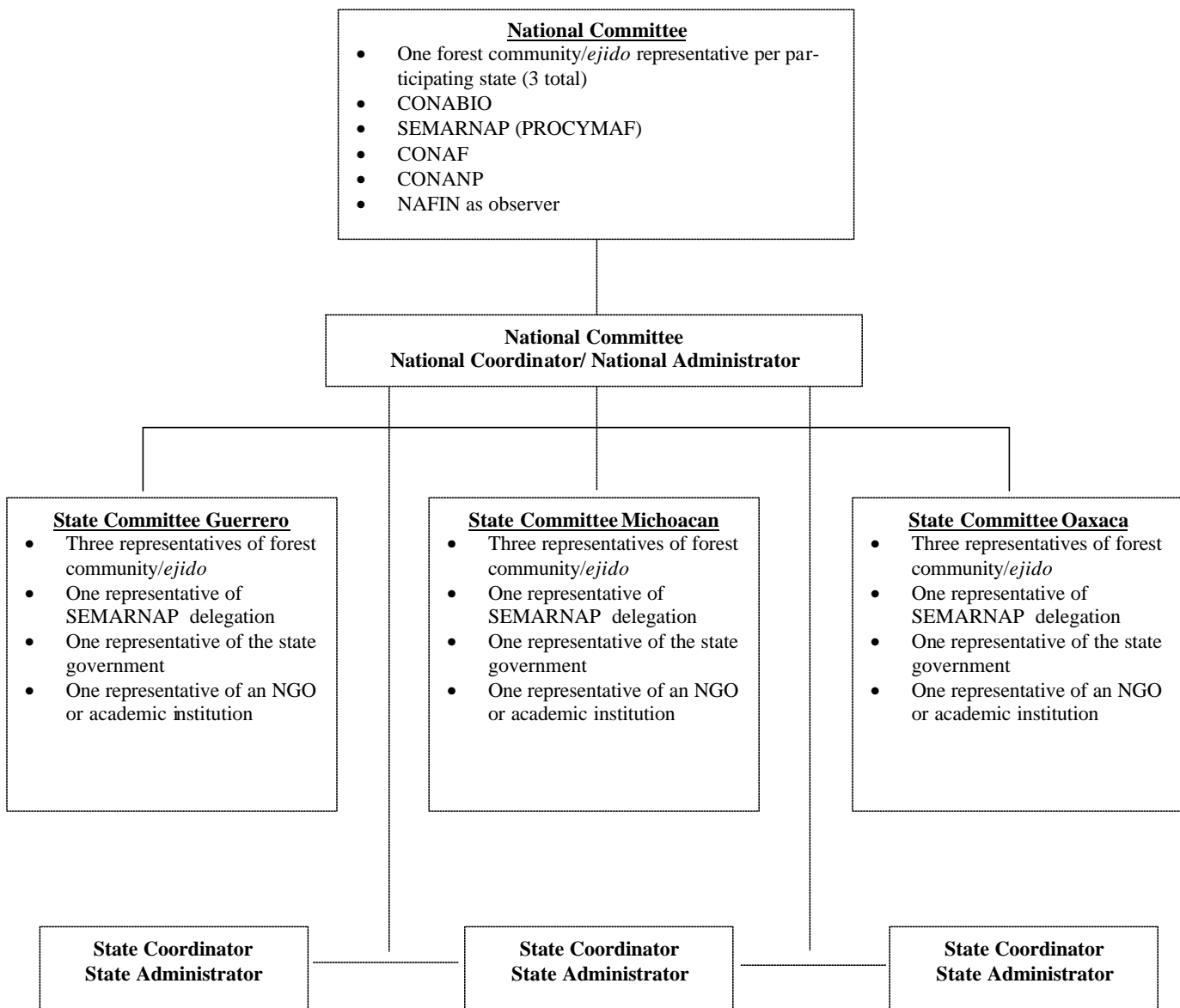
24. The COINBIO Project provides a great deal of autonomy and self-governance for the State Committees. State Committees draft and approve their own internal statutes and procedures. State Coordinators implement the decisions of their respective State Committees. The State Committees provide general oversight over the Project in the respective States. They review and approve the following: state-level Annual Operating Plans (POA); Calls for Proposals for sub-projects; proposals for sub-projects and their funding; and the roster for Technical Service Providers in each State. Following the GEF Grant Agreement, the State Committees were consulted regarding the selection of State Coordinators and State Administrators for the Project.

25. Despite the fact that Project implementation began in 2001, the National Coordinator was not appointed until January 2003 and the National Committee was not convened until April 2003. The National Committee is intended, *inter alia*, to provide oversight of the entire COINBIO Project, authorize the Project-level POAs, review and authorize the criteria used for selection of sub-projects in each State, and authorize the contracting of consultants for national-level tasks. It is supported by the National Coordinator.

**COMPLIANCE WITH OD 4.20, INDIGENOUS PEOPLES**

26. With respect to OD 4.20, para. 13, the COINBIO PAD was regarded in its entirety as an Indigenous Peoples’ Development Plan (IPDP), since eighty percent of the Project beneficiaries are indigenous peoples. The Project design incorporates the requisite elements of an IPDP, specifically: the legal framework, baseline data, land tenure, strategy for local participation, identification of development actions, institutional capacity, implementation schedule, monitoring and evaluation, and cost estimates and financing

**Figure 1. COINBIO Project Organizational Chart**



(PAD Section 6, pages 27-28). The Project also has complied with all other relevant sections of OD 4.20, as indicated below:

- Regarding informed participation and the identification of local preferences (OD 4.20, para. 8), the Project benefited from intensive social assessment carried out both in the context of the PROCYMAF Project and in preparation of the COINBIO Project. Many meetings were held with indigenous communities and groups of leaders to develop the Project design, which incorporated local patterns of community governance and traditional leadership, and emphasized the institution of the community assembly as the principal decision-making body.
- Both the current and past TTLs for the Project are social anthropologists. Likewise, two Indigenous Specialists, both of Mexican nationality and with long experience with indigenous issues in rural Mexico, including Oaxaca, have served on the Bank Task Team Preparation and supervision missions to Mexico have included visits to indigenous communities or *ejidos*, and meetings with representatives of such communities (OD 4.20, paras. 16-19).
- The Project Operational Manual lays out a range of activities that require respect for indigenous and community traditions, particularly as regards community governance and leadership. NAFIN as the Grant Recipient has respected these traditions, ensuring that community representatives participate in every panel for consultant selection and carefully following State Committee decisions regarding sub-project approvals, in compliance with Sections 3.01 and 3.02 of and Schedule 4 to the GEF Grant Agreement (OD 4.20, para. 20).

## IMPLEMENTATION ISSUES

27. The COINBIO Project was declared effective on June 21, 2001. Prior to effectiveness, in March 2001, a Bank mission discussed with NAFIN and SEMARNAT an alternative means of fulfilling the functions of a National Coordinator as a way to reduce administrative costs. It was proposed to distribute these functions among a newly-created liaison for the COINBIO and PROCYMAF Projects,<sup>4</sup> other SEMARNAT offices, the State Coordinators, the National Administrator and others. In early June 2001, NAFIN confirmed its intention to implement this change. The Effectiveness Letter dated June 21, 2001 waived the condition requiring a National Coordinator (Article VI, Section 6.01(b)), in accordance with the procedure required by OD 13.05, para. 34. It did so “given the fact that part[ly] his or her functions or responsibilities have been vested in staff already working under the Project or in SEMARNAT and partly in the State Coordinators under the State Committees” (see Annex 3). An amendment to the GEF Grant Agreement reflecting this change was not prepared at the time.

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<sup>4</sup> The Bank gave its no-objection to the contracting of the PROCYMAF/COINBIO Liaison on October 15, 2001.

28. Project experience showed that because of this change, the COINBIO Project lacked clear central leadership. The State Coordinators did not have guidance in shaping their respective programs nor a clear strategy for resource allocation. Recognizing that the decision not to hire a National Coordinator was not conducive to the orderly implementation of the Project, in mid-2002, steps were taken to set in motion the process to fill this position. The Project's first National Coordinator was named in January 2003.

29. The first Calls for Proposals were issued in March 2002 in Oaxaca, June 2002 in Michoacan and November 2002 in Guerrero. During the first round of sub-projects, ninety-one percent of communities in all three States which secured funding were those with low organizational capacity. This was surprising, as it was expected that the earliest beneficiaries of the Project would be the communities of the Sierra Norte of Oaxaca where the Project was conceived and where levels of community organization are high. Indeed, in December 2003, a letter from the communities of the Sierra Norte of Oaxaca to the Oaxaca State Committee, copied to the World Bank, complained of bias within the State Committee against their communities (see Annex 4).

30. The first meeting of the three State Committees took place between September and November of 2001. During the first year of operation, the State Coordinators of Oaxaca and Guerrero sought to establish the independence of their respective State Committees, suggesting that the State Committees become independent of NAFIN, the Grant Recipient. Later, the State Coordinator of Guerrero opened a separate office to the COINBIO Project office in order to demonstrate his independence from NAFIN and CONAFOR. The efforts of the two State Coordinators to distance themselves from NAFIN, together with a perception of favoritism towards some communities, led NAFIN, CONAFOR and the Bank team to believe that the COINBIO Project was being diverted from its original objectives.

31. The general setting in Oaxaca in 2002 was one of tension and conflict, which was unrelated to the COINBIO Project, but indirectly affected it. On May 31, 2002, twenty-six *campesinos* from the community of Santiago Xochiltepec in the State of Oaxaca were killed by gunfire in an ambush while returning from work in a woodlot belonging to the community. This is known locally as the "Agua Fria Incident" after the name of a local creek. The massacre was alleged to have been perpetrated by a group of rural dwellers from a neighboring community that had recently lost a court battle in a land dispute with the community of the victims. Neither of these communities was connected with COINBIO or any other Bank supported project.<sup>5</sup> In the aftermath of the incident, the Governor of the State of Oaxaca accused SEMARNAT of having authorized logging in the disputed area, and demanded the resignation of the local SEMARNAT delegate (appointed by the Federal Government), who also served on the COINBIO State Committee for Oaxaca. Other voices held the Governor responsible for fostering conflict between rural communities. Both the COINBIO and the PROCYMAF Projects have avoided support to communities engaged in land disputes with other communities.

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<sup>5</sup> Neither community was connected with any Bank supported project. Both the COINBIO and the PROCYMAF Projects have avoided support to communities engaged in land disputes with other communities.

32. Given the tense situation in the State of Oaxaca, the SEMARNAT delegate was eventually obliged to resign. The timing of this resignation coincided with the decision to hire a National Coordinator and gave rise to rumors that the former SEMARNAT delegate was a leading candidate for the position. He was, in fact, not shortlisted for the position; however, the rumor was sufficient to arouse concerns on the part of the State Committees for Oaxaca and Guerrero who, under the leadership of their respective coordinators, spoke out against what they perceived as a Federal Government takeover of COINBIO. Tensions were likely compounded by discussions at this time, in light of Project delays, to realign the COINBIO Project within the context of CONAFOR's overall programs.

33. In October 2002, the State Coordinator for Oaxaca called a meeting of the three State Coordinators and community representatives in Ixtepeji, Oaxaca to mobilize opposition to the realignment of the Project with other CONAFOR programs and the appointment of a National Coordinator. NAFIN was not notified of the meeting nor was the PROCYMAF liaison to COINBIO. On another occasion, the State Coordinator for Guerrero, apparently in error, left a message in the voicemail box of CONAFOR's State Delegate, saying that the State Coordinator for Oaxaca had told him it was necessary to start mobilizing against CONAFOR. After the National Coordinator was appointed in January 2003, he began planning for the inaugural meeting of the National Committee and asked the State Coordinator for Oaxaca to notify the respective representatives from that State. She failed to do so and the National Coordinator was left to make the necessary contacts himself. At the inaugural meeting of the National Committee on April 9, 2003, a community representative from the Costa Sur region of Oaxaca, and one of the Requestors, rose to challenge the legitimacy of the National Committee. Finally, the issue of the perceived takeover of COINBIO erupted into a direct confrontation at that same meeting, when the State Coordinator for Oaxaca confronted the Director General of CONAFOR in an aggressive exchange, challenging the legitimacy of CONAFOR's involvement in the Project.

34. Among other actions taken by the State Coordinator for Oaxaca was the removal, on April 1, 2003, of the NGO representative serving on the Oaxaca State Committee and substitution with another NGO representative, without consulting the Committee or other NGOs. The NGOs of Oaxaca met and decided to reject this decision and named another representative. The State Coordinators of both Oaxaca and Guerrero retained individual members on the State Committees after their mandates as community representatives had expired. While the rationale for doing so was to foster continuity, this practice is contrary to the Operational Manual (Section 7.4) and to the traditional rotation of key positions in indigenous communities (see also para. 23 above). It also reduces accountability because, once their terms expire, such representatives are no longer accountable to their home communities. The Oaxaca and Guerrero Coordinators invited "guests" of their choosing to participate in and vote in Committee Meetings, while excluding others, and allowed both community representatives and their alternates to participate in and vote in the Committee Meetings. In the case of Oaxaca, the State Coordinator called a large number of State Committee Meetings (thus far, 40 regular and extraordinary meetings have been held in Oaxaca, versus 15 meetings in the State of Michoacan and 17 meetings in the



State of Guerrero over 27 months of the life of the Project), resulting in substantial operating costs.

35. Following these events, and after consultations with its Legal Department, NAFIN considered that it was in the best interests of the Project to terminate the contracts of the State Coordinators for Oaxaca and Guerrero (see also Annex 1, No. 2). On July 22, 2003, NAFIN requested from the Bank a no-objection to a proposed mutually agreed separation document between NAFIN and the State Coordinators of Oaxaca and Guerrero. The Bank issued a no-objection to the proposed mutually agreed separation document on July 29, 2003. When the State Coordinators of Oaxaca and Guerrero rejected the mutually agreed separations, NAFIN notified the two State Coordinators on July 30, 2003 of the termination of their contracts in accordance with Section 11 of the original labor contracts, which allowed unilateral termination without cause (see Annex 5). The termination letters gave as a reason a proposed restructuring of the Project, requiring a change in the terms of reference of the State Coordinators (Note: no restructuring has taken place to date; see Annex 1, No. 4). The Bank did not review or provide a no-objection to the July 30, 2003 termination letters. The Bank learned of the terminations in early August and was formally notified on August 28, 2003. These terminations became effective on August 15, 2003.

36. After the contracts for the State Coordinators were terminated, two State Committees (Oaxaca and Guerrero) suspended issuance of the Calls for Proposals for 2003, impeding the Project's progress. In late July 2003, a group of community representatives primarily from the Yautepec-Istmo and Costa Sur regions of Oaxaca sent a series of letters to various officials in Mexico and abroad<sup>6</sup> alleging intentions by the Bank, NAFIN and CONAFOR to restructure the Project without public consultation. After the contract terminations took place, correspondence was sent from a number of individuals in Oaxaca to various parties, including the World Bank Country Director for Mexico. This correspondence contained misrepresentations of the facts and proposed solutions that were not acceptable to the Government of Mexico. The Bank responded on October 28, 2003 and December 2, 2003. These responses elicited abusive replies from one of the Requestors (see Annex 6), following which the Bank team made the decision to await the results of the Independent Evaluation process that began in November 2003 rather than continue exchanges of correspondence. On November 5, 2003 two Bank staff members participated in a special meeting of the State Committee of Oaxaca. Draft minutes were circulated containing inaccurate statements about agreements reached with the Bank, obliging the Bank team to issue a letter dated November 17, 2003 correcting these minutes (Annex 13).

37. The terms of reference for the Independent Evaluation and the shortlist of consultants were prepared in consultation with the three State Committees. The consultant

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<sup>6</sup> The recipients of these letters included, among others, the President of the World Bank, the President of Mexico; the Governor of Oaxaca; the President of the National Commission for the Development of Indigenous Peoples; the Secretary of SEMARNAT, the Director General of CONAFOR; the Director of International Finance, NAFIN; the Director of the State Ecology Institute of Oaxaca; and the SEMARNAT Delegate in Oaxaca.

team included one Mexican consultant and one international consultant (of Salvadorean nationality), neither of whom had any prior connection to the Project. The Independent Evaluation began in November 2003 and included extensive discussions and consultations with indigenous representatives and other stakeholders in each of the three participating States as well as representatives of the Federal Government. The final report was received on February 10, 2004. The report has been accepted by the Bank and by the National Committee (at its meeting of February 17, 2004) and is available as noted above in para. 15. Following a two-to-three week period for review and discussion by stakeholders, a workshop will be scheduled for mid March 2004 (see para. 44 below).

38. The Independent Evaluation identified important Project weaknesses. These include:

- Unresolved tension between the decentralized, participatory nature of the Project and the Recipient's centralized administrative mechanisms;
- Failure to appoint a National Coordinator early in Project implementation;
- Failure to convene the National Committee in a timely manner, depriving the Project of an important mechanism for conflict resolution;
- Lack of legitimacy of community representatives whose terms of office within their communities had expired;
- Long delays in actual disbursements, for which the responsibility was shared among all parties; and
- Institutional isolation of the Project.

The report indicates that the State Coordinators of Oaxaca and Guerrero took an anti-institutional approach to the Project, choosing to build up their own personal status vis-à-vis the communities, leading to the present crisis. The report also is critical of the manner in which the contracts of the State Coordinators of Oaxaca and Guerrero were terminated, characterizing it as poorly executed and poorly explained, aggravating the crisis in the Project. Finally, the report warns that the Project is unlikely to meet its biodiversity conservation targets because of the imbalance in the mix of community types represented in the sub-project portfolio.

39. Management agrees in particular with the assessment made by the Independent Evaluation regarding the failure to appoint a National Coordinator and convene the National Committee. Such decisions, made nearly three years ago, have contributed to the difficulties that the Project has experienced. Beginning in mid-2002, the Bank moved to correct some of these problems, specifically urging the Recipient to appoint a National Coordinator and convene a National Committee.

40. During the most recent supervision mission (January 26–February 5, 2004), the Bank team participated in sixteen meetings with various stakeholders in the three States; in only two of them was the subject of the contract terminations raised. The Independent

Evaluation was discussed at length and there were repeated calls to hire new State Coordinators and to continue with Project implementation as soon as possible.

#### **COMPLIANCE WITH OD 13.05 AND OP/BP 13.05, SUPERVISION**

41. OD 13.05 was applicable to the Project from the Board date, November 28, 2000, through July 18, 2001. OP/BP 13.05, issued on July 19, 2001, replaced OD 13.05 for all projects under supervision as of that date, and has been applicable to the Project since then.

42. Since Project effectiveness in June 2001, eight supervision missions have been undertaken, jointly with supervision of the PROCYMAF Project. A draft Amendment to the GEF Grant Agreement has been prepared (but not yet signed) to reflect the changes in the institutional framework, namely, the change of SEMARNAP to SEMARNAT and the establishment of CONAFOR. Finally, NAFIN has complied with the requirements concerning Progress Reports and Annual Reviews on Project implementation, as required in the GEF Grant Agreement (Article III, Section 3.07(b) and (c)).

43. Beginning in mid-2002, actions were taken to improve Project implementation and achieve compliance with the GEF Grant Agreement, including hiring of the National Coordinator and convening of the National Committee (Article III, Section 3.04(a) and Section 3.03(a)(i), respectively). In a letter dated June 4, 2003, the Bank pointed to a disbursement delay of 21 months and proposed for consideration a number of possible measures to improve Project implementation. This more intensive supervision led to changes in the status quo of the Project, which, in turn, caused apprehension and resistance by the State Coordinators in Oaxaca and Guerrero and some members of the State Committee of Oaxaca.

44. *Next Steps.* Management is committed to continuing vigorous action to move the Project forward and overcome the difficulties that have occurred. The Bank task team will work intensively with NAFIN and CONAFOR to address the implementation issues identified by the team and the Independent Evaluation, and will seek ways to restore an atmosphere of confidence in the Project. Specific actions planned for the near future include:

- Workshop to review the Independent Evaluation and consider possible changes in Project procedures – mid-March 2004;
- Strategic planning seminar – immediately following the mid-March 2004 workshop;
- Calls for proposals for sub-projects in Oaxaca and Guerrero – mid-April 2004; and
- New State Coordinators for Oaxaca and Guerrero contracted – by June 2004.

## **V. MANAGEMENT'S RESPONSE**

45. The Requestors' claims, accompanied by Management's detailed responses, are provided in Annex 1.

46. With respect to OD 4.20, Management believes that the issues raised in the Request arise out of a labor dispute, and do not constitute a violation of Bank policy. With respect to the Bank's policy on supervision, Management believes that the failure to hire a National Coordinator or convene a National Committee during the start-up phase of the COINBIO Project was a poor decision. Nevertheless, in subsequent supervision, the Bank has made a good faith effort to address this situation and to apply its policies and procedures in the context of the Project. In Management's view, the Requestors' rights or interests have not been, nor are they likely to be, directly and adversely affected by a failure of the Bank to implement its policies and procedures. Management further believes that the Bank's actions did not have adverse effects on the intended Project beneficiaries.

## Annex 1

### Claims and Responses

OD 4.20, Indigenous People, and OD 13.05 and OP/BP 13.05, Project Supervision, were cited in the Notice of Registration. The Request for Inspection mentions the need for the Bank to operate in conformity with both OD 4.20 and the GEF Grant Agreement, but focuses on two principal issues, rather than Bank policies. The two issues concern: (a) restructuring of the Project; and (b) the termination of contracts of the State Coordinators of Oaxaca and Guerrero without adequate consultation with State Committees. The Requestors' statements are addressed in the order presented in the Request for Inspection. Given the flow of the Request, those claims with a stronger focus on participation were grouped under OD 4.20 and those with a stronger emphasis on how the Project was carried out were grouped under OP/BP 13.05. Nevertheless, it could be argued that any one of the claims relates to either or both of the cited policies.

No	Claim/Issue	OD/ OP/BP	Response
<b>Indigenous Peoples</b>			
1.	<p>It is our understanding that the Bank is not operating in accordance with OD 4.20 pertaining to indigenous peoples, pursuant to which beneficiaries play an important role in terms of decision-making related to projects. Also, Article 3, section 3.04(c) of the legal agreement states that the hiring and maintenance of State Coordinators shall take place in consultation with the State Committees.</p> <p>As beneficiaries, we have a right to active participation in decision-making related to the Project through our representatives, who are permanent members of the State Committee.</p> <p>The Bank has violated its own rules and procedures by proposing a restructuring of the Project without the involvement of the State Committees, an action that implies that they will be stripped of their powers in order to revert to a vertical approach to decision-making instead of the horizontal approach used thus far [...].</p>	4.20	<p>Management believes that the COINBIO Project (the Project) is in compliance with OD 4.20. Representatives of forest communities, both indigenous and non-indigenous, which are beneficiaries of the Project have participated actively in decision-making for the Project in the three participating States, Guerrero, Michoacan and Oaxaca. (Note: Minutes of State Committee Meetings are available at <a href="http://www.coinbio.org">www.coinbio.org</a>.) Under the Project Operational Manual, State Committees issue Calls for Proposals for community conservation and sustainable use sub-project financing, evaluate the sub-projects and approve them for financing. To date, 93 sub-projects (16 in Guerrero, 42 in Oaxaca, and 35 in Michoacan) have been approved by the State Committees and have received financing from the GEF Grant.</p> <p>During the period from June 2002 to the present, the Bank supervision team has conducted discussions with NAFIN to improve the performance of the Project. Performance improvement was necessary because the Project is nearly two years behind schedule; targets for sub-projects have not been met and implementation has not yet begun for some components. The discussions focused on improving Project management, and on bringing the Project into compliance with the GEF Grant Agreement, particularly with regard to: (a) the role of the National Committee to oversee implementation; (b) avoiding overlap between the COINBIO Project and CONAFOR's PROCYMAF and PRODEFOR programs; and (c) ensuring the proper functioning of the National Committee and three State Committees. The June 4, 2003 letter from the Bank to NAFIN (see Annex 7) summarizes these discussions, and also includes suggestions resulting from discussions among the Bank, NAFIN, CONAFOR, and the National and State Coordinators (during a mission in March 2003).</p> <p>The discussions were held with the participation of the State Coordinators (e.g., March 2003 mission) with the understanding that they would bring this information to their respective Committees for further discussion. However, as of October 2003, discussions had not yet advanced to the stage of specific restructuring proposals to be considered by the State Committees. During this time, the Bank received expressions of dissatisfaction from individuals in the State of Oaxaca concerning the termination of the contract of the State Coordinator for Oaxaca, as well as a request to conduct an Independent Evaluation of the Project. Since the Project design also called for an evaluation, this measure was pursued as a means to address concerns relating to Project implementation and improve Project effectiveness.</p> <p>The terms of reference for the Independent Evaluation and the shortlist of consultants were discussed with each of the State Committees before they were finalized and the consultants were retained. The consultant team in-</p>

No	Claim/Issue	OD/ OP/BP	Response
			<p>cluded one Mexican consultant and one international consultant (of Salvadoran nationality), contracted respectively by NAFIN and the Bank.</p> <p>The Independent Evaluation began in November 2003 and included extensive discussions and consultations with indigenous representatives and other stakeholders in each of the three participating States as well as representatives of the Federal Government (the report includes a full list of persons interviewed). The final report was received on February 10, 2004. It is available on the internet and following a two-to-three week period for review and discussion by stakeholders, a workshop will be scheduled for mid March 2004.</p> <p>Discussions of possible modifications to the Project have involved community representatives through the State Coordinators and Committees. No restructuring of the Project has taken place to date. Ongoing discussions that may lead to restructuring, taking into account the Independent Evaluation, will continue to involve systematic consultation with Project stakeholders.</p>
2.	<p>The Bank has violated its own rules and procedures [...] by giving its "no-objection" to the removal of the State Coordinators of Guerrero and Oaxaca, without consulting the State Committees, as stipulated in the GEF Grant Agreement.</p>	4.20	<p>The State Coordinators of Oaxaca and Guerrero were first contracted on September 1, 2001 and May 1, 2002, respectively, in consultation with the respective State Committees. These contracts were renewed on January 2, 2002 (for the State Coordinator for Oaxaca) and January 2, 2003 (for both State Coordinators). On July 22, 2003, NAFIN requested a no-objection to a proposed mutually agreed separation document between NAFIN and the State Coordinators of Oaxaca and Guerrero. The Bank issued a no-objection to the proposed mutually agreed separation document on July 29, 2003 (see Annex 8).</p> <p>When the State Coordinators of Oaxaca and Guerrero rejected the mutually agreed separations, NAFIN notified the two State Coordinators on July 30, 2003 of the termination of their contracts in accordance with Section 11 of the original labor contracts, which allowed unilateral termination without cause. The termination letters gave as a reason a proposed restructuring of the Project (Note: no restructuring has taken place to date; see No. 4 below), requiring a change in the terms of reference of the State Coordinators. The Bank did not review or provide a no-objection to the July 30, 2003 termination letters. The Bank learned of the terminations in early August and was formally notified on August 28, 2003. These terminations became effective on August 15, 2003.</p> <p>*****</p> <p>Events leading to NAFIN and CONAFOR's decision to terminate the contracts of the State Coordinators of Oaxaca and Guerrero are cited in paras. 29-34 above. Their decision was based upon a track record consisting of: (a) poor management of their responsibilities as State Coordinators, resulting in low Project performance levels; (b) bias in the administration of Project resources with regard to individuals, communities and sub-regions; and (c) activities that were considered to be undermining and confrontational. For instance, at the inaugural meeting of the National Committee on April 9, 2003, a community representative from the Costa Sur region of Oaxaca, and one of the Requestors, rose to challenge the legitimacy of the National Committee. Also at that meeting, the State Coordinator for Oaxaca confronted the Director General of CONAFOR in an aggressive exchange, challenging the legitimacy of CONAFOR's involvement in the Project. The Independent Evaluation report states that the State Coordinators of Oaxaca and Guerrero took an anti-institutional approach to the Project, leading to the present crisis.</p> <p>The termination of the contracts of the State Coordinators of Oaxaca and Guerrero is lawful under Mexican labor law as indicated by the legal opinion</p>

No	Claim/Issue	OD/ OP/BP	Response
			<p>issued by an independent Mexican labor lawyer (see Annex 9). However, the Independent Evaluation report is critical of the manner in which the contracts of the State Coordinators of Oaxaca and Guerrero were terminated, characterizing it as poorly executed and poorly explained, aggravating the crisis in the Project.</p> <p>With regard to the Requestors' comments on consultation, the GEF Grant Agreement, Article III, Section 3.04(c) states:</p> <p style="padding-left: 40px;">“The Recipient shall hire and thereafter maintain throughout Project implementation three coordinators and three administrators (as consultants, chosen by the Recipient in coordination with and in consultation with the relevant State Committee, to work under terms of reference set forth in the Operations Manual).”</p> <p>This clause could be interpreted either as requiring prior consultation for contract termination or not. In view of the participatory spirit of the Project, Management believes that, regardless of the interpretation, prior consultation by NAFIN with the State Committees would have been the most appropriate course of action. At the same time, Management continues to consider the outcome appropriate.</p> <p>In Management's view, the decision to terminate the contracts of the State Coordinators for Oaxaca and Guerrero should be considered against the background of a highly participatory process in which indigenous communities and <i>ejidos</i> have had an extensive and continuous participation in decisions made by State Committees (see, for example, the Minutes of State Committee meetings posted on the COINBIO website <a href="http://www.coinbio.org">http://www.coinbio.org</a>). NAFIN took the decision in order to improve Project implementation. Management further believes that the Bank's actions did not have any material adverse effects on the Project beneficiaries, although it negatively affected the two persons whose contracts were terminated (neither of whom is a member of any of the communities or <i>ejidos</i> served by the Project).</p>
3.	<p>The unjustified removal of the coordinators of Oaxaca and Guerrero [...] has created an environment of uncertainty in the regions in which the Project is being implemented, since the violation of the process has led the beneficiary communities to fear that the projects currently under way will not be continued or that the rules of operation governing the Project will be changed and money for the projects will be given directly to service providers rather than to the communities, as has been the case so far.</p>	4.20	<p>The Requestors are correct that there is an atmosphere of uncertainty regarding the Project, which Bank Management believes is a consequence of the disputes outlined in Nos. 1 and 2 above. The position taken in the letter to the Inspection Panel can be contrasted to that taken by the Natural Resources Committee of the Sierra Norte region of Oaxaca (see Annex 4), which voices concerns that the State Committee is focusing its energies on this labor dispute rather than on Project implementation. For example, after the contract of the State Coordinator for Oaxaca was terminated, the State Committee refused to approve issuance of the Calls for Proposals for 2003, impeding the Project's progress. The Sierra Norte Committee states that it has suffered bias in the selection of sub-projects, a point with which CONAFOR and the Independent Evaluation agree. A similar refusal to allow Calls for Proposals occurred in Guerrero as well.</p> <p>During the January 2004 Bank supervision mission, the Bank team met with each of the three State Committees, as well as State and Federal Authorities to address concerns of Project stakeholders. Among the concerns raised was a request that new Calls for Proposals be issued to meet the high demand for sub-project financing. Furthermore, a number of communities came forward with innovative ideas for sub-projects and urged that these be considered for financing.</p> <p>Finally, contrary to the assertion of the Requestors, no proposal has been made for NAFIN to pay service providers directly as in the case of the IBRD-financed PROCYMAF Project. In the COINBIO Project, resources for most</p>

No	Claim/Issue	OD/ OP/BP	Response
			<p>types of support are disbursed from NAFIN directly to communities rather than to service providers (i.e., consultants). Indeed, a proposal is under consideration in the PROCYMAF II Project to utilize procedures similar to those of the COINBIO Project.</p>
4.	<p>In our view, the Bank bears responsibility, inasmuch as it supported and suggested the removal of the State Coordinators and their replacement with PROCYMAF coordinators, another project that is unrelated to COINBIO, in an attempt to subordinate the COINBIO Project to PROCYMAF.</p>	4.20	<p>There is no proposal from any party to subordinate the COINBIO Project to the PROCYMAF Project; however, there is a formal link between the two, as indicated in the COINBIO Project PAD. The relationship between the PROCYMAF Project and the COINBIO Project dates back to the July 1998 proposal for project preparation financing made by the Bank to the GEF. The COINBIO Project is financed by incremental GEF Grant resources linked to the IBRD loan for the PROCYMAF Project.</p> <p>In the GEF Grant Agreement for the COINBIO Project, the technical implementing agency is listed as SEMARNAP (later became SEMARNAT), which was also the implementing agency for the IBRD-financed PROCYMAF Project. Responsibility for forestry was transferred in 2001 to CONAFOR, a semi-autonomous agency under the mandate of SEMARNAT, and along with it, responsibility for the PROCYMAF Project. A draft Amendment for the COINBIO Project, reflecting the above-mentioned institutional changes within SEMARNAT, is pending. Another link between the PROCYMAF and COINBIO Projects is evidenced by the fact that CONAFOR agreed to finance from its own resources the taxes on expenditures under the COINBIO Project that could not be financed out of Grant proceeds under the Bank's rules.</p> <p>Over the past year, issues under discussion about the COINBIO Project included the potential for overlap between various CONAFOR forestry programs, including the IBRD-financed PROCYMAF Project and the GEF-financed COINBIO Project. The then-Director General of CONAFOR (now Secretary of SEMARNAT) raised concerns regarding the COINBIO Project. First, CONAFOR was concerned that communities could be confused by multiple sources of CONAFOR financing for the same services, such as Rapid Rural Appraisal, territorial zoning, etc. It wanted to create a "single window" so that communities could more easily identify and access the appropriate source of support for their needs. Second, CONAFOR wanted to avoid duplication of services and rivalries among the staffs of different CONAFOR programs. Third, CONAFOR was concerned about substantial differences in the salary scales among CONAFOR staff, consultants hired under the IBRD-financed PROCYMAF Project, and consultants hired under the GEF-financed COINBIO Project. Such differences generated friction among the various CONAFOR programs, making it difficult for them to collaborate smoothly. Fourth, the relatively small COINBIO state teams (composed of a State Coordinator and Administrative Assistant) lacked the capacity and mobility to fully engage isolated rural communities spread across each participating State.</p> <p>Similarly, the Independent Evaluation points to the institutional isolation of the COINBIO Project and to its lack of capacity for outreach. In this context, the idea arose that other CONAFOR staff and consultants, particularly those contracted to work on the IBRD-financed PROCYMAF Project, could help disseminate and promote the COINBIO Project among indigenous communities, greatly expanding the reach of the COINBIO Project and creating synergies between the COINBIO Project and the PROCYMAF Project.</p> <p>Given CONAFOR's role of providing high-quality services within Mexico's forestry sector, its responsibility to oversee technical aspects of the COINBIO Project and its financial and material contribution to the Project, CONAFOR appropriately had concerns about implementation of the COINBIO Project. The State Coordinators were privy to these matters and appeared to have under-</p>



No	Claim/Issue	OD/ OP/BP	Response
			<p>stood and agreed with the institutional issues at stake. All three State Coordinators participated in discussions on these issues with the understanding they would return to their respective Committees for further discussion. At no time during these discussions did the State Committees or Coordinators for Oaxaca and Guerrero bring their concerns about a perceived takeover to the National Coordinator or to NAFIN or CONAFOR.</p> <p>Management confirms that the two Projects have been linked since preparation began for the COINBIO Project and favors the strengthening of synergies between the two, while maintaining the COINBIO Project's identity and autonomy.</p>
<b>Supervision</b>			
5.	<p>In our view, the Bank bears responsibility, inasmuch as it supported and suggested [...] the Operational Manual and PAD be changed in order to divest the State Committees of their authority and vest the national coordinator with full powers [...].</p> <p>All these changes were proposed by the World Bank, which gave precise instructions to <i>Nacional Financiera S.N.C.</i>, the executing agency, to implement them as soon as possible, arguing that this action did not require a legal amendment. In so doing, the State Committees were overlooked and a deaf ear turned to our complaints.</p>	13.05	<p>Since Project effectiveness, there have been eight supervision missions, including an anthropologist on each occasion, in accordance with OD 4.20, para. 19.</p> <p>No proposal has been made to “divest the State Committees of their authority and vest the national coordinator with full powers.” Dating back to June 2002 and particularly during the Independent Evaluation carried out from November 2003 to February 2004, discussions were held to revise the Operational Manual to clarify and streamline procedures, such as removing overlap between Committee and Coordinator functions.</p> <p>The proposals made in the Bank’s Letter of June 4, 2003 to NAFIN (see Annex 7) would not require an amendment to the GEF Grant Agreement, but instead adjustments to the Operational Manual since the only changes would be to the terms of reference and the institutional matrix. Subsequent to the results of the Independent Evaluation and the planned March 2004 workshop, the Operational Manual will be revised as needed.</p>
6.	<p>We requested, in different ways, the removal of the national coordinator since he is persona non grata among our peoples, as well as the reinstatement of our State Coordinator, inasmuch as her removal violated the legal agreement and there was no justification for this action, which was encouraged and supported by the World Bank.</p>	13.05	<p>Until January 2003, NAFIN had not appointed a National Coordinator for the Project (Article III, Section 3.04 (a) of the GEF Grant Agreement) nor had a National Committee been established (Article III, Section 3.03(a)(i)). Appointment of a National Coordinator was a Condition of Effectiveness for the Grant. In a letter dated June 22, 2001, the Bank waived the Condition of Effectiveness (in accordance with the procedure required by OD 13.05, para. 34). It did so “given the fact that part[ly] his or her functions or responsibilities have been vested in staff already working under the Project or in SEMARNAT and partly in the State Coordinators under the authority of the State Committees.” An amendment to the GEF Grant Agreement reflecting this change was not prepared at the time. Project experience showed that this waiver was not conducive to the orderly implementation of the Project.</p> <p>In order to bring the Project into compliance with the GEF Grant Agreement, in late 2002, terms of reference were drafted and a shortlist developed to hire a National Coordinator. Although not required in the Operational Manual or Grant</p>

No	Claim/Issue	OD/ OP/BP	Response
			<p>Agreement, in keeping with the spirit of the Project, NAFIN invited the State Committees to propose names for the shortlist of the National Coordinator and to send one representative each to serve on the Selection Committee. On January 15, 2003, the Bank issued a no-objection to hiring the Project's first National Coordinator.</p> <p>The State Coordinators of Oaxaca and Guerrero took actions that can be construed as undermining the role of the National Coordinator, the functioning of the National Committee and NAFIN's responsibilities as Grant Recipient. For example, they refused to communicate directly with the National Coordinator. At meetings of various State Committees, including one on November 5, 2003, at which Bank staff were present, the National Coordinator (who was representing NAFIN at the meeting) was told to leave; this action prevented NAFIN from participating and playing its legitimate role as Recipient and executor of the Project. The State Coordinator for Guerrero opened a separate office in order to be independent from NAFIN and CONAFOR. Further evidence of hostility toward the National Coordinator is provided in Annex 6.</p> <p>Because of these and other actions, the National Coordinator was unable to implement certain components of the Project (e.g., development of a biodiversity monitoring scheme as required under Component 3 of the Project). Since August 2003 the National Coordinator has spent considerable time in addressing issues related to these conflicts and working to improve information flow among Project beneficiaries.</p> <p>Contrary to the Requestors' assertion, the majority of community representatives in the three States have not expressed the sense that the National Coordinator is "persona non grata." While Management believes that there are no grounds for removing the National Coordinator as demanded by the Requestors, it notes that this is a labor issue that concerns NAFIN and CONAFOR.</p>
7.	<p>Although we submitted our complaint to Bank officials by means of letters signed by us, in our capacity as representatives, and by communal and municipal authorities, we failed to receive a positive response. The response of [...] the Task Team Leader, to our letters of complaint and to the request of <i>Nacional Financiera</i>, S.N.C., the entity executing the Project in Mexico, for reinstatement of our coordinator, was denial of the "no-objection," despite the fact that the legal agreement was skirted when she was removed. [...]</p> <p>We believe that the response is unsatisfactory inasmuch as [the Task Team Leader] is putting</p>	13.05	<p>The Requestors are dissatisfied that their demand for the reinstatement of the State Coordinator for Oaxaca has not been accepted. This may be based on a misunderstanding of the GEF Grant Agreement, which calls for consultation with the State Committee regarding the hiring of a State Coordinator but does not obligate NAFIN to comply with the Committee's demands.</p> <p>Following the contract terminations of the State Coordinators for Oaxaca and Guerrero, the NAFIN International Subdirector responsible for the Project traveled to Oaxaca to participate in a meeting of the State Committee on August 5, 2003. At that meeting, he was subjected to extreme pressure, which led him to agree to take up the issue of reinstatement of the State Coordinator for Oaxaca with the Bank. On August 27, 2003, the NAFIN official wrote to the Bank proposing the reinstatement of the former State Coordinator. The Bank replied that it did not seem prudent to make further changes in the Project until an Independent Evaluation of the Project had been carried out, and that any reappointment would have to follow the Bank's procurement procedures (see Annex 10).</p> <p>During the most recent supervision mission (January 26–February 5, 2004), the Bank team found that most stakeholders in the three States were concerned much more with successful Project implementation than with the dispute concerning the termination of the State Coordinators' contracts. The Independent Evaluation was discussed at length and there were repeated calls to hire new State Coordinators and to continue with Project implementation as soon as possible. Following the mid March workshop, the process for hiring new State Coordinators will be initiated.</p>

No	Claim/Issue	OD/ OP/BP	Response
	<p>his personal opinion ahead of the explicit request of the State Committee, while being cognizant of the fact that he is violating the legal agreement and the unanimous decision of the different participants in the Project.</p>		
8.	<p>Also, a meeting was held on November 5 in the COINBIO Project Oaxaca offices with [the Sector Leader and another Bank specialist], at which it was agreed, among other things, that the World Bank would authorize the "no-objection" for the reinstatement of our coordinator, in view of the fact that his removal constituted an irregularity. However, a few days after that meeting, these persons failed to honor the agreements.</p> <p>[...] The Sector Leader and Sr. Indigenous Peoples Specialist] are acting in a similar fashion [to the Task Team Leader], by failing to honor the agreement reached in Oaxaca on November 5.</p>	13.05	<p>At the November 5, 2003 meeting to which the Requestors refer, a Fact Sheet (<i>Relatoria de Hechos</i>, see Annex 11) was presented by some members of the State Committee demanding, inter alia, the immediate dismissal of the National Coordinator and the reinstatement of the former State Coordinator. The Bank team stated that decisions regarding labor contracts pertained to NAFIN and not to the Bank. However, the National Coordinator, who was representing NAFIN at the meeting, had been told by members of the State Committee to leave several hours earlier, at the outset of the meeting.</p> <p>Draft minutes of the meeting (see Annex 12) were prepared and disseminated by the State Administrator in Oaxaca stating that the Bank had agreed to the immediate re-contracting of the former State Coordinator. At the conclusion of the November 5, 2003 meeting, the State Administrator of Oaxaca agreed to send the draft minutes of the meeting to the Bank prior to broader circulation, but this was not done. On November 17, 2003, the two Bank staff who had been present at the meeting sent a letter to NAFIN copied to members of the State Committee correcting erroneous statements contained in the Minutes regarding the Bank's commitments (see Annex 13).</p>

**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 2  
Independent Evaluation  
Executive Summary, Conclusions and Recommendations  
January 2004**



**INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION PROJECT**

**PERFORMANCE EVALUATION OF THE INDIGENOUS AND COMMUNITY  
BIODIVERSITY CONSERVATION PROJECT (COINBIO)**

**FINAL REPORT**

**SUBMITTED TO**

**THE WORLD BANK  
NACIONAL FINANCIERA**

**PREPARED BY: DORIBEL HERRADOR VALENCIA<sup>1</sup>  
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**MEXICO CITY, JANUARY 2004**

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## **EXECUTIVE SUMMARY**

The Indigenous and Community Biodiversity Project (COINBIO) arose as an initiative of the indigenous communities of Oaxaca's Sierra Juarez. The general objective of the project is to promote and strengthen community initiatives focusing on the conservation of areas of great importance for biodiversity in the above states, taking into account the traditional management practices and cultural values, including intensive participation of the communities themselves.<sup>3</sup>

At this stage of the project, there was a need to carry out a general project performance evaluation, designed to promote its strengthening, introduce greater efficiency in its operating processes and improve its management quality as well as to gain information to clarify any problems encountered and determine the most appropriate solutions for them.

The purpose of the task was to conduct an integrated evaluation of COINBIO's operating process, comprising the period from the signing of the grant agreement and until the month of October, 2003.

### **Methodological process**

The evaluation comprised a review of the project documents, a series of interviews with its national counterparts and also a visit to each of the states. During the visit to the three states, there was a meeting with the State Committees, interviews with the main social and institutional stakeholders, and field visits to selected subprojects, where beneficiaries and providers of professional services were also interviewed.

### **Results**

General aspects: the lessons learned from COINBIO are:

1. The participatory and decentralized vision contained in the project design as defined in the PAD, is an important asset that should be maintained and extended.
2. The project has likewise been an important "laboratory" providing a series of fundamental lessons for participatory work and institutional design.

### **Structural aspects**

3. The project design structure did not adequately resolve the combination between the participatory nature [of the project] and the specific operational mechanisms.
4. The decision taken at the beginning of operations to substitute the position of National Coordinator with a National Liaison with a much lesser weight had negative effects since it reduced the efficiency of the project operation.

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<sup>3</sup> The COINBIO project is carried out with the support of a grant from the Global Environment Fund (GEF), that is channeled through the World Bank and managed in Mexico by Nacional Financiera, both as financial and execution agent, under the technical supervision of SEMARNAT (Ministry of Environment, Natural Resources and Fisheries). The project began in February 2001 with the signing of the Legal Agreement and its organization was initiated on June of the same year.



5. There is an ambiguous definition of the role of State Coordinators and in particular the way in which the role is incorporated within the operating process and in the chain of command since, on one hand, they are assigned to the main operating functions in each entity and on the other, they are held mainly accountable for the State Committees, which impinges on the verticality of the process, consequently allowing them to operate independently from the national unit.
6. The insufficient operation of the National Committee has caused a void in the project's national and strategic decision making, and has reduced the existence of adequate space for conflict processing and resolution.
7. A significant deficiency of the project is the lack of a medium-term project strategic plan, with a clear idea of how the general goals of the project are intended to be met through time.
8. The community representatives genuinely represent the participating communities of the project, given that their selections were conducted in a democratic manner. On the other hand, the fact that some of the representatives are now no longer communal authorities reduces the legitimacy of their representation.
9. The selection process of the representatives of the NGO's or academic institutions was controversial, since it was established that they would be elected by other members of the Committee and this has already been a source of trouble.
10. With the exception of Oaxaca, where the Regional Natural Resources Committees normally meet once a month, there is no continuous and ongoing information and interaction process between the representatives and the communities.
11. COINBIO's dissemination and communication has taken an important stride forward with the Project's web page; however, it is necessary to make greater progress with communication instruments at the state and community levels.
12. The State Committees are operating in a normal and adequate manner and their operation is generally positively valued by all the stakeholders.
13. The processes to select the State Coordinators were transparent, open and with an intensive participation by the Committees, which has been well received and generated significant trust.

### **Operational Aspects**

14. It was between the approval of the subprojects and the initial disbursement to the communities for the subprojects (between 7 and 12 months) where the major delays took place in the project implementation.
15. The approval process of subprojects at the State Committees in all three cases took place in an open and transparent manner and through a collective discussion, which has given the project a very good image.
16. The mechanism of transferring the money for the technical studies to the communities is an important step forward as compared to other programs. It allowed them to choose the provider, establish contractual agreements, and manage the resources and payments themselves.
17. The serious delay that occurred in processing the approved subprojects cannot be attributed to a specific person or to single cause, but rather the delays were the result of the combination of a set of factors which fall under the responsibility of various individuals.
18. The general perception that the delays in the operation of the subprojects was the inefficiency and the excessive bureaucracy in NAFIN is not correct, since its administrative operation has been quite swift and has adequately complied with its role of guaranteeing an adequate operation of the administrative procedures.

19. Although it is evident that the State Coordinators are responsible for some of the factors of operational delays, they are not the main causes either. It is extremely difficult to conclude that they, or some of them, are fundamentally responsible.
20. The monitoring and evaluation component has been neglected and has had little progress.

**Impacts on the project targets**

21. The subprojects related to resource survey and inventory have a very important impact on increasing the awareness of the members of the communities and on the incorporation of communities on the current basis, which may enable the project to meet the target of 150.000 hectares under community conservation.
22. The communities that [responded to] the first call [for proposals] should be supported for several more years and the project should create incentives through channeling public resources.
23. One factor that reduces the project's likelihood of meeting the target of 150.000 hectares under sustainable use, is that the subprojects oriented towards that goal (those of Type C and D) are thus far a minority, and in some cases problems of a lack of linkage between the subprojects and the conservation objectives were detected.
24. The target of seventy advanced communities with active conservation and integrated use of resources will not be achieved if the proportion of communities of Types 3 and 4 [i.e., advanced organizational capacity] that were supported in the first call [for proposals] remains the same at only 8% [of all subprojects].
25. The project is not giving adequate support for incentives such that governmental institutions as a whole assign investment resources in a priority and privileged manner to the communities with [nature] preserves.
26. The project is especially lagging behind in regard to the target of generating a sustainable market for green products and increasing the communities' income.

## Political Aspects

27. The State Coordinators, especially those for Guerrero and Oaxaca, chose to direct the COINBIO project in a non-institutional manner, for which the project was to be completely independent from the Federal Government. They chose to strengthen their own position, with the social representatives, which led to an estrangement and, in many cases, a confrontation of the committees with some of the [Federal] institutions.
28. The decision taken by the people with institutional responsibility for the project at the national level concerning the termination of the contracts of two of the coordinators, motivated by the previous point, was a measure applied in an inadequate and unskillful way, with incorrect procedures and insufficient explanation.
29. The conflict stemmed from the early termination of the contracts of the Oaxaca and Guerrero coordinators needs to be solved promptly.

## Recommendations

1. Modify the project's organizational structure to have greater clarity in the definition of the functions of the State Coordinator, by placing this position in a chain of command that clearly and without ambiguity subordinates it to the National Coordinator.
2. Maintain and expand the participatory character [of the project] while leaving it very clear that the fundamental project decisions are taken by the State and National Committees, and that the operating structure will be fully subordinated to such Committees. The State Committees should continue participating in the process to select the State Coordinator as well as in the approval of subprojects.
3. It is necessary to strengthen the managerial role and accountability of the National Coordinator in the operation of the project as a whole.
4. The role of the National Committee needs to be empowered as the entity responsible for the project's strategic direction and the space for the making of fundamental decisions and resolving conflicts. To that end, three measures are proposed:
  - a. First, it is necessary to restructure [the National Committee's] membership to include other important stakeholders: NAFIN (National Financial Agency), CDI (National Commission for the Development of Indigenous Peoples), State Governments. Also, the number of community representatives should be increased to two per state.
  - b. Second, it is suggested that an internal structure of the National Committee (an Executive Board) be established, making it possible to execute the institutional leadership of SEMARNAT (Ministry of Environment and Natural Resources), the administrative and financial leadership of NAFIN and the operational leadership of the National Coordinator.
  - c. Third, it is necessary that an operational mechanism for the National Committee be established, providing that at least once a year there should be a meeting of the National Committee with its owners, that is, the heads of each of the institutions.
5. The representatives of the communities should be Presidents (or at least members) of the Commissariat (*Comisariado*) of their Community. When the representatives stop holding a community office, they should be replaced; the former representative will continue as an advisor to the new representative, for a period of six months.
6. The representatives of the NGO's and Academic institutions should be elected in a meeting which is as representative as possible of said organizations in each state.
7. Another urgent task is the project's strategic planning to establish a multi-year framework that defines the pace at which the project intends to meet the project's targets and general indicators.

8. Communication instruments are urgently needed at the state and community levels.
9. It is important to carry out a collective review of the factors that have been identified as the cause of operational delays with the purpose of correcting them.
10. It is necessary to immediately take actions to set up an integrated information system and a series of mechanisms to monitor biodiversity and the process of community capacity building.
11. Secure the continuous support to the Type 1 and 2 communities [low organizational capacity] with Type A projects, selecting those that had the best results.
12. Intensively strengthen the specific activities orientated to resource management and to the modification of the operating rules of other programs with the aim of allocating greater investment resources to the communities with effective conservation schemes.
13. Increase the participation of advanced communities, especially in Sierra Norte of Oaxaca, seeking to carry out Type C and D subprojects.
14. Place greater emphasis on the aspects of generation of green markets and integration of sustainable production chains.
15. Urgently seek a political solution of the current conflict, based on dialogue and negotiation between the parties. To that end, the following is required:
  - a. The parties should acknowledge the problems each contributed to generate, i.e., the Coordinators, their extreme interpretation of the project's autonomy and their promotion of the estrangement with the institutions; and the national players, on their part, their incorrect [management] of the termination of the Coordinators contracts.
  - b. Achieve a renewed commitment for absolute respect to the rules of the project, as a basis for trust building.
  - c. Proceed to make the project structural changes and selection of new Oaxaca and Guerrero State Coordinators as soon as possible.
  - d. After the workshop to reach consensus on the structural modifications, hold a session of the National Committee that marks a new stage in the project's development.
  - e. Move as quickly as possible in launching the second call [for proposals] in Oaxaca and Guerrero.

## 4. CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

#### General Aspects: the lessons that can be drawn from COINBIO

1. The participatory and decentralized vision contained in the project design as defined in the PAD (Project Appraisal Document), is an important finding and asset that should be maintained and extended.
2. The project has also been an important "laboratory" that provides a series of fundamental lessons for participatory work and the institutional and social design of programs oriented to the conservation of biodiversity, and to the promotion of the sustainable development of indigenous and *campesino* communities.

### Structural Aspects

3. The project's design structure failed to adequately resolve the combination [contradiction] between its participatory character and the specific operating mechanisms, and as a result its development took place in the context of serious tension between the idea of a strongly participatory and decentralized operation, in which the major decisions are taken by the committees with a predominant participation of the communities and, on the other hand the administrative operation centralized under the responsibility of a receiver organization. The lack of solution to this problem in the project design is a major factor in the problems that subsequently arose in its operation.
4. The decision taken at the beginning of the operation to substitute a National Coordinator for a National Liaison with much less authority had negative effects by reducing the project's operational efficiency, since it was not possible to establish a national articulated vision and the relationship between the administrative processes and the State Coordinators became complicated.
5. There is an ambiguous and inconvenient definition of the role of the State Coordinators and in particular of the way in which they are inscribed in the operating process and in the chain of command since, on the one hand, they are assigned the main operating functions in each entity, which requires a vertical command line that would allow for an efficient operating process and, on the other, the Operating Manual establishes that the coordinators are mainly accountable to the State Committees, which vulnerates the necessary verticality of the process and opens up a gap for them to operate independently from the national unit.
6. The insufficient operation of the National Committee has created a void in the project's national and strategic decision making, and has reduced adequate spaces for the processing and resolution of internal conflicts in a legitimate manner.
7. An important project deficiency is the absence of a medium-term project strategic plan clearly indicating how the project general targets are intended to be met in the various stages throughout the project and thus providing a linkage of the project targets and objectives with the annual operating plans, while setting a clear basis for evaluation.
8. The community representatives are clearly representative of the communities participating in the project, since both in the Natural Resources Committees in Oaxaca, and in the

regional meetings carried out in the two other states, the elections of representatives were conducted in a democratic manner and those selected effectively counted with the support of the majority of the community authorities convened to that end, although the fact that several of the representatives are no longer communal authorities detracts from the legitimacy of their representation.

9. The selection process of the representatives of NGO's or academic institutions is controversial, since the Operating Manual states the same will be chosen by the other members of the Committee, something which has already caused problems, specifically in Oaxaca, where the State Coordinator changed this representative without consulting the NGO's and generated ill feelings and protests.
10. With the exception of the case of Oaxaca, where the Natural Resources Regional Committees normally meet once a month, and among many other issues related to forestry, the COINBIO affairs are also reported and discussed, there is no ongoing sustained process for information and interaction between the representatives and the communities, since there are no periodical meetings to report on the progress of the COINBIO affairs.
11. The generation of COINBIO dissemination and communication instruments has made a major step forward with the Project's web page. However, it is necessary to move forward with communication instruments at the state level, and above all, at community level.
12. The State Committees are operating in a regular and adequate manner and they are generally very positively valued by all the stakeholders and they are specially recognized by the communities as an important space to be maintained and as a fundamental virtue and asset of the project.
13. The processes of selection of the State Coordinators were transparent, open and involved an intensive participation of the Committees, something which has been welcomed from the start by all and has generated a lot of project trust.

### **Operational Aspects**

14. It was between the approval of the subprojects and the initial disbursement to the communities, with 7 to 12 months elapsing, where the major delays took place in the project operation.
15. The approval process of subproject by the State Committees was in all three cases carried out in an open and transparent manner and through a collective discussion, which has given the project a very good image and has managed to gain the trust of the various participants, especially the communities.
16. The mechanisms of money transfer for the technical studies to the communities which allowed themselves to choose their provider, establish contractual agreements for the provision of professional services, manage the money and pay, represents an important step forward as compared to other such programs.
17. It is not possible to attribute the serious delay that occurred during the stage of management of the approved subprojects to a specific person or to a single cause, but rather the delays were caused by a combination of a series of factors that are the responsibility of various individuals.

18. The general perception that the delays in the operation of the subprojects was the inefficiency and excessive bureaucracy in NAFIN is not correct, and it was rather promoted by some State Coordinators since, although in some cases, it is possible to attribute certain delay factors to NAFIN, actually its administrative operation has been quite agile and has adequately fulfilled its role of guaranteeing an adequate operation of the administrative procedures.
19. Likewise, it is not possible to hold the State Coordinators responsible of being the major cause of the delays, although it is evident that they are responsible for several of the factors of operational delay. But it cannot, in any way, be concluded that they, or some of them, are mainly responsible.
20. The evaluation and monitoring component allowing for studies to be conducted, and the building of a database to measure the protected biodiversity and the strengthening of community capacities, has been practically neglected and has made no progress.

### **Impacts on the project's targets**

21. The resource surveying and inventorying projects that are being developed have a very important impact on the awareness of the members of the community regarding the need to preserve biodiversity and provide for community reserves. A clear willingness of the communities to establish community reserves has been perceived. Should the pace of incorporation of communities be sustained, it would be possible to meet the target of 150 thousand hectares under community conservation.
22. However, the communities that responded to the first call [for proposals] need to be supported for several more years and the project should encourage them by prioritizing the channeling of public resources from other governmental programs.
23. One factor that reduces the project's likelihood of achieving the target of [placing]150 thousand hectares under sustainable use is the fact that the subprojects oriented towards that goal (Types C and D) are until now a minority in the portfolio, and in some cases, problems of lack of a close linkage between the subprojects and the conservation objectives were found, as well as difficulties for COINBIO to finance in full the support requirement for those projects.
24. The target of seventy advanced communities with active conservation and integrated use of resources will not be achievable if the proportion of Type 3 and 4 communities [advanced organizational capacity] that were supported in the first call [for proposals] is maintained, since they represent only 8% of the total subprojects approved.
25. The project has placed inadequate attention to project promotion so as to mainstream the [federal] governments and their programs, together with their standards and procedures to provide priority resources to those communities that manage to establish effective conservation schemes in their territories. The reason for this is that, on the one hand, there has been a process of institutional isolation by the project, and on the other, the project is not conducting defined and specific activities designed towards resource management and the streamlining of the operating rules in coordination with other forestry programs with sufficient intensity.

26. The project is particularly lagging behind in the target of generating sustainable markets for green products and increasing community income.

### **Political Aspects**

27. Within a framework of a series of conditions of a structural nature, relating to the design and conception of the project, and of an episodic nature, under the circumstances in which its operation began, the State Coordinators, especially in Guerrero and Oaxaca, chose to take a rather non-institutional stance of the COINBIO project, according to which it was conceived to be completely independent from the Federal government, and they chose to strengthen their own positions with the social representatives. In that sense, they carried out a political management of the project which generated a crisis of an institutional nature, tended to strengthen their own position and created an estrangement and in many cases a confrontation of the State Committees with some of the [federal] institutions.
28. The decision by the institutional heads of the project at the national level to terminate the contracts of the two State Coordinators (as a result of what was pointed out above) was a measure that was applied in an inadequate, unskilled way, with incorrect procedures and badly explained. This led it to evolve from a crisis caused by the attitude and positions of the State Coordinators, into another one generated by the incorrect way in which the intended solution was instrumented.
29. The conflict originating in the early termination of the contracts of the Oaxaca and Guerrero coordinators should be resolved, since this circumstance is what currently maintains the Project trapped, generating not only high financial costs, but also costs in terms of the level of credibility of all of COINBIO's social stakeholders.

### **Recommendations**

At this level of development of COINBIO, it is recognized that a series of actions are required to reorient it towards meeting the designed objectives and targets. It is important to note that these actions should be agreed with all stakeholders, to avoid losing the participatory approach that makes COINBIO the leading edge in strengthening the social, human and natural capital of the communities, fostering innovative participation and empowerment mechanisms in the communities, resulting in increasing the protection of biodiversity in southern Mexico.

It is necessary to resolve the tension between the project's participatory and operating character, strengthening the former, but setting the conditions to make it possible to develop an efficient operation. To that end, the following measures are proposed:

1. Modify the project's organizational structure to more clearly define the functions of the State Coordinator, by placing the position within a chain of command, to clearly and unambiguously subordinate it to the National Coordinator. That is, establish that the supervisor of the State Coordinator is the National Coordinator, to establish a verticality that introduces efficiency in the operating processes that need to be carried out in a managerial and executive manner.
2. However, the participatory feature should be maintained and extended, by clearly providing that the project's major decisions are taken by the State Committees and the National Committee, in their respective areas of competence, and that the operating structure, that will be headed by the National Coordinator, will be fully subordinated to such Committees.



In other words, the supervisor of the National Coordinator and the State Coordinators are the National Committee and the State Committees in their respective areas of competence. Among the powers that the State Committees should retain is their participation in the process of selecting the State Coordinator, that should be repeated in exactly the same way as it was done at the beginning of the project, and above all, their role in defining and managing the processes of call [for proposals] and in the analysis and approval of the same. It will be very helpful to have the rules of each of the State Committees reviewed and approved by the National Committee.

3. Thus, the managerial and accountability role of the National Coordinator should be strengthened, both by means of the measures mentioned above and with others such as appointing the position as Executive Secretary of the National Committee, and establishing this position more clearly as the main authority of the project's operation as a whole.
4. It is necessary to enhance the role of the National Committee as the entity responsible for the project's global and strategic direction, the instance for fundamental decision making and conflict resolution with transparency and legitimacy. To that end, three measures are proposed:
  - a. First, it is necessary to restructure its membership to include other important stakeholders. In terms of institutional players, it is proposed that the following be formally included: NAFIN, the National Commission of Indigenous Peoples (CDI) and the State Governments. The participation of the communities should likewise be strengthened, expanding the number of representatives to two per state.
  - b. Second, set up an internal structure in the National Committee (an Executive Board) intended to execute the institutional leadership of SEMARNAT, the administrative and financial leadership of NAFIN and the operational leadership of the National Coordinator. This Executive Board could be made up of the Secretary of SEMARNAT or the Director General of CONAFOR (National Forest Commission) as President, NAFIN as Vice President, and the National Coordinator as Executive Secretary. Such Executive Board could meet in between the Committee's sessions, to expedite procedures and agreements.
  - c. Third, a mechanism of operation of the National Committee should be established, such that at least once a year, a meeting of the National Committee is held with its owners, with the participation of the heads of each of the institutions, notwithstanding other more frequent meetings being held with the participation of alternate representatives. This ordinary meeting for annual evaluation, assessment and strategic orientation should be convened by the Secretary of SEMARNAT or by the Director General of CONAFOR, and should be a way of informing the heads of the institutions on the development of the project, defining strategic orientations and making high level decisions. It is proposed that the first meeting at this level be held as soon as possible, immediately after the workshop, and that it serve to re-orient the project for the future.
5. In order to strengthen the accountability of its members before their constituencies, include in the Operating Manual the provision that the representatives of the communities should be Presidents (or at least members) of the Commissariat of their Community. In case the appointed representatives no longer hold a position of authority within their community, they shall be replaced by the newly elected official, although the former representative may

- continue attending the Committee, with the right to speak and in an advisory capacity to the new representative, for a period of six months.
6. The Operating Manual should be modified to establish that the representatives of the NGO's and academic institutions should be elected at a meeting that is as representative as possible of such organizations in each state. Likewise, it should be provided that the NGO or member of academia participating as representative before the State Committee can be part of the roster of providers of Professional Services and compete for the execution of subprojects.
  7. Another urgent task is the project's strategic planning, generating a multi-year framework to define the pace at which the project's targets and general indicators are intended to be met, and serving as the basis for the development of Annual Operating Plans with committed impact targets, and the frame of reference for the evaluation.
  8. Communications instruments are urgently needed at the state and community level. These could be periodical bulletins, or even a well designed poster presentation to reach the interior of the communities, allowing information to flow more consistently from the Committees to the various stakeholders, mainly the community members, and not only to their representatives or authorities.
  9. Although some of the obstacles that delayed the execution of the subprojects have already been overcome, it is important to carry out a collective review of the factors identified as the cause of operational delays to correct them and manage to overcome the project's learning curve to achieve greater expediency in the operating processes. The negative experiences of the first call [for proposals] should be addressed to achieve greater efficiency in the subsequent ones. In terms of the second call [for proposals], it is recommended that defined timeframes are established for the submittal of technical proposals by service providers. They should be informed that the submittal date for proposals is unextendable.
  10. It is necessary to immediately start up the actions designed to create an integrated management information system and a set of mechanisms and methodologies to monitor biodiversity and the process of community strengthening. An important aspect is generating mechanisms to review the technical quality of the studies developed by the providers of professional services.
  11. Ensure the continuity of support for Type 1 and 2 communities that had Type A projects, selecting those that obtained better results, to consolidate the process of defining conservation areas and achieve the formal establishment of community reserves.
  12. Intensive strengthening of specific and defined activities is required, oriented to resource management and modifying the operating rules with the aim of investment resources being allocated in a priority manner to the communities that establish effective conservation schemes in their territories. COINBIO's institutional coordination and articulation are fundamental instruments to effectively achieve its targets and indicators.
  13. It is necessary to modify the proportion of the types of communities and subprojects, increasing the participation of advanced communities, especially in Sierra Norte of Oaxaca and attempting to carry out Type C and D subprojects.

14. The Natural Resources Committees of Oaxaca should be strengthened, since these are important information and discussion fora that focus beyond COINBIO and therefore have the potential to contribute to establishing better relations between the CONAFOR projects and COINBIO. Likewise, in Guerrero and Michoacán, more intensive actions are recommended to foster community participation in the regions where the project is operating in order to strengthen the existing spaces and fora and make progress towards setting up Natural Resources Committees.
15. Greater emphasis should be placed on the aspects connected with the generation of green markets, integration of sustainable production chains and mechanisms to enhance "hard" economic variables, especially the communities' income but also production, productivity, capitalization and employment.
16. A resolution is urgently needed for the current conflict, based on dialogue and negotiation between the parties, and the recognition of past mistakes, making it possible to minimize the negative implications for all the stakeholders, and avoiding a situation in which one party wins at the expense of the other. If a win-lose situation cannot be avoided, then the project will be the general loser. The solution to the conflict should be consistent with COINBIO's participatory spirit, requires great caution and tolerance in order to preserve the processes that the same Project has fostered. It is a matter of resuming the process and, on that basis, generating the changes needed for its successful continuation. To that end, the following is required:
  - a. The parties should acknowledge the problems each contributed to generate, that is, the State Coordinators, their extreme interpretation of the project's autonomy and their promotion of the estrangement with the [federal] institutions; the national players, on their part, their incorrect handling of the implementation of the exit of the State Coordinators.
  - b. There should be a renewed commitment to absolute respect for the project rules, as a foundation to build trust.
  - c. Proceed with the project's structural changes and the selection of new State Coordinators in Oaxaca and Guerrero, as soon as possible.
  - d. After the workshop to agree on the structural modifications, hold a session of the National Committee, marking a new stage in the project's development.
  - e. Proceed as soon as possible to launch the second call [for proposals] in Oaxaca and Guerrero.

**ABBREVIATIONS AND ACRONYMS**

CDI	<i>Comisión nacional de Pueblos Indígenas</i> (National Commission of Indigenous Peoples)
COINBIO	<i>Proyecto de Conservación de la Biodiversidad en Comunidades Indígenas</i> (Indigenous and Community Biodiversity Conservation Project)
CONAFOR	National Forest Commission
NAFIN	<i>Nacional Financiera</i> (National Financial Agency)
NGO	Non-Government Organization
PAD	Project Appraisal Document
SEMARNAT	<i>Secretaría de Medio Ambiente, y Recursos Naturales</i> (Ministry of Environment, and Natural Resources)



**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 3.  
Project Effectiveness Letter, dated June 22, 2001**



June 22, 2001

Act. Alonso García Tamés,  
Director General de Crédito Público,  
Secretaría de Hacienda y Crédito Público,  
Insurgentes Sur # 826, Piso 9,  
Col. Del Valle,  
03100 México, D. F.

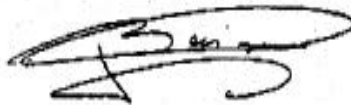
Lic. Roberto Casillas,  
Director Internacional,  
Nacional Financiera, S.N.C.,  
Insurgentes Sur # 1971, Torre 4, Piso 8,  
Col. Guadalupe Inn,  
01020 México, D. F.

**Ref.: Mexico Indigenous Community and Biodiversity Conservation Project (TF024372)  
Effectiveness Date**

Please disregard the letter which was sent to you earlier. This wording precedes that of the earlier version.

I am pleased to notify you that the Bank accepts evidence submitted in fulfillment of conditions precedent to effectiveness of the grant agreement for the Indigenous Community and Biodiversity Conservation Project, dated February 1, 2001, between the Bank, Nacional Financiera (NAFIN) and the United Mexican States. Likewise, the fulfillment of the position of National Coordinator has been waived given the fact that part his or her functions or responsibilities have been vested in staff already working under the project or in SEMARNAT and partly in the state coordinators under the authority of the State Committees. Consequently, the grant agreement becomes effective on June 21, 2001.

Regards,



Adolfo Brizzi  
Acting Director  
Country Management Unit  
Colombia, Mexico and Venezuela

cc: Lic. Ricardo Ochoa, Director de Organismos Financieros Internacionales, SHCP  
Lic. Claudia Grayeb, Directora de Coordinación Sectorial y Medio Ambiente, SHCP  
Lic. Arturo Escobedo, Titular de la Unidad de Financiamientos Multilaterales, NAFIN,



*Mexico - COINBIO*

Lic. Federico Patiño, Director Alterno de Finanzas, NAFIN,  
Lic. Luis Catán, Subdirector de Financiamientos Internacionales, NAFIN,  
Dr. Gerardo Segura, Coordinador Nacional, SEMARNAT  
Dra. Olga Ojeda, Titular Unidad Coordinadora de Asuntos Internacionales, SEMARNAT  
Lic. Raúl Arriaga, Subsecretario de Gestión para la Protección Ambiental, SEMARNAT

c.c. Messrs./Mmes. Lafourcade, Ordóñez, Carrasco, Hernández, Franco (LCC1C); Serra, Cervigni, Félix-Castañeda, Bradley, Shepardson, Isaac, Ledec (LCSEN); Sarmiento, Semaan, Smyle, Cackler (LCSE); Redwood, Nielsen, Roncal, De Laurentiis, Baltar (LCSES); Molnar (LEGOP); Martínez, Davis, Tumale-Habib, Uquillas, Avellan, Abedin (LCSEO); Del Castillo (MNSRE); Rojas, Abousleiman (LOAG3)

**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 4**

**Letter from Natural Resources Council of Sierra Juarez (Sierra Norte)  
to the State Committee of Oaxaca,  
dated December 16, 2003**



Ixtlan de Juarez, Oaxaca, 16 December 2003

[TO:] Members of the State Committee of the COINBIO Project

The undersigned, members of the Natural Resource Committee of the Sierra Norte of Oaxaca respectfully address ourselves to you to express our concern for the lack of progress in the COINBIO project in our State and, at the same time, we request that you take measures to allow the project to go forward.

We consider the project to be a result of the efforts our communities in the Sierra Norte since we took the first steps to make this project a reality.

Following all the requirements, in 2002, we presented our requests [for subprojects] but they were not supported, the reasons for which we now demand an explanation.

We are aware that, during the last six months, the COINBIO State Committee has dedicated itself exclusively to the situation created by the termination of [the contracts of] the State Coordinator by Nacional Financiera. We feel that it is not the State Committee but rather NAFIN that should tend to labor disputes with its personnel, while the State Committee should tend to the requests from Oaxaca Communities.

We call upon the Institutions represented in the COINBIO State Committee, and especially our comrades who represent communities, to work for the benefit of the communities and to avoid delays in the project.

Likewise, we request with special emphasis, that the Request for Proposals for 2003 be issued immediately so that COINBIO does not close off the opportunities to support our communities. It would be a shame if COINBIO, which was developed out of Community Demands, is not able to respond to our proposals.

We have waited patiently for more than one year for our project proposals to be considered by COINBIO but we are disappointed that the Committee has given higher priority to deal with labor disputes than to the interests of the communities. We are also afraid that the project may close because of the conflict situation that we are now undergoing and this concerns us a great deal.

By this means, we issue a fraternal and respectful call to the State Committee for the project not to be delayed and that it shall take the necessary measures to allow it to go forward in benefit of our communities. We should not permit it to be said that the project has generated social conflicts and that, for this reason, it should close down. We shall not continue to allow NAFIN's labor disputes to affect the progress of our project. It is not fair that we are left out or that we should be denied the support that we deserve as much as other brother communities.

We urge the State Committee to pay attention to this matter and to take the urgent measures necessary for the project to continue to allow COINBIO to continue its progress.

Executive Committee of the Natural Resource Committee

[Twenty-Three Signatures]



**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 5  
Letter from NAFIN to the State Coordinator for Oaxaca,  
dated July 30, 2003**



**DIRECTORATE OF INTERNATIONAL FINANCING**

Nacional Financiera

**CIE/2609**  
July 30, 2003

**Ms.**

**Tzinnia Carranza López**

Coordinator of the COINBIO Project in Oaxaca

Address: Presa Tezoyo No. 168-3

Col. Irrigación

Mexico, D.F.

Zip Code 11500

I am writing in reference to the (contract) agreement for professional services NF/CO/22/2003 signed between Nacional Financiera S.N.C., in its capacity as Implementation Agency of Grant TF-024372 from the Global Environment Facility and you, dated January 2, 2003, pursuant to which your professional services were contracted to serve as the State Coordinator of the Project in Oaxaca.

In relation to this matter, in the meetings held with representatives of the World Bank and the National Forestry Commission to discuss the progress of the Project, it was agreed to restructure the Project with the aim of developing synergies between the public sector entities involved in its development. This has required a redefinition of the role of the staff responsible for the Project at state level, in view of the different profile necessary for its operation.

In accordance with the above, and pursuant to Clause Eleven of the above-mentioned agreement for the provision of services, I hereby inform you of the decision made by this Institution for the early termination of the contract for professional services as of August 15, 2003. Consequently, starting on the date of notification of this letter, all activities that may relate to the provision of services shall be suspended.

In view of the above, and based upon the final part of Clause Eleven, we kindly request that you to send us the Final Report on the progress of the activities of the Work Plan performed by said Coordination.

Sincerely yours,

**TIMOTEO ELLIOT HARRIS HOWARD**

Director

c. Engineer Francisco Chapela Mendoza – National Coordinator COINBIO – CONAFOR





**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 6  
E-mails dating from November and December 2003  
from various Requestors to Bank staff and others**



**TRANSLATION FROM THE SPANISH ORIGINAL**

From: Joyce García Sosa <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>

To: [Agarcia@Conafor.Gob.Mx](mailto:Agarcia@Conafor.Gob.Mx),  
[Aslens@Yahoo.Com.Mx](mailto:Aslens@Yahoo.Com.Mx),  
[Serbo@Prodigy.Net.Mx](mailto:Serbo@Prodigy.Net.Mx),  
[Fmelo569@Prodigy.Net.Mx](mailto:Fmelo569@Prodigy.Net.Mx),  
[Delegado@Oaxaca.Semarnat.Gob.Mx](mailto:Delegado@Oaxaca.Semarnat.Gob.Mx),  
[Cbccapulalpam@Net.Com.Mx](mailto:Cbccapulalpam@Net.Com.Mx),  
[Ecologiaoax@Prodigy.Net.Mx](mailto:Ecologiaoax@Prodigy.Net.Mx),  
[Drnieeo@Yahoo.Com.Mx](mailto:Drnieeo@Yahoo.Com.Mx),  
[Tecnica@Oaxaca.Semarnat.Gob.Mx](mailto:Tecnica@Oaxaca.Semarnat.Gob.Mx)

cc: [Jmartinez2@Worldbank.Org](mailto:Jmartinez2@Worldbank.Org),  
[Aninio@Worldbank.Org](mailto:Aninio@Worldbank.Org),  
[Amolnar@Worldbank.Org](mailto:Amolnar@Worldbank.Org),  
[Dgross@Worldbank.Org](mailto:Dgross@Worldbank.Org),  
[Eabbott@Worldbank.Org](mailto:Eabbott@Worldbank.Org),  
[Iguerrero@Worldbank.Org](mailto:Iguerrero@Worldbank.Org),  
[Lgood@Thegef.Org](mailto:Lgood@Thegef.Org),  
[Msabella@Worldbank.Org](mailto:Msabella@Worldbank.Org),  
[Mramos@Thegef.Org](mailto:Mramos@Thegef.Org),  
[Sdavis2@Worldbank.Org](mailto:Sdavis2@Worldbank.Org),  
[Aescobedo@Nafin.Gob.Mx](mailto:Aescobedo@Nafin.Gob.Mx),  
[Mrcustodio@Nafin.Gob.Mx](mailto:Mrcustodio@Nafin.Gob.Mx),  
[Fchapela@Conafor.Gob.Mx](mailto:Fchapela@Conafor.Gob.Mx),  
[Fchapela@Prodigy.Net.Mx](mailto:Fchapela@Prodigy.Net.Mx)

Date: 11/12/2003 10:11 PM

Subject: TODAY IS THE DEADLINE

Adán:

Today it's one week from the meeting and so far we have not had an answer from the World Bank or from NAFIN on the agreements made. Mr. Kellemborg promised that at the most in one week this would be settled. What is going on? Are they taking us for fools or what? He said he did not need to have the minutes to be able to talk to NAFIN.

Why haven't you expedited the proceedings? That is your responsibility. What have you been doing that you have not been on top of things? You are responsible for this not flowing.

It is clear that Arturo García wanted to delay matters by trying to refute Román (Aquino), claiming that what the report says in connection with the visit of (Francisco) Chapela to the Sierra Norte Committee is a lie, but he made no objection to the minutes. Our OK was in place since Friday just like that of the Institute and you said you would wait until the end of the week to send it. Nobody else has made comments and it is taken for granted that everybody is in agreement. Before the meeting ended the agreements were reviewed and everybody was in agreement. WHAT IS GOING ON? The evaluation is about to begin and the coordinator has to be there.

*Mexico - COINBIO*

Mr. Chapela needs to be reminded that he should not attempt to disrupt things and try to make it seem that there are no agreements. He even wasn't at the meeting. How dare he tell you why are you sending the minutes if there is no consensus about it? All of us who were there reviewed the agreements before leaving the meeting so it was agreed already since then. He's the one trying to get us fighting [among ourselves].

We ask you to expedite this matter as soon as possible. Tell us, what is needed? Talk to the World Bank people, to Mr. Kelleberg and Mr. Martínez, who were the ones who made the commitment and ask them what is going on. If there is no favorable answer during this week, we are not going to wait any longer to go to the Inspection Panel. ENOUGH OF BEING PLAYED LIKE FOOLS!

It is you, Adán, that we will hold directly responsible if we do not get an answer.

Sincerely,

Community members of the COINBIO committee

Joyce García Sosa, representative of COSTA

Román Aquino Matías, President of the Commissariat of Ixtlán de Juárez, Sierra Norte

Arturo Ruíz González, representative of the YAUTEPEC-ISTMO

Sergio García Mendoza. President of the Commissariat of Santa María Huatulco

**TRANSLATION FROM THE SPANISH ORIGINAL**

From: Joyce García Sosa <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>

To: [Btunon@Worldbank.Org](mailto:Btunon@Worldbank.Org),  
[Aescobedo@Nafin.Gob.Mx](mailto:Aescobedo@Nafin.Gob.Mx),  
[Jkellenberg@Worldbank.Org](mailto:Jkellenberg@Worldbank.Org)

cc: [Fchapela@Conafor.Gob.Mx](mailto:Fchapela@Conafor.Gob.Mx),  
[Cbccapulalpam@Net.Com.Mx](mailto:Cbccapulalpam@Net.Com.Mx),  
[Serbo@Prodigy.Net.Mx](mailto:Serbo@Prodigy.Net.Mx),  
[Cgrayebb@Shcp.Gob.Mx](mailto:Cgrayebb@Shcp.Gob.Mx),  
[Ricochoa@Shcp.Gob.Mx](mailto:Ricochoa@Shcp.Gob.Mx),  
[Aslens@Yahoo.Com.Mx](mailto:Aslens@Yahoo.Com.Mx),  
[Agarcia@Conafor.Gob.Mx](mailto:Agarcia@Conafor.Gob.Mx),  
[Amolnar@Worldbank.Org](mailto:Amolnar@Worldbank.Org),  
[Dgross@Worldbank.Org](mailto:Dgross@Worldbank.Org),  
[Delegado@Oaxaca.Semarnat.Gob.Mx](mailto:Delegado@Oaxaca.Semarnat.Gob.Mx),  
[Dortegav@Yahoo.Com.Mx](mailto:Dortegav@Yahoo.Com.Mx),  
[Drnieeo@Yahoo.Com.Mx](mailto:Drnieeo@Yahoo.Com.Mx),  
[Eabbott@Worldbank.Org](mailto:Eabbott@Worldbank.Org),  
[Fmelo569@Prodigy.Net.Mx](mailto:Fmelo569@Prodigy.Net.Mx),  
[Gcastro@Thegef.Org](mailto:Gcastro@Thegef.Org),  
[Iguerrero@Worldbank.Org](mailto:Iguerrero@Worldbank.Org),  
[Tecnica@Oaxaca.Semarnat.Gob.Mx](mailto:Tecnica@Oaxaca.Semarnat.Gob.Mx),  
[Ecologiaoax@Prodigy.Net.Mx](mailto:Ecologiaoax@Prodigy.Net.Mx),  
[Jmartinez2@Worldbank.Org](mailto:Jmartinez2@Worldbank.Org),  
[Lgood@Thegef.Org](mailto:Lgood@Thegef.Org),  
[Mramos@Thegef.Org](mailto:Mramos@Thegef.Org),  
[Pgonzalez@Worldbank.Org](mailto:Pgonzalez@Worldbank.Org),  
[Mrcustodio@Nafin.Gob.Mx](mailto:Mrcustodio@Nafin.Gob.Mx),  
[Sdavis2@Worldbank.Org](mailto:Sdavis2@Worldbank.Org)

Date: 11/17/2003 04:36 PM

Subject: Re: Observations on the Minutes of Ordinary Meeting # 39 dated November 5, 2003 of the COINBIO State Committee in Oaxaca.

I am really surprised. I can't believe it. The clarification letter that Mr. Kellelberg sent to Mr. Escobedo has been as off the mark as all the procedures that have been followed since unilaterally they took the decision to enrage us by not taking us nor the peoples we represent into account and remove the State Coordinator. We were working in a harmonic manner, with problems and shortcomings, yes, but in harmony and with the wish to move the project forward for the benefit of our peoples who still believe in the project. We believed in the good faith and coherence of Mr. Kellelberg and Mr. Martínez. We believed they had understood our issues. They witnessed our rejection towards Mr. Chapela. We discussed the problems in an adult way and they listened and we listened to their points of view. We should have listened to the government of the State when it said that the HIGH LEVEL meeting was not taking place, because around the table there were no people making decisions. We believed in Mr. Kellelberg that he could do it, because he told us categorically that he was the boss of Dan Gross and that at least once he talked to Mr. Escobedo. He undertook to talk to (Mr. Escobedo) to accelerate the process of rehiring the Coordinator and

they as the Bank would provide the no-objection that months ago they had denied without reason to Nacional Financiera, when [Nacional Financiera] they wanted to fix the problem by rehiring the Coordinator and begin an evaluation phase that we ourselves requested. It is obvious for everybody that the problem that we have been expressing at the top of our voices is the continuation of the [National] Coordinator, because we cannot conceive of an objective evaluation, on a decision poorly made. The Bank tells us that we should have been consulted in the decision making. The legal document signed between them and our government says so. But it will have to be the next time, since in this opportunity they can't and it is obvious, because they would be recognizing that they fumbled (but at least they would be demonstrating their good will in recognizing and correcting the mistake). But they cling to denying once and again that they did not fumble. The serious thing is that they want to treat us like idiots, it is not enough that they treat us like despicable Indians. No, they call us IDIOTS, IDIOTS, because now it turns out that we, all the members of the Committee are IDIOTS, MENTAL RETARDS, because they never said what they said, we misunderstood, they NEVER said they would talk to NAFIN to restart the rehiring process. What a joke, what disrespect against us. If we accept this letter as true, we would be recognizing that we are what they believe us to be, that we are IDIOTS, and gentlemen, allow me to tell you that at least in Yauatepec-Istmo, our people are poor, needy, humble but never IDIOTS. Mr. Kellemborg and Mr. Martínez, be advised, we are not boot-lickers, we are warriors, with precedents of social struggle against injustice. It is time you know who we are. Our people are ready to take your facilities, Mr. Escobedo, if you continue trying to humiliate us in this way. **OF COURSE WE DO NOT ACCEPT A SINGLE ONE OF YOUR SUGGESTIONS TO CHANGE THE MINUTES, BECAUSE IT REFLECTS WHAT WE AGREED, NO MORE AND NO LESS, OUR COMMITTEE AGREEMENTS ARE NOT NEGOTIABLE.**

**IT TURNS OUT THAT NOW FROM YOUR DESKS YOU REVIEW THE MINUTES AND SAY CHANGE THEM BECAUSE YOU DO NOT LIKE THE WAY THEY ARE. DO NOT DARE INTERFERE WITH OUR DECISIONS BECAUSE WE WILL NOT STAND FOR IT. WE WILL NOT SIGN ANY MINUTES DIFFERENT TO THE ONE I ALREADY SIGNED IN REPRESENTATION OF MY PEOPLES.**

We are already talking to Mr. Abbot and we'll see each other at the Inspection Panel. Gentlemen from the World Bank, we are not losers, and are ready for everything. We are aware if the risks we run and we hold you responsible if our physical integrity or that of our families is affected. But we will not budge. **UNDERSTAND IT WELL.**

This week I will be meeting with my community brothers and you will hear from us.

Cordially,

Arturo Ruiz González  
Community of Lachixonace

Ing. Bustamante, we request the intervention of our Constitutional Governor so that he does not allow foreigners as Mr. Kellemborg and Mr. Juan Martínez (who I think is also a foreigner) to try to come to our State to mock us and tread on us for being indigenous and if NAFIN continues doing nothing, then we should also watch out for them.

**TRANSLATION FROM THE SPANISH ORIGINAL**

From: Joyce García Sosa <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>

To: [Jmartinez2@Worldbank.Org](mailto:Jmartinez2@Worldbank.Org),

cc: [JKellenberg@Worldbank.Org](mailto:JKellenberg@Worldbank.Org),

Subject: Re: request position on minutes

Date: 12/02/2003 04:48 PM

Dear Juan,

I would be lying if I said I am pleased about you writing, since you and Kellemer have no shame, after the whole "number" you put together in trying to frame us as assholes, the only thing you left behind was a bitter taste in the mouth.

From Kellemer we can understand it because after all he is a foreigner of which we cannot think he has a modicum of social sensitivity, or is interested in indigenous affairs or the poverty of our peoples.

But from you, you should be ashamed to bear the title of "Indigenous People's Specialist", since one opportunity of meeting you was enough for us to realize the hypocrisy you exhibit in caring only about your "work" and sucking up to the people in the "Bank" and not caring a hoot about the people you surely originated from, INDIGENOUS PEOPLE.

It embarrasses us that you say you are from Oaxaca, since you have no sensitivity to the suffering of your countrymen and indigenous race brothers. This is the last time I write to you, but I do not want to do it before first telling you what my brothers and me think of you. It is obvious that we will not accept any evaluation if you do not first meet your commitments. You still believe (and that makes us furious) that you can play us for IDIOTS in thinking and continuing with your discourse on THE EVALUATION. We want Tzinnia Carranza to be present. We want action to be taken for once and for all against Paco Chapela, who is being protected till the end. We cannot unravel all the dirt that surrounds his still being kept in the position of National Coordinator. We do not need an evaluation for what is evident. Chapela is rejected in the regions. UNDERSTAND IT SO. Who the hell is he going to coordinate if we and our communities want nothing to do with him? Ask him if he has done any field work in the regions. He will not do it because he is not accepted and we have said it. Any visit is undertaken at his own risk, because we know our people and he is overstepping the line.

However, the project is well accepted in the regions. Right now I am on my way to Oaxaca City, making the last arrangements for an event of my community which is related to the protection of turtles and in which for the first time the community is involved and that is the result of the work of the REMOVED COORDINATOR, who had the sensibility of promoting among the people in my community an unprecedented project, but an extremely important one. I will tell you just one fact: the target was the protection of 60,000 eggs and so far we have 200,000 under protection, [some] of which we will release on this December 5, in a ceremony with school children and special guests and, of course, the participation of the COMMUNITY. That is the COINBIO we want and defend, working with the people, not from behind a desk, not through shoddy interests that smell of rot, of misery. How can we fail to defend a project of such nature? How can we let unscrupled individuals



use us for their particular and shoddy benefit, in which your participation becomes evident by taking the attitudes exhibited so far and protecting one of the main causes of this problem [Francisco] CHAPELA.

My dear Juan, abstain from writing such stupid notes, because you offend us. You have realized we are not IDIOTIC INDIGENOUS PEOPLE. Please do not try to pull our leg, and do not be a party to the idiotic games of Mr. KELLEMBERG, who offended us with his ill considered note to Mr. Escobedo. Who does he think he is to tell us what will be done? On top of it he dares say in his communiqué "...we would like to know your opinion in this regard and also the GUIDELINES that NAFIN will initiate to make these clarifications." What can be construed? That NAFIN will tell us what transpired at the meeting and we would say, yes, yes, yes NAFIN, whatever you order... What stupidity and lack of common sense. We do not have educational degrees, but we are not such fools.

As for the evaluators, let me tell you they are wasting their time because we have great clarity in our position, there is no evaluation more objective than that of the Inspection Panel and the International Court of Justice, it is not a threat because our case is already in the hands of Eduardo Abbot and of course Mr. Ramos and GEF are aware of what is going on and we are in direct and constant communication with them.

We will see you in the PANEL, you'll keep hearing from us.

Joyce García.

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**ATTACHED E-MAIL**

From: Juan Martinez <[Jmartinez2@worldbank.org](mailto:Jmartinez2@worldbank.org)>  
To: Joyce García Sosa <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>  
cc: [jkellenberg@worldbank.org](mailto:jkellenberg@worldbank.org)  
Subject: Re: request position on minutes  
Date: Tue, 2 Dec 2003 11:40:02 -0500

Mr. Joyce García,

Thank you for your note, I am pleased to report that we have been notified of the beginning of the independent evaluation of COINBIO. The two consultants hired will be traveling to Oaxaca very soon. They will contact you and other members of the committee to hear your opinions. They also have plans to visit some communities. We are very confident that the evaluation will indicate the guidelines and recommendations that might be considered to achieve a better implementation of the COINBIO project.

Regards,

---

Juan Martinez

Sr. Social Scientist / Indigenous People's Specialist  
Regional Unit for Technical Assistance (RUTA)  
San Jose, Costa Rica

Tel: 506-255-4011  
Fax: 506-222-6556

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**TRANSLATION FROM THE SPANISH ORIGINAL**

From: Joyce García Sosa <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>

To: [Aslens@Yahoo.Com.Mx](mailto:Aslens@Yahoo.Com.Mx),  
[Agarcia@Conafor.Gob.Mx](mailto:Agarcia@Conafor.Gob.Mx),  
[Delegado@Oaxaca.Semarnat.Gob.Mx](mailto:Delegado@Oaxaca.Semarnat.Gob.Mx),  
[Drnieeo@Yahoo.Com.Mx](mailto:Drnieeo@Yahoo.Com.Mx),  
[Tecnica@Oaxaca.Semarnat.Gob.Mx](mailto:Tecnica@Oaxaca.Semarnat.Gob.Mx),  
[Ecologiaoax@Prodigy.Net.Mx](mailto:Ecologiaoax@Prodigy.Net.Mx),  
[Serbo@Prodigy.Net.Mx](mailto:Serbo@Prodigy.Net.Mx)

cc: [Fchapela@Conafor.Gob.Mx](mailto:Fchapela@Conafor.Gob.Mx),  
[Fchapela@Prodigy.Net.Mx](mailto:Fchapela@Prodigy.Net.Mx),  
[Aninio@Worldbank.Org](mailto:Aninio@Worldbank.Org),  
[Aescobedo@Nafin.Gob.Mx](mailto:Aescobedo@Nafin.Gob.Mx),  
[Amolnar@Worldbank.Org](mailto:Amolnar@Worldbank.Org),  
[Coinbiogro@Yahoo.Com.Mx](mailto:Coinbiogro@Yahoo.Com.Mx),  
[Gbarbara@Nafin.Gob.Mx](mailto:Gbarbara@Nafin.Gob.Mx),  
[Dgross@Worldbank.Org](mailto:Dgross@Worldbank.Org),  
[Eabbott@Worldbank.Org](mailto:Eabbott@Worldbank.Org),  
[Fmelo569@Prodigy.Net.Mx](mailto:Fmelo569@Prodigy.Net.Mx),  
[Iguerrero@Worldbank.Org](mailto:Iguerrero@Worldbank.Org),  
[Jkellenberg@Worldbank.Org](mailto:Jkellenberg@Worldbank.Org),  
[Jmartinez2@Worldbank.Org](mailto:Jmartinez2@Worldbank.Org),  
[Lgood@Thegef.Org](mailto:Lgood@Thegef.Org),  
[Mramos@Thegef.Org](mailto:Mramos@Thegef.Org),  
[Pgonzalez@Worldbank.Org](mailto:Pgonzalez@Worldbank.Org),  
[Mrcustodio@Nafin.Gob.Mx](mailto:Mrcustodio@Nafin.Gob.Mx),  
[Sdavis2@Worldbank.Org](mailto:Sdavis2@Worldbank.Org)

Date: 11/17/2003 07:46 PM

Subject: Re: C.V. and scores

Dear Accountant Santos,

As far as we are concerned, you can choose whoever you want, as you have always done. Ask Mr. Chapela for his opinion, or from their desks have Mr. Gross, or Kelemberg or Mr. Martínez or whoever decide. But we no longer want to be a party to your disguised decisions, with the only purpose of using us to make us look like fools. Surely the evaluation will show we are all fools and idiots, that the solution is to disband the committee and form a new COINBIO, that can be handled without problems by all the dark interests that move around it and because we do not play your games, because they are no good and they are a discredit to us, are said to be agitators, for wanting to defend justice and transparency.

What a mockery.

Arturo González  
Community of Lachixonace

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**ATTACHED E-MAIL**

From: Adan Santos <[aslens@yahoo.com.mx](mailto:aslens@yahoo.com.mx)>

To: SERBO <[serbo@prodigy.net.mx](mailto:serbo@prodigy.net.mx)>,  
David Ortega <[delegado@oaxaca.semarnat.gob.mx](mailto:delegado@oaxaca.semarnat.gob.mx)>, [ecologiaoax@prodigy.net.mx](mailto:ecologiaoax@prodigy.net.mx),  
Arturo "García" <[agarcia@conafor.gob.mx](mailto:agarcia@conafor.gob.mx)>,  
IEEO 2 <[drnieeo@yahoo.com.mx](mailto:drnieeo@yahoo.com.mx)>,  
"SEMARNAT \ (JOSE\)" <[tecnica@oaxaca.semarnat.gob.mx](mailto:tecnica@oaxaca.semarnat.gob.mx)>,  
Comunitarios <[representantescoinbio@hotmail.com](mailto:representantescoinbio@hotmail.com)>

CC: Fernanndo Melo <[fmelo569@prodigy.net.mx](mailto:fmelo569@prodigy.net.mx)>,  
Maria del Rocio Custodio Arriaga <[mrcustodio@nafin.gob.mx](mailto:mrcustodio@nafin.gob.mx)>  
Francisco Chapela <[fchapela@conafor.gob.mx](mailto:fchapela@conafor.gob.mx)>  
Paco Chapela <[fchapela@prodigy.net.mx](mailto:fchapela@prodigy.net.mx)>

Subject: C.V. and scores

Date: Mon, 17 Nov 2003 12:40:30

Members of the state Committee:

Hello everybody. Last week, I sent the C.V. of international consultants who will accompany Carlos Toledo, for you to score according to the criteria that I also sent you. Do you have your scores ready? I will consolidate the scoring and send it to Paco and Rocío.

Regards and I hope you will be able to send them today.

P.S. If anybody missed getting the files, I will be happy to send them again.

Adán Santos



**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 7  
Letter from the World Bank to NAFIN, dated June 4, 2003**



June 4, 2003

Mr.

Arturo Escobedo de la Peña  
International Assistant Director  
Nacional Financiera  
Insurgentes Sur 1971  
Col. Guadalupe Inn  
01020 Mexico, DF  
Fax: 525553257528

Re: MEXICO –Biodiversity Conservation Project in Indigenous Communities  
*of the States of Oaxaca, Michoacán and Guerrero – COINBIO (TF-024372)*

Dear Mr. Escobedo,

During my recent visit to Mexico, we had the opportunity to hold a meeting to discuss the implementation progress of the project of reference. As you know, it took a considerable time for this project to become fully operational. The project became effective as of June 2001, and as of May 27, 2003, it disbursed USD\$ 1.15 million, approximately 15.5% of the total resources of the project. Most of these resources were used to cover operating expenses.

Part of the problem for the slow start of the project was due to the fact that its execution began during the transition period of the new administration while major institutional reforms were introduced to SEMARNAT, which led to the creation of CONAFOR as the responsible body for implementation of sectorial policies. CONAFOR was later assigned responsibility for the technical supervision for the Project. Another important factor has been the limitations faced by state coordinators that prevented them from addressing the needs of a large number of beneficiary communities in a comprehensive manner and in coordination with other programs of the CONAFOR. Although NAFIN has provided excellent support in administrative and financial matters, because of the new institutional context, the recruitment of a National Coordinator was delayed, a situation that aggravated the lack of clarity and guidance for state coordinators to respond to the priorities, strategies and objectives of the Project.

The National Coordinator of COINBIO assumed office in January of this year, and he has been taking measures to raise the standard of performance of the project. Two State Committees have completed the first cycle of selection of sub-projects and their implementation will begin soon. These are signs of progress, but considering the delays in disbursements (approximately 21 months behind schedule), we need to redouble our efforts to speed up the operation of the project.

We have analyzed the current structure of the project and believe that it could be enhanced with some restructuring responding to the new institutional context. The objective of this restructuring would be to ensure better institutional support and coordination from the Regional Managements of the CONAFOR for the execution of the Project, leveraging the existing operating structures and capabilities, mainly of the Project PROCYMAF. Under the new circumstances, we could not only considerably reduce the operating costs but also develop synergy between COINBIO and



PROCYMAF. In addition, this would help to relieve the difficulties faced by the State Coordinators in getting directly to the communities, with a consistent message for the three states. The approach we are proposing would be for the main functions of the COINBIO State Coordinators to be assumed by the PROCYMAF State Coordinators. COINBIO will continue being represented in each state by a “liaison”, whose role would be to make sure that the goals and methods of the program are being properly executed. The decision-making mechanisms in COINBIO, through the State Committees, would remain intact.

The benefits emerging from this change would be: a) Better coordination and avoiding duplicity between COINBIO and PROCYMAF, as well as with other programs of the CONAFOR, such as PRODEFOR; b) Maximizing the synergy between both programs; c) Significant improvement in the scope of COINBIO in the participating states, through the use of the PROCYMAF promoters to help disseminate information on the project; d) Reduction of operating costs. The proposed changes will not require an amendment of the grant agreement between the World Bank and the Government of Mexico.

We hereby request prompt consideration to these measures to help make the project operation more dynamic. If the project does not speed up its operation in the short term, the risk exists that the Bank management and the donor may exert pressure for the cancellation of a part or the entire donation. We are available to discuss specific measures to assist the project.

Respectfully,

Daniel R. Gross  
Task Manager  
Environmentally and Socially Sustainable  
Development Unit  
Latin America and the Caribbean Region

c: Dr. Gerardo Segura, Coordinator PROCYMAF, Fax: 525554843569  
Eng. Francisco Chapela, Coordinator COINBIO, Fax: 525554843569

**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 8  
Letter from the World Bank to NAFIN, dated July 29, 2003**



**TRANSLATION:**

The World Bank  
INTERNATIONAL BANK FOR RECONSTRUCTION AND  
DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.  
Washington, D.C. 20433  
U.S.A.

(202) 477-1234  
Cable Address:  
INTBAFRAD  
Cable Address:  
INDEVAS

July 29, 2003

Lic. Arturo Escobedo de la Peña  
International Assistant Director  
Nacional Financiera  
Insurgentes Sur 1971  
Col Guadalupe Inn  
01020 Mexico  
Fax: 525553257528

**Re.: MEXICO – Indigenous and Community Biodiversity Conservation Project in the States of Oaxaca, Michoacán and Guerrero – COINBIO – (TF-024372) No Objection to the Agreement for the Anticipated Termination of Contracts NF/CO/022/2033 and NF/CO/026/2003 entered into with Tzinnia Carranza and Daniel Dávalos, respectively.**

Dear Lic. Escobedo,

Thank you for your e-mail dated June 25, 2003, regarding the above-referenced project. We have reviewed the Agreements attached hereto and we are pleased to inform you that we have no objection, according to the following chart:

Contract Number	Consultant	WB Comment
NF/CO/22/2003	TZINNIA CARRANZA	No objection
NF/CO/26/2003	DANIEL DÁVALOS MORAN	No objection

Sincerely yours,

Daniel R. Gross  
Task Manager  
Environmentally and Socially  
Sustainable Development Unit  
Latin America and the Caribbean Region

cc: Francisco Chapela, COINBIO Coordinator, Fax: 525554843569  
Moisés Villegas, NAFIN, Fax: 525553257097  
Maria del Rocío Custodio, NAFIN, Fax: 525553257097

cc: Mmes/Messrs.: Shepardson, Davis, Cackler, Abedin, Semaan, Viteri (LCSES), Kellenberg, Carrasco (LCC1C); Molnar, Sabella (LEGLA), Formoso, Balchum (LOALE); IRIS 2



**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 9  
Legal Opinion on Contract Terminations by Mexican Labor Lawyer**



On paper with the Letterhead of  
Marván, Muñoz y González Larrazolo  
Attorneys at Law

Via: e-mail

Mexico City, 25 February 2004

Mr. Francisco Viteri  
The World Bank  
Environmentally and Socially Sustainable Development Unit  
Latin America and the Caribbean Region  
1818 H Street, NW, Washington, DC 20433 - USA

Dear Francisco:

In accordance with your kind request, we hereby include the legal considerations in relation to the early termination of the contracts for the provision of professional services entered into Daniel Dávalos Morán and Tzinnia Carranza López by Nacional Financiera, S.N.C. as follows:

## **I. Background**

- \* On January 2, 2003, Nacional Financiera, S.N.C. (NAFinsa) signed two contracts for the provision of professional services with Daniel Dávalos Morán and Tzinnia Carranza López (The Professionals).

The Professionals took office as Project Coordinators for the States of Guerrero and Oaxaca, respectively, under the supervision of the office of the International Sub-Director [of NAFIN] and the National Coordinator of the Biodiversity Conservation and Indigenous Communities Project.

Their functions included, *inter alia*, managing the project's actions at the state level, promoting the project in the state, reviewing subprojects for financing, monitoring and evaluating the subprojects, preparing the project reports at the state level, and preparing the annual operating plan for the State, etc.

In order to fulfill their tasks the Professionals were subject to a timetable [work hours] and had an office in the states where they carried out their work. They were also obliged to conduct their professional services directly without yielding the rights and obligations derived from the contract.

- \* NAFinsa undertook to pay the Professionals professional fees on a fortnightly basis for the amount of MXP \$16,000,000 and MXP \$16,720.00 respectively.

The validity of the contracts were from January 1 to December 31, 2003.

- \* On July 31, 2003 NAFinsa processed the early termination of the contracts as of August 15, 2003. This was notified through Notary Public Gabriel Benjamín Díaz Soto, an official of Notarial Office No. 131 of Federal District of Mexico.

It is noted that in both cases the notification by the Notary were received by people



other than the [recipients].

In connection with Tzinnia Carranza López, the domicile declared in the contract is located in Presa Tezoyo 168-3, Colonia Irrigación in Mexico City, Federal District, but the Notary officially appeared at the building number 168 of the Presa Tezoyo street, Colonia Irrigación of Mexico City, that is, he did not officially appear in [Apartment] 3, a situation which could be objected to in civil proceedings.

With regard to Daniel Dávalos Morán, the Notary officially appeared at the domicile indicated in the contract.

## II. Legal Framework

### a) Legal nature of the relationship.

In Mexico, the relations between employers and employees are governed by article 123 of the Constitution. Said article refers to two types of labor relations: that arising between [an] employer and employee in general and the labor relations of employees at the service of the State.

Labor relations in general are regulated by the Federal Labor Law (*Ley Federal del Trabajo*) while the labor relations of employees in service to the State are governed by the Federal Law of Workers in Service to the State (*Ley Federal de los Trabajadores al Servicio del Estado*). These laws have different principles.

NAFINSA is an agency of the Federal Public Administration, therefore the labor relations with its employees are regulated by the Federal Law of Workers in Service to the State.

The jurisdictional agency for the resolution of disputes between employees and the State is the Federal Court of Reconciliation and Arbitration (*Tribunal Federal de Conciliación y Arbitraje*). The resolutions issued by said court can be challenged through summary proceedings to safeguard constitutional rights (*demanda de amparo*), which is ruled upon by the Federal Courts called Collegiate Tribunals (*Tribunales Colegiados*). These have the function of overseeing the legality of the resolutions issued by the Labor Court and make sure that they are not in violation of the guarantees granted by the Constitution.

The Collegiate Tribunals are part of the Judiciary Branch of the Federation. The Judiciary has powers to construe legislation and issue criteria on how the law should be interpreted. These criteria can be mandatory for the Courts when as a result of their reiteration or the manner in which they are created result in generating so-called jurisprudence.

Sections 3 and 8 of the Federal Law of Workers in Service to the State provide the following:

Section 3. A worker is any person who provides physical, intellectual or both kinds of services, by **virtue of an appointment issued or as a result of being included in the roster of temporary workers.**

Section 8. Excluded from the rules of this law are workers [political appointees] to which section 5 refers; the members of the National Army and Navy with the exception of civilian personnel of the National Defense and Navy Secretariats; the militarized staff or that which

is legally militarized; the members of the Mexican Foreign Service; the guards of penitentiary facilities, prisons or jails and **those who provide their services under a civil contract or who receive fees.**

By law, the people who render their services under a civil contract or receive fees are not employees; consequently, the law of reference is not applicable to the Professionals.

This is so despite the fact that there was a personal and subordinated service subject to work schedule and obligations comparable to a labor contract.

In the case of reference, Civil legislation applies and in this regard the parties commit [themselves] to what is expressly agreed, considering that in clause eleven of the contracts the possibility of an early termination was contemplated with no liability, with the sole requirement of providing written notice fifteen days in advance. With the notification made by the Notary Public, such requirement was complied with, so that NAFINSA has no civil liability, provided that it covered any pending obligations.

Damages do not apply because in the early termination [clause] it was agreed that should that right be exercised there would be no liability.

b) Latent dispute.

Independently from the legal framework described above and the form of the contracting by means of a contract to provide professional services (civil contract), the Labor Courts cannot prejudge that the nature of the relation was a civil one, so that the Professionals do have the possibility of bringing a lawsuit against NAFINSA demanding that they be granted a position or the issuance of an appointment, arguing that they provided a personal and subordinated service to NAFINSA.

The fact that in the lawsuit the Professionals establish that they provided personal and subordinated service to NAFINSA, taking into consideration the referred sections, a resolution favorable to NAFINSA should be issued, pointing out that the Federal Law of Workers in Service to the State is not applicable to them. Of course, within the procedures it is necessary to respond to the lawsuit explaining that the relationship stems from civil contracts, [and] offering the respective evidence.

The Collegiate Tribunals have accepted our interpretation as evidenced by the following jurisprudence:

**FOR PUBLIC SERVANTS SUBJECT TO THE PAYMENT OF FEES. ANY ACTION BROUGHT BY THEM LEADING TO THE GRANTING OF A PERMANENT POSITION IS UNFOUNDED.** The actions brought against a State agency designed to achieve the granting of a permanent post are unfounded due to the fact that in the labor trial it was demonstrated that the claimant was hired under the fee regime, since by express indication of section 8 of the Federal Law of Workers in Service to the State, they are excluded from the protection that the federal legislation provides to State servants in bureaucratic jobs.

SIXTH COLLEGIATE TRIBUNAL ON LABOR MATTERS OF THE FIRST CIRCUIT

Precedents

Summary proceedings 5926/2002. Juan Pablo Cano Lara. 4 July 2002. Unanimous votes. Reporting judge: Genaro Rivera. Clerk: Lourdes Patricia Muñoz Illescas.

Summary proceedings 11106/2002. Government Secretariat. 12 November 2002. Unanimous votes. Reporting judge: Genaro Rivera. Clerk: Lourdes Patricia Muñoz Illescas.

Summary proceedings 11326/2002. María Rojas Catelán & others. 28 November 2002. Unanimous votes. Reporting judge: Genaro Rivera. Clerk: Claudia Gabriela Soto Calleja.

Summary proceedings 436/2003. Carlos Mauro Martínez Arias. 13 February 2003. Unanimous votes. Reporting judge: Genaro Rivera. Clerk: Elia Adriana Bazán Castañeda.

Summary proceedings 576/2003. María Guadalupe Rueda Montiel & other. 20 February 2003. Unanimous votes. Reporting judge: Genaro Rivera. Clerk: Elia Adriana Bazán Castañeda.

It is important to underline that frequently, when the authorities whose applicable legal regime is the law for workers in the service of the state face these types of cases, they will deny the labor relation and allege the incompetence of the Labor Courts to rule on the case, without explaining that the services rendered result from a contract for the provision of professional services.

With that sort of defense, once the claimants have established that there were elements of subordination and provision of services the Collegiate Tribunals have found merit in the claimants' actions; i.e. faced with a lawsuit of people who rendered their services under a contract for the provision of professional services, the defendant can be affected by a badly argued defense or by a wrong interpretation of the Law and of the specific case on the part of the Collegiate Tribunals.

However, section 113 paragraph II of the Law of Workers in Service to the State provides that the actions to demand the rehiring or compensation that is granted by law have a statute of limitation of four months, consequently, the Professionals would have four months as from the date of being notified of the early termination of the contract for the provision of professional services.

### **III. Conclusions.**

- \* Considering that the Professionals were hired through the contract for the provision of professional services, the Law of Workers in Service to the State is not applicable to them, consequently, the applicable labor law was not violated.
- \* The manner in which NAFINSA carried out the early termination of the contract for the provision of professional services was appropriate, since with the involvement of the Notary it was certain beyond doubt that the contract termination was in compliance with the terms agreed by the parties. Likewise, NAFINSA had the powers to terminate the contracts early according to the conditions agreed by the parties.
- \* It is possible that the Labor Courts may admit a lawsuit from the Professionals since they cannot prejudge the nature of the relationship that existed. During the trial, the argument should be [made] that the rendering of services stemmed from a civil contract subject to a fee regime to exclude the application of the Labor Law.

Additionally, I would like to comment that we checked the records of the Federal Reconciliation and Arbitration Court and to date said Court has not received any lawsuit by the Professionals.

We hope this will be to your satisfaction and remain available for any clarifications or doubts in this respect.

Sincerely,

Emilio I. Garzón Juárez



**BANK MANAGEMENT RESPONSE TO  
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MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 10**

**Letter from the World Bank to NAFIN, dated August 29, 2003**



The World Bank  
INTERNATIONAL BANK FOR RECONSTRUCTION AND  
DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.  
Washington, D.C. 20433  
U.S.A.

(202) 477-1234  
Cable Address:  
INTBAFRAD  
Cable Address:  
INDEVAS

August 29, 2003

Lic. Arturo Escobedo de la Peña  
International Assistant Director  
Nacional Financiera  
Insurgentes Sur 1971  
Col. Guadalupe Inn,  
01020 Mexico, DF  
Fax: 525553256628

Re.: MEXICO – Indigenous and Community Biodiversity Conservation Project  
in the States of Oaxaca, Michoacán and Guerrero – COINBIO – (TF-024372)  
Objection to the Rehiring of the State Coordinator for Oaxaca

Dear Lic. Escobedo,

We have thoroughly reviewed the foundations for the Direct Procurement of Professional Services for the State Coordination of the COINBIO Project in the State of Oaxaca, dated August 27, 2003 (CIE-3029). We understand that this is a critical moment for the COINBIO Project in the State of Oaxaca and that leadership is needed for the Project to continue making progress.

We are also aware of the problems that have existed in the Program in the State of Oaxaca and taking into account such problems we agreed to terminate the contract with Ms. Carranza. Furthermore, as you already know, some individuals related to the COINBIO Project in the State of Oaxaca have addressed letters to the President of Mexico, Vicente Fox, and the President of the World Bank, James Wolfensohn, making reference to what they consider as a problem in the Project's decision-making. In view of such serious complaints we agreed to carry out an evaluation of the Project in all three States and that upon completion of the evaluation changes would be made in the current procedures.

Therefore, it would be too early to hire the same person to manage the Program in the State of Oaxaca before completing the evaluation and a new decision-making structure is agreed for the Program. NAFIN could then conduct the search for a new State Coordinator for the COINBIO Project under the newly-agreed terms of reference. In our opinion, once such measures are adopted, we would have no objection to consider Ms. Carranza among other applicants for the position, provided that she meets the minimum requirements established under the new terms of reference. Evidently, such selection needs to be carried out under the procurement guidelines and procedures set out for this Project, including the preparation of a short list with a minimum of three applicants for the position.

We suggest that during the evaluation and selection period of the new State Coordinator, the National Coordinator be asked to serve as an interim coordinator for the Project in Oaxaca.



Sincerely yours,

Daniel R. Gross  
Task Manager  
Environmentally and Socially  
Sustainable Development Unit  
Latin America and the Caribbean Region

cc: Francisco Chapela, COINBIO Coordinator, Fax: 525554843569  
Moisés Villegas, NAFIN, Fax: 525553257097  
Maria del Rocío Custodio, NAFIN, Fax: 525553257097

cc: Mmes/Messrs.: Mejia, Davis, Cackler, Abedin, Semaan, Viteri (LCSES);  
Kellenberg, Carrasco (LCC1C); Molnar, Sabella (LEGLA);  
Formoso, Balchun (LOAEL); IRIS 2

**BANK MANAGEMENT RESPONSE TO  
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MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
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(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 11**  
**Fact Sheet / *Relatoria de Hechos***  
**November 2003**



## **TRANSLATION:**

### **FACT SHEET**

COINBIO's operation in the state of Oaxaca began with the setup of the State Committee on June 26, 2001. Its first task was the evaluation of candidates for the position of State Coordinator. On July 31, 2001, Gerardo Segura Warnholtz, General Coordinator of PROCYMAF and Jesús Ruiz Pérez, State Director of NAFIN in Oaxaca jointly selected M.C. Tzinnia Carranza López to fulfill that role. She took office in September of said year.

The State Committee and its Coordination Unit have been working since then for the implementation of COINBIO in the regions of Sierra Norte, Yautepec-Itsmo and Costa Sur.

When the project started in Oaxaca two years ago, the State Committee, in particular (we, from) the community sector, did not have a clear idea of what it was about and what our role was going to be. We started working, and first meetings were held to define the actions and to produce the first documents on the project which we disseminated across the regional committees and the communities. The problems with NAFIN because of its bureaucratic structure started since that time. In order to get any thing, it involves very long procedures, and it was necessary to negotiate with everybody to reach agreement and at the end no progress was made. To date the project has been unable to have a vehicle and a computer of its own; we are operating with borrowed equipment obtained by the coordinator through the COPLADE, and another piece of equipment lent by the National Forestry Commission (CONAFOR), which by the way they are already trying to take away from us. We find it hard to believe that everything is so complicated, when the money is already in Mexico; the truth is that at that time we were not interested in constantly arguing and submitting official letters requesting the minimum essential support to operate the Project.

Then the first call [for proposals] was announced, which was [valid] from March to May of 2002, for the three regions where COINBIO is executed (Costa Sur, Sierra Norte and Yautepec-Itsmo); 127 project requests were received, with 75 communities submitting proposals, out of which 48 were approved in June.

The procedures to release the resources were subsequently initiated, which took months because NAFIN was introducing changes in the Grant Agreement and each time they requested more documents. They delayed up to 7 months to release the first payment to a community; for its part, the World Bank also played a role in these delays, since in some cases it took them 3 months to issue the No Objection to a couple of Terms of Reference.

After much tension and effort, the money started flowing in February 2003 – 8 months after the project had been approved. By July, 75% of the projects has been operated and several intermediate reports had been produced. It was at that time that our Coordinator was dismissed.

We, the State Committee as well as the Coordinating Unit, were concerned about NAFIN's delays and bureaucratic procedures; we submitted official letters many times, requesting to simplify the procedures. We also noticed that there were things that could be corrected or had to be changed. In this sense, when the National Coordinator took over, the first proposal submitted to him was to conduct a strategic planning exercise with the participation of the three States. The proposal was accepted and Ing. Chapela started the preparation procedures, however, nothing has been achieved to date. Then, the State Committee decided to carry out a comprehensive evaluation that would serve as the basis for the next call [for proposals] of COINBIO, which had been under preparation

since May, and which would help correct the mistakes and to strengthen its capacity. On July 23, 2003, an invitation to participate in this exercise was sent to Arturo Escobedo of NAFIN, Gerardo Segura, General Coordinator of PROCYMAF, and Eng. Chapela, National Coordinator of COINBIO; a copy of this invitation was also sent to Mr. Daniel Gross, Project Manager of the World Bank, and to Timoteo Harris, NAFIN Director responsible for COINBIO. The reply we received to our initiative was the unjustified dismissal of our Coordinator, a decision that was made in secret and unilaterally taken by NAFIN, PROCYMAF/CONAFOR, the National Coordinator and the Project Manager of the World Bank. With this, they violated section 3, paragraph 3.04 c of the legal agreement that provides that “to contract or maintain the State Coordinator for the duration of the project, they should consult with the State Committee”, which they didn’t.

On July 29, 2003, M.C. Tzinnia Carranza was informed that the Project had been restructured and that she no longer fulfilled the profile for that position, asked to sign an agreement of contract termination with the same date. She did not sign it. On the following day, an special meeting of the State Committee was held where she informed us about what had happened, and the entire Committee’s reaction was the absolute disapproval of the incident and the procedures, which was evidenced in a letter addressed to Timoteo Harris, of NAFIN, dated July 30, signed by all the members of the Committee. Likewise letters signed by the Committee’s community representatives and by the Municipal Chairmen of the district of San Carlos Yautepec addressed to the President of the Republic and to the President of the World Bank on the same date. All the institutions that participate in the Committee sent a separate letter to Lic. Harris officially requesting information.

In spite of the protests, on July 31, through public notary, NAFIN proceeded to terminate the Coordinator’s contract validated by the World Bank’s No Objection.

On August 5, the State Committee had a meeting with Arturo Escobedo de la Peña, representing NAFIN, where it was agreed that there would be no restructuring that would exclude the Committee and that the State Coordinator would continue until a comprehensive evaluation of the project in Oaxaca was conducted, so that only upon its completion decisions would be made on relevant matters in accordance with minutes No. 33 of our Committee.

Despite the agreements reached at that meeting, that there was going to be no restructuring, the National Coordinator sent an informative letter to the institutions dated August 14, with the following:

The letter mentions two missions of the World Bank for the supervision of the project performance; the first one from March 10 to 20, 2003, and the second on May 21. The State Committees were never informed about neither of them, nor were the State Coordinators invited to participate, as they used to do before. To date we have not seen the Aide Memoires from said events. However, some of the issues agreed to are very worrisome.

[The letter] says that there is a confusion in the assignment of functions and responsibilities, as the State Committees have been led to believe that they were the responsible bodies for the execution of the Project at the state level, while according to the Grant Agreement this responsibility falls to NAFIN. This confusion is also supported by the Operational Manual.

This is a very serious matter because the proposed restructuring includes removing the said functions from the State Committees. What they call confusion is also very clearly expressed in the Project Appraisal Report, because it states that the project implementation will be decentralized through the State Committees that are responsible for the decision making and supervision of the

project in the State. Dr. Gerardo Segura himself, who actively participated in the design of the Project and has been providing following up on COINBIO, stated in an official letter addressed to the State Committee members, dated August 1 of 2002, “the important role that the State Committees play as responsible (bodies) for the execution of the Project at a state level”.

The document also indicates that CONAFOR considers the COINBIO Coordinators as Sub-Coordinators, for which reason their salaries should be reduced. It also refers to use the promoters of PROCYMAF to disseminate the COINBIO, and share physical resources with PROCYMAF. Finally, it talks about recruiting new State Coordinators with new terms of reference and with salaries lower than the present ones.

We assume that Mr. Chapela’s letter as basis for the letter that Mr. Dan Gross sent to Arturo Escobedo on June 4, 2003, in which he is instructing him to adopt as soon as possible the necessary measures to restructure the project, stating that an amendment of the Grant Agreement would not be necessary. His recommendation consists of transferring the main functions performed by the State Coordinators of the COINBIO to the State Coordinators of PROCYMAF, and COINBIO would be represented in each State by a liaison.

Mr. Gross’s recommendation is an absolute disrespect towards our peoples and the Committee itself, as he is requesting changes to be implemented as soon as possible, without even informing us, when it involves a radical change of the project, subordinating it to the PROCYMAF project; for that purpose, it was necessary to remove the Coordinators of Guerrero and Oaxaca, arguing without any grounds that they are responsible for the delays of the Project.

On August 19, Arturo Escobedo sent an official letter to the Coordinator (of State of Oaxaca) informing that the termination of her contract was irreversible; however, a new contract was to be entered to become effective as of August 16, and the necessary steps would be taken to obtain the Bank’s No Objection as soon as possible.

On September 9, the State Coordination of Oaxaca received a copy of the document dated August 29 addressed to Lic. Arturo Escobedo de la Peña, in which Mr. Gross refuses to issue the No Objection for the rehiring of our Coordinator, arguing that the projects require leadership which can only be attained with Ing. Chapela. [The letter] states that the project evaluation was underway and once it is completed, MSc. Tzinnia Carranza would be able to apply for the position [of State Coordinator].

Our peoples’ indignation was not long in coming. On October 10, we sent a letter to Ms. Isabel Guerrero, the World Bank’s representative in Mexico, signed by nearly 30 community authorities, asking for the removal of the National Coordinator, requesting respect for the Grant Agreement signed by NAFIN, and stating: “there will be no restructuring excluding the State Committees and the State Coordinator will continue in her office until a comprehensive evaluation of the project is made, and based on that, jointly with the State Committee, the best decisions for the Project will be made.”

On October 29 we received a letter signed by Mr. John Kellenberg on behalf of Mrs. Isabel Guerrero, in which he says to us that clause 3.04, paragraph (c) of the Grant Agreement was effectively complied with, as recorded in minutes Nos. 33 and 34 of the State Committee of Oaxaca.

We believe that when they wrote the answer they did not have the chronology of dates and events that we have now presented, as it is obvious that those meetings were held when our coordinator’s

contract had been already terminated, and the No Objection issued by the World Bank to such end also dated before the dates of said meetings.

All these events leave no room to doubt that there has been a series of violations and wrongful intentions to solve the problem.

It is very clear to us that the legal agreement was violated in its clause 3.04, paragraph (c). Besides, the Project Evaluation Document and the Operating Manual are being overlooked and detracted. There was an intention to deceive the State Committee and to use it as a front for a democratic and participatory project.

And to cap it all, these facts have also been a violation of the World Bank's Operational Directive concerning Indigenous Peoples, as we are not being taken into consideration for the decision-making and our requests are ignored. The incidents include the following:

- When the National Coordinator Francisco Chapela went to the Natural Resources Committee of Sierra Norte to threaten us to stop the protests, saying that otherwise the Project would face the risk of cancellation;
- when the National Coordinator wanted to invalidate our State Committee meeting by saying that it was not a formal meeting, and telling a series of lies to the National Administrator so that our expenses were not covered;
- when they want to impose conditions on us for the election of our representatives, saying that they must inevitably be authorities of community property, and that we, the "traditional" leaders (as mentioned in the indigenous people Operational Directive), cannot be representatives; and
- when the people at the top want to decide how long the representatives may stay in the Committee, knowing that the forms of organization and that kind of decisions are the exclusive right of our peoples.

With these facts, they are also violating the Convention 169 on Indigenous and Tribal Peoples of the International Labor Organization, in its section 5, paragraphs a, b, and c; section 6, paragraphs a and b; section 7, paragraph 1 and 3; section 8, paragraph 2; section 21, paragraph 3; and section 33, paragraphs 1 and 2.

If we allowed this, we would be losing our self-respect and let ourselves be bought by a few dollars.

If our demands are not accepted, we will go to the Inspection Panel of the World Bank and file a complaint to the International Court of Justice.

We demand the immediate solution and acceptance of the following agreements:

- 1.- Immediate removal of Ing. Francisco Chapela as National Coordinator of COINBIO.
- 2.- Regarding the agreements with NAFIN, that there shall be no restructuring without the knowledge of the State Committees, and that the State Coordinator will remain in office until a comprehensive evaluation of the project including the financial aspect of resource management is completed, based on which, jointly with the State Committee, the best decisions for the Project are made.
- 3.- Observance of the autonomy of the State Committees in the project execution in the States;
- 4.- CONAFOR should devote itself exclusively to fulfill the role of technical advisor, which in

accordance to the legal agreement, consists of conducting proper monitoring and evaluation of the Project;

5.- The community representatives will be able to have a direct link to the World Bank, in accordance with the corresponding bodies, such as the state committee;

6.- The State Committees have active participation in the restructuring, amendments, modifications or any change to be made to the Project, in accordance with the existing rules;

7.- The [State] Committees should be kept informed about all events and actions in relation with the Project;

8.- The Project Manager of the World Bank should be strongly involved, should have an active participation and in consultation with the Committees for decision-making purposes;

9.- Seek a strong cross-institutional coordination, while maintaining the Project's autonomy;

10.- Active participation by the State Committees in the evaluation of the Project, and its results must be disclosed to and endorsed by the State Committees; and

11.- Observance by the institutions participating in the Project of the decisions made in the Committees of Natural Resources.





**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 12  
Minutes No. 39, State Committee of Oaxaca  
November 5, 2003**



## TRANSLATION

The General Meeting of the Indigenous and Community Biodiversity Conservation Project's State Committee for Oaxaca was held at the office of Nacional Financiera, S.N.C, domiciled at Calz. Heroica Escuela Naval Militar No. 517, Col. Reforma, City of Oaxaca, on November 5, 2003, at 11:25 [a.m.], with the attendance of more than 50% of the members of the COINBIO Project's State Committee for Oaxaca.

### ATTENDEES:

#### *On behalf of the State Government:*

<b>Eng. Misael Ojeda Zurita</b>	Representative of the State Institute of Ecology
<b>Eng. Cirenio Escamirosa</b>	Representative of the State Institute of Ecology
<b>Biol. Oscar Soriano Silva</b>	Representative of the State Institute of Ecology

#### *On behalf of the Federal Government:*

<b>Biol. David Ortega Del Valle</b>	SEMARNAT (Ministry of Environment and Natural Resources) Federal Delegate for Oaxaca
<b>Eng. Arturo García Aguirre</b>	Representative of CONAFOR (National Forest Commission)

#### *On behalf of the NGOs:*

<b>Leo Schibli</b>	Representative of SERBO, A.C.
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#### *On behalf of the Regions:*

##### - YAUTEPEC-

<b>Arturo Ruíz González</b>	Representative of the Santa María Lachixonace Community
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##### - COSTA-

<b>Joyce García Sosa</b>	Representative of the Río Seco "Ejido"
<b>Sergio García Mendoza</b>	Representative of the Santa María Huatulco Community

##### - SIERRA NORTE -

<b>Román Aquino Matías</b>	Representative of the Ixtlán de Juárez Community
<b>Miguel Ramírez Domínguez</b>	Representative of the Capulalpam de Méndez Community

*Mexico - COINBIO*

*On behalf of COINBIO:*

**L.C. Adán Santos Díaz**

State Administrator of COINBIO for Oaxaca

*As observer and permanent guest:*

**C. Manuel Suárez**

Transparencia, A.C.

*As special guests:*

John Kelleberg

World Bank

Juan Martínez

World Bank

**AGENDA:**

1. Legal standing of the committee [sic]
2. Introduction of the attendees to the State Committee
3. Introduction of the World Bank's guests
4. Problems of COINBIO
5. Conclusions and agreement
6. General business
7. Reading and endorsement of the Minutes of Agreement
8. Adjournment

**REPORT:**

1. The statutory quorum to set up the meeting was verified and the meeting called to order.
2. Attendees, members, and guests were introduced to the State Committee.
3. Dan Gross's non-attendance letter was read (copy thereof included as an Annex in the documentation handed out to the attendees). Next, the e-mail sent by *Lic. Rocío Custodio* to *Lic. Adán Santos* was read, wherein *Lic. Escobedo de la Peña* instructed Eng. Chapela to attend the meeting of the State Committee on behalf of Nacional Financiera, S.N.C.
4. Eng. Francisco Chapela's participation in the meeting was questioned by the representatives of the communities present at the meeting. A vote was taken to decide on Eng. Chapela's participation in the meeting, with the following results:
  - Federal Government: he should participate
  - State Government: Abstention
  - NGOs: Abstention
  - Sierra Norte's Representatives: he should not participate
  - Costa: he should not participate
5. Eng. Chapela left the meeting.
6. As point 4 of the agenda regards, the communities' sector handed out a document titled "Facts Sheet". After said document was discussed, an agreed upon version thereof was drafted and annexed hereto. That served as the starting point for the discussion of COINBIO problems. Miguel Ramírez, who was representing Sierra Norte, requested that the Minutes of the Meeting of Sierra Norte's Regional Committee, dated August 26, 2003, be annexed to this point; which stated that the Sierra Norte's Natural Resources Committee requested its representatives that prior to signing any documentation or agreement related to the COINBIO Project they should consult and request authorization from said Committee. Eng. Arturo García requested that in the future all Minutes of the Natural Resources Regional Committees should be incorporated to and acknowledged by the State Committee.
7. The Bank expressed its concern with the COINBIO problems, which had been evidenced in the project's performance. The Bank further stated that it was aware of the letters that had been sent to the different parties. Likewise, they expressed satisfaction regarding the project's evaluation process to be soon concluded because it would show a clearer view of those things that functioned well as well as the project's weaknesses that need to be reinforced accordingly. The Bank clearly explained its procedures for no objections and showed its readiness to pay more attention to the project, since it is an important project for the Bank; the Bank further expressed that it would

monitor the execution of the project and that the appropriate procedures and steps are respected, with the active participation of all stakeholders. The Bank voiced its readiness to keep an open and continuous dialogue with all stakeholders, especially with the communities, and urged them to maintain the dialogue and asked them to request any information that they may need and that the Bank be copied of any project-related issues, always respecting the institutional roles involved. The Bank emphasized its interest in regaining the beneficiaries' trust. Likewise, the Bank encouraged the members of the State Committee to invite Dan Gross to a meeting with the full Committee and the Bank's next Mission could be a good opportunity for that. Mr. Kellenberg agreed to express all State Committee's concerns to Dan Gross, NAFIN, and CONAFOR in order to find a solution to the Committee's demands, and wherever is the Bank's responsibility to intervene, it would do so.

8. The members of the communities were concerned because the main issue for which the meeting had been convened has not been resolved yet and stated that the resolution of such issues would require participation of the high-level officials in the meeting. The State Institute of Ecology proposed to prepare a letter to those parties that had been invited but did not attend the meeting as well as to reschedule the high-level meeting. It was agreed that the most adequate strategy would be to reschedule the meeting after having the evaluation's results ready to discuss how to improve the project.

9. It was suggested that the requests made by the communities in the Fact Sheet should be analyzed one by one as well as the actions to be taken by the Bank.

10. Among the 11 points included in the Fact Sheet, the Bank had no problems in accepting them and intervening in accordance with its responsibilities. However, it expressed that as far as points 1 and 2 are concerned it is NAFIN's exclusive responsibility in its capacity as project's executor. The committee said that in point 2, specifically concerning the dismissal of MSc. Tzinnia Carranza, there had been no elements known to this Committee and the Committee was not consulted regarding such decision. NAFIN had already committed to rehire her and it was the Bank that denied the no objection in this matter. As long as this situation continues there will be no solution to the main problem. The committee said that it should be taken into account that from the beginning it had a very clear position "We are not defending an individual but the procedure to be followed". After that discussion the Bank's representatives agreed to find a solution to the problem and ensure to do so as soon as possible. The main agreement of the meeting, covering the above-referenced points 1 and 2, was reached.

11. Once the main agreement was reached, SEMARNAT proposed to annex another agreement on unifying the information, since apparently each stakeholder has different pieces of information of what is going on with the project. It invited all stakeholders to manage true and clear information and that such information be submitted to the Natural Resources Regional Committees and, consequently, to the communities. The members of the State Committee and the State Coordinators are the ones in a position to provide information on the project.

#### **Main Agreement:**

The World Bank agrees to talk to Arturo Escobedo so that NAFIN promptly continues the rehiring process of *M. en C.* Tzinnia Carranza and the Bank grants the no objection through Dan Gross. The rehiring will last until the results of the evaluation are obtained, since *M. en C.* Tzinnia Carranza must participate in the evaluation process. Once the results of said evaluation were fully discussed with the participation of the State Committee and approved the Committee would support the decision on i) whether Eng. Francisco Chapela and MSc. Tzinnia Carranza will continue in the project or be removed; or that ii) the appropriate actions to be taken against those responsible; and

iii) any necessary changes to be made to improve the project's performance to ensure the achievement of the objectives outlined for the project.

12. There being no further business to transact the meeting was adjourned.

**Signatures**

**C. Sergio García Mendoza**  
Representative of Costa  
Community of Santa María Huatulco

**C. Joyce García Sosa**  
Representative of Costa  
Río Seco "Ejido"

**C. Román Aquino Matías**  
Representative of Sierra Norte  
Ixtlán de Juárez Community

**C. Miguel Ramírez Domínguez**  
Representative of Sierra Norte  
Capulalpam de Juárez Community

**Arturo Ruíz González**  
Representative of Yautepec  
Santa María Lachixonace Community

**Biol. David Ortega del Valle**  
SEMARNAT Delegate for Oaxaca

**Eng. Arturo García Aguirre**  
CONAFOR South Pacific Regional Manager

**Eng. Cirenio Escamiroso**  
Representative of the  
State Institute of Ecology

**C. LEO SCHIBLI**  
Representative of SERBO, A.C.

**L.C. Adán Santos Díaz**  
Administrator of COINBIO for Oaxaca





**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
MEXICO: INDIGENOUS AND COMMUNITY BIODIVERSITY CONSERVATION  
PROJECT (COINBIO)  
(GEF TRUST FUND GRANT NO. TF24372)**

**Annex 13  
Letter from the World Bank to NAFIN, dated November 17, 2003**



## TRANSLATION:

The World Bank                      Banco Mundial  
INTERNATIONAL BANK FOR RECONSTRUCTION AND  
DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

Insurgentes Sur # 1605, Piso 24,      Tel.: 54-80-42-00  
Col. San José Insurgentes,              Fax: 54-80-42-22  
03900 México, D.F.

Mexico, D.F., November 17, 2003

Lic. Arturo Escobedo de la Peña  
International Assistant Director,  
Financial Agent,  
Nacional Financiera, S.N.C.,  
Insurgentes Sur 1971, Torre 4, Piso 11,  
Col Guadalupe Inn,  
01020 Mexico D.F.

*Re.: Comments on the Minutes of the General Meeting No. 39  
of COINBIO State Committee for Oaxaca, held on November 5, 2003*

Dear Lic. Escobedo,

We would like to thank you for attending the information meeting with the World Bank held on November 11 of the current year, in which we discussed the points included in the Minutes of the General Meeting No. 39 submitted by Mr. Adán Santos, NAFIN's Consultant for the Administration of the COINBIO Project in the State of Oaxaca. As you already know, we received the minutes of the meeting on November 10 via Mr. Santos.

We have the following clarifications in relation to the contents of the minutes:

1. In our presentation at the committee's meeting we explained the role of the World Bank to the participants in the implementation process of the projects, specifically concerning the COINBIO Project, which includes fiduciary-related issues of projects financed by the Global Environment Facility.
2. Regarding paragraph 10 of the minutes, the Bank proposes the following wording: "The Bank understands the concerns expressed in the Fact Sheet, but does not agree with the literal wording of all 11 points as stated at the end of said document. In this context, reference must be made to the legal agreement signed by the World Bank, NAFIN, and the United Mexican States on February 1, 2001, wherein the roles of each organization involved in the project were specified. Likewise, we believe that the external evaluation of the project, which will soon be carried out, will provide concrete recommendations to improve the implementation thereof."
3. In connection with the main agreement included on page 6 of the minutes, there was no commitment whatsoever regarding either the dismissal of COINBIO National Coordinator or the rehiring of the former State Coordinator of Oaxaca. We informed the members of the committee that it is an issue of NAFIN's concern. However, we committed ourselves to discuss the relevant issues with NAFIN, which we did with you once we received the above-referenced minutes on November 10 of the current year.

We would like to know your opinion in this respect as well as the steps that NAFIN will take to make such clarifications.

Please do not hesitate to contact us should you require further explanations or need to ask any questions on this matter.

Sincerely yours,

John Kellenberg  
Sector Leader  
Agriculture and Environment Sector  
Mexico and Colombia

Juan Martínez  
Social and Indigenous Affairs Specialist  
Sustainable Development Department  
Latin America and the Caribbean Region

cc:

NAFIN:

María del Rocío Custodio Arriaga  
Francisco Chapela  
Adán Santos Díaz

Members of State Committee of Oaxaca:

Misael Ojeda Zurita  
Cirenio Escamirosa  
Oscar Soriano Silva  
David Ortega Del Valle  
Arturo García Aguirre  
Leo Schibli  
Arturo Ruíz González  
Joyce García Sosa  
Sergio García Mendoza  
Román Aquino Matías  
Miguel Ramírez Domínguez  
C. Manuel Suárez

Global Environment Facility:

Leonard Good  
Gonzalo Castro  
Mario Ramos

bcc: Guerrero (LCC1C); Redwood,  
Davis, Gross, Quintero (LCSES);  
Molnar, Gonzales (LEGLA); Di  
Leva (LEGEN); Lintner (ESDQC)

World Bank:

Isabel Guerrero  
John Redwood  
Eduardo Abbott  
Shelton Davis  
Ferenc Molnar  
Pilar Gonzalez  
Mariangeles Sabella  
Steve Lintner  
Augusta Molnar  
Daniel Gross  
Charles Di Leva  
Juan David Quintero

