

## **The Inspection Panel**

### **Report and Recommendation On Request for Inspection**

#### **Brazil: Paraná Biodiversity Project (PBP) (GEF TF 051007)**

1. On July 10, 2006, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”), dated June 23, 2006, related to the Brazil: Paraná Biodiversity Project (PBP) (the “Project”) financed under the Global Environmental Facility (GEF Trust Fund 051007). The Request was submitted by a non-governmental organization (NGO) based in the State of Paraná, Brazil. The Requesters have asked that their names and their organization’s name be kept confidential. The Request for Inspection is composed of a formal letter to the Panel, dated June 23, 2006, and a letter with annex<sup>1</sup>, dated March 21, 2006, sent to the Inspection Panel and the World Bank by an umbrella NGO, the NGO Network of the Atlantic Forest – RMA (Rede de ONGs da Mata Atlântica). The Requesters asked that the March 2006 letter with accompanying annex be considered an integral part of the Request. The Request for Inspection is attached as Annex I to this Report.
2. On July 11, 2006, the Panel notified the Board of Executive Directors and the World Bank’s President that it received the Request, which constituted Registration of the Request under the Panel’s Operating Procedures.<sup>2</sup> The Panel received Bank Management Response to the Request for Inspection on August 10, 2006. Management Response is attached as Annex II to this Report.

#### **A. The Project**

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<sup>1</sup> The Annex accompanying the letter dated March 21, 2006, is titled “Deforestation in Paraná – Reports on the Status of Remnants of Araucária Forest and Natural Fields in the State of Paraná, with Comments on the Strategy of the Paraná Biodiversity Project” (in original Portuguese, Desmatamento no Paraná – Informações Sobre a Situação de Área de Remanescentes de Florestas com Araucária e Campos Naturais No Estado do Paraná y Comentários Sobre a Estratégia do Programa Paraná Biodiversidade), [hereinafter, “Request, Deforestation in Paraná”].

<sup>2</sup> The Inspection Panel, Operating Procedures, (August 1994), ¶ 17.

3. Brazil is a mega-biodiversity country, and the State of Paraná makes a very significant, and in several ways unique, contribution to that biodiversity. The Atlantic Rain Forest of Brazil (*Mata Atlantica*) originally ranged for thousands of kilometers through 17 States along the eastern coast of Brazil. It was, and its remnants are, tropical and sub-tropical moist and wet forests, tall, closed canopy, and generally broad-leaved forests. As is typical of this type of forest, the level of biodiversity in all the different types of organisms is very high. The relative lack of storm events and excellent growing conditions harbored a forest of exceptional structural grandeur. The Atlantic Forest was, and is, isolated by the ocean to the east and drier eco-systems to the west, north and south, so that its level of endemism is also very high. The original range of the Atlantic Forest is large, but biologically it is an island, so that once it is destroyed its unique biodiversity would be gone forever. Its original range along the coast also corresponds to Brazil's area of original, and presently most intense, development. Over 92% of the Atlantic Rain Forest has been cleared and replaced by agriculture and urban development. Brazilian and international scientists have long appreciated the extremely precarious situation of the forests and their biodiversity.
4. Paraná, about 200,000 km<sup>2</sup> in area, is bigger than many countries, and was originally mostly covered with part of the southern extension of the Atlantic Forest. The Atlantic Forest was quite diverse within itself. In Paraná, and in a few of its neighboring states and countries (and only there), the conifer *Araucaria angustifolia* mixes in with the broad-leaved species forming one of the main dominant tree species of the eco-systems. This mixing of conifers and broad-leaved tropical species is very rare. Also there are only three species of *Araucaria*, and the others occur only in Chile and in and near Australia. They are conifers, like pines, but very different, having evolved in the Southern Hemisphere. Evolutionarily, they are very old. They are also large, striking and unique in appearance, and were adopted as the symbol of Paraná. Their wood is very useful, like pine but harder and stronger. In Paraná, the *Araucaria* were particularly concentrated in the south-central part of the State.
5. Large parts of Paraná also have very fertile soils in a very favorable growing climate. These are among the most productive agricultural lands of South America. In fact, early settlers used the presence of *Araucaria* as an indicator of soil fertility. Several of the broad-leaved trees associated with *Araucaria* were also highly valuable as timber. For much of the 20<sup>th</sup> century, Paraná supported a booming timber industry based on these species. The cleared forest was almost all very good farmland, so it was converted, and the sustainability of native forest was forgone. As an important aside, it should be noted that Paraná has developed a large program of planting pines native to the Southeastern United States for industrial purposes. These exotics pines supply some of the processing capacity that Paraná built up for its native forests and are planted basically because they grow faster than the native species. There is also a very serious corollary problem of natural invasion of exotic pines into natural grasslands. Invasions of introduced

exotic species can seriously harm or destroy the original biodiversity of native eco-systems.

6. Based on all the above, Paraná has its own biodiversity crisis: of the original 76,000 km<sup>2</sup> of *Araucaria* forest in Paraná, 0.8 % (60,000 ha) remained in 2001. Although the Iguaçu National Park effectively protects 187,000 ha of Atlantic Forest in the Southwest of Paraná, there is no comparable protected area in the “*Araucaria Zone*” in Paraná. It is estimated that less than 60,000 ha of this unique eco-system remain, all of it in relatively small and isolated fragments.<sup>3</sup>
7. Tropical forest ecologists have conducted many studies, and there is overwhelming consensus that biodiversity, the genetic components of an eco-system (*flora* and *fauna*), cannot sustain themselves long-term in small, isolated (fragmented) areas. Many individuals and some species may survive, but the eco-system as a whole, and the genetic populations, crash. What degree of fragmentation is critical depends on many things, and is not known precisely, but there is, again, overwhelming consensus amongst specialists that Paraná’s forests have long been in the critical stage. Thus conservation of biodiversity in Paraná’s fragmented remnant *Araucaria* forest is of highest priority (although there are a few just as high, like Madagascar or the east slope montane Andes).
8. The Project aims “(a) to support biodiversity conservation and sustainable natural resource management in the Biodiversity Corridors with a view to protect two highly threatened ecoregions in the Recipient’s territory: the Inland Atlantic Rainforest and the Araucária Forest regions; and (b) to design and implement a model for improving biodiversity conservation in the Recipient’s territory.”<sup>4</sup>
9. The Project’s four components are as follows:
  - Component I: Education and Capacity Building — provides training in biodiversity conservation to Government officials, rural communities and civil society organizations to encourage active engagement in the Project;
  - Component II: Biodiversity Management — works with direct stakeholders to establish microcatchment-based corridors and encourage environmentally benign agricultural production systems such as organic farming;<sup>5</sup>
  - Component III: Control and Protection — supports reform of the state’s environmental monitoring and evaluation capacity, development of norms for

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<sup>3</sup> Brazil, at the Federal level, and Paraná, as a State, have promulgated various decrees and regulations requiring private land owners to conserve as forest a certain proportion of their land. Several of these required 20 % to remain forested. Even a general analysis of these decrees and their effectiveness is a complex undertaking. This has not been an adequate conservation mechanism in the Paraná context. Less than 1% of the *Araucaria* forest remains and it is fragmented into small patches.

<sup>4</sup> Global Environmental Facility, Trust Fund Grant Agreement between the State of Paraná and the IBRD acting as implementing agency of the GEF, (May 29, 2002), Schedule 2 (Project Description).

<sup>5</sup> Project Appraisal Document, Paraná Biodiversity Project, pg. 2, 52. The primary planning and administration unit of each corridor is the microcatchment, an artificial construction which directs rainwater drainage to one or more water-courses and has an approximate area of 3,000 ha.

- licensing activities with environmental impact, and research to develop programs for the protection of endangered species;
- Component IV: Project Administration — includes the review and revision of relevant legislation, regulations, and enforcement and incentive systems. Additionally, it provides for monitoring of the Project’s physical and financial performance.
10. According to the Project Appraisal Document (PAD), the Inland Atlantic Rainforest and Araucária Forest ecoregions are considered “*hotspots—highly threatened regions with exceptional biodiversity and endemism.*”<sup>6</sup> Conservation of this critical biodiversity is pursued through the Project’s four components which aim, *inter alia*, to create ecological corridors by connecting and upgrading protected and interstitial areas that consolidate the corridor and facilitate the protection of biodiversity. Ecological corridors are defined as “*a mosaic of land uses connecting fragments of natural forests across a landscape.*”<sup>7</sup> Corridors encourage the conservation of biodiversity by facilitating the genetic flow between species thereby allowing for their recolonization and for increasing the density of the species within certain areas.<sup>8</sup> Two corridors in the Inland Atlantic Rainforest and one in the Araucária Forest, covering a total of 2.5 million ha, are to be created under the Project. The corridors in the Atlantic Forest ecoregions are: the *Caiud-Ilha Grande* Corridor which follows the Rio Paraná between the Caiua State Ecological Station and the National Park of Ilha Grande, and the Iguaçu-Paraná Corridor, which includes two protected areas and links the Iguaçu National Park with the Poligonal Equivalente initiative to recover areas in and around the Itaipu hydroelectric dam. One corridor, the Araucária Corridor, is to be created in the Araucária Forest.
  11. The corridors are the largest planning and administrative units in the targeted ecoregions. They include microcatchments, the basic corridor planning units of roughly 3,000 ha each comprising a drainage area and generally one or more water-courses. Within the microcatchments are private holdings (smallest operational units). Under the Project the three corridors are consolidated through activities carried out at the microcatchment and private holding levels.
  12. The Request primarily addresses the activities included in the Project Component II, Biodiversity Management. This component provides four types of activities aimed at consolidating the corridors and safeguarding the biodiversity. These activities include incorporating “*fragments of natural vegetation into the corridors through the establishment of [privately and publicly owned] protected areas,*” by increasing “*connectivity of existing fragments and protected areas through microcatchment management,*” and by recuperating “*degraded areas.*”<sup>9</sup>

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<sup>6</sup> Project Appraisal Document (PAD), Paraná Biodiversity Project, pg. 8.

<sup>7</sup> Management Response, Annex 5.

<sup>8</sup> Management Response Bank Management Response to Request For Inspection Panel Review of the Brazil: Paraná Biodiversity Project (GEF TF 051007) Annex 5.

<sup>9</sup> PAD, p. 12.

The macro plans for the development of microcatchments and connections between corridors are based on an initial evaluation of satellite images coupled with ‘on the ground’ verifications, and are prioritized according to each areas’ needs and characteristics.<sup>10</sup>

13. The achievement of the Project objectives is evaluated according to key performance indicators measuring Project impacts, outcomes, inputs and outputs. The PAD presents four groups of indicators, or indices, to assess, inter alia, overall biodiversity and the biodiversity management component of the Project.<sup>11</sup> The PAD also includes detailed and specific indicators related to Project input, output, outcomes and impacts.<sup>12</sup>

## **B. Financing**

14. The Project is supported by the Global Environment Facility Trust Fund Grant TF051007 for SDR 6.5 million, approximately US\$ 8 million.<sup>13</sup> The Grant Agreement between the State of Paraná, Brazil and the IBRD was approved by the Board of Executive Directors on May 21, 2002 and became effective August 27, 2002. The closing date is set for January 31, 2007.

## **C. The Request**

15. In their submission to the Panel, the Requesters state that the approval of the PBP Project carried “*in unprecedented and very positive expectation that it would generate actions*”<sup>14</sup> aimed at preserving biodiversity in severely threatened natural areas in the State of Paraná, such as the Atlantic and the Araucária Forest.
16. The Request indicates that the conservation of the biomass of the Araucária and the Atlantic Forest is a “*great priority*” in the State of Paraná because studies have shown that the Araucaria Forest, which once covered 76,000km<sup>2</sup> of the State and is home to four endangered species of flora, is now reduced to 0.8 percent of its original area.<sup>15</sup> According to the Requesters, deforestation has intensified in these regions and these previously well-preserved areas are being “*quickly converted to*

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<sup>10</sup> PAD, p. 52-53.

<sup>11</sup> PAD, p. 2. Overall Biodiversity Indices include the “maintenance of relative abundance of selected species in targeted protected and interstitial areas;” the “Consolidation/rehabilitation of protected areas (UCs) and buffer zones” and the “Increase of connectivity (linking of protected areas, recuperation of Legal Reserves and microcatchments, incorporation of fragments, consolidation of interstitial areas) to constitute corridors of adequate size and quality to effectively promote biodiversity conservation.” Biodiversity Management Component Indices are, inter alia, the establishment of a macro planning unit to develop strategic plans for ecoregion intervention and the Rehabilitation of 40% of Legal Reserves in priority interstitial areas.

<sup>12</sup> PAD, Annex 1, p. 38 and 68-71 (Table 1, 2, and 3).

<sup>13</sup> Global Environment Facility Trust Fund Grant Agreement, Paraná Biodiversity Project, pg. 7.

<sup>14</sup> Request, Deforestation in Paraná, p. 4.

<sup>15</sup> Request, Deforestation in Paraná, p. 1.

*soybean fields or tracts for planting pinus*” in violation of national legislation, which prohibits conversions of forests illegally cut down.<sup>16</sup>

17. The Requesters claim that “*methodological changes*” made to Project implementation after it was approved have resulted in a change of Project activities, which will prevent the achievement of the original Project objectives and will worsen the current situation, thereby intensifying the loss of biodiversity. The Requesters believe that the Project’s original objectives are far from being achieved because the Project focus has shifted: the activities planned under the Project to protect against the destruction of the last existing preserved natural areas in the State of Paraná, such as the Araucária Forest, are currently not being implemented. Rather, they state that the Project resources are being used for the recovery of degraded areas. The Requesters argue that a review of the Project’s current activities against the performance indicators established during Project preparation reveals the changes in Project implementation they complain about.
  
18. According to the Request, Project implementation is focusing on restoring degraded areas by focusing on planting seedlings “*on properties that have been stripped of native areas (Legal Reserve and Permanent Preservation Area)*.”<sup>17</sup> The Request claims that many landowners have reached agreements with the State to ensure that their degraded areas be restored. As a result, if this restoration work is continued, these areas may achieve native vegetation areas, but there is no guarantee that they will have significant biodiversity, the preservation of which is the original focus of the Project. The Requesters question the value of the Project’s results if it continues to ignore the systematic destruction of “*the last areas that [are] still well preserved and rich in biodiversity*.”<sup>18</sup> The Requesters believe that the Project’s priority focus should be on these last remaining areas containing natural formation – the ones still with the least altered of the biome – because these natural areas maintain a more representative biodiversity than secondary or already degraded areas.
  
19. The Requesters believe that the “*misdirected implementation*” of the Project may miss the opportunity “*to reverse or minimize the serious loss of biodiversity of the biomass in question, at least where the Project is implemented*.” In their view, this is a “*strategic error that could have grave consequences*” because it could result in losing not only substantial resources but also the “*last opportunity to make an effort to preserve the region’s biodiversity*.” The Requesters believe that it would take decades to transform degraded areas with low biodiversity into mature environments, while the “*destruction of natural areas is ongoing, in some cases with the endorsement of the Government of the State of Paraná through its licensing unit, the Paraná Environmental Institute (IAP)*.”

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<sup>16</sup> Request, Deforestation in Paraná, p. 2.

<sup>17</sup> Request for Inspection, letter dated March 21, 2006, [hereinafter “Request, March 2006 letter”] p.1.

<sup>18</sup> Request, March 2006 letter, p. 2.

20. The Requesters further claim that the destruction of preserved areas is also proceeding rapidly because of four main activities: *‘illegal removal of native timber by local lumberyards;’* *‘management that results in deforestation;’* *‘implantation of monocultures of trees after clear cut deforestation;’* and *‘implantation of agricultural monoculture, after clear cut deforestation.’*<sup>19</sup> This deforestation was also *‘accelerated by the continued possibility of gaining profits from the sale of timber [and by] market encouragement of the planting of soybean monocultures.’*<sup>20</sup> In light of this, the Requesters believe that the Project should work directly with the owners of those lands that are crucially important for the conservation of biodiversity. To do otherwise, they claim, leads the landowners to *‘seek alternative uses for their properties’*, which in turn may result in the destruction of the lands and may not achieve the conservation objectives for the biome. The Requesters state that *‘the absence of a policy for protecting these better-conserved areas indicates a trend that chronologically is not supported in terms of results.’*<sup>21</sup> They emphasize the critical nature of their concerns: *‘the biome affected by the Project is on the threshold of disappearance, and there are no prospects of other opportunities ... as positive as this initiative ... could be.’*<sup>22</sup>
21. In their previous correspondence with the Bank, the claimants requested the World Bank to conduct a technical audit to assess the results of the Project with respect to its original objectives. They now request that an Inspection Panel process be initiated so that *‘the Project can be quickly redirected towards the achievement of its original objectives.’*
22. The Panel notes that the above claims may constitute non-compliance by the Bank with various provisions of the following operational Policies and Procedures:
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|-------------|--------------------------|
| OP/BP 4.01  | Environmental Assessment |
| OP/BP 4.04  | Natural Habitats         |
| OP/BP 4.36  | Forestry (1993)          |
| OP/BP 13.05 | Project Supervision      |

## D. Management Response

23. The preface to Management Response calls the Panel’s attention to recent developments *‘stemming from the ongoing dialogue that includes the State of Paraná and the Bank.’* These developments, Management states, reflect *‘recent understandings between the State of Paraná and the Bank’*, which include carrying out a Technical Audit to evaluate the impacts of the Project on conservation of biodiversity in the Project’s targeted ecoregions and the Project’s institutional and management arrangements. Management believes that this course of action has created opportunities for discussion between the Bank, the

<sup>19</sup> Request, Deforestation in Paraná, p. 5.

<sup>20</sup> Request, Deforestation in Paraná, p. 2.

<sup>21</sup> Request, Deforestation in Paraná, p. 5.

<sup>22</sup> Request, Deforestation in Paraná, p. 2.

- State and the Requesters to identify and adopt mechanisms that ensure the Project is effective in achieving its objectives and in generating positive impacts on the ground.<sup>23</sup>
24. Management states that the PBP Project was designed to help demonstrate that ecological corridors are a useful means for the preserving biodiversity in productive landscapes, such as those in the State of Paraná. It asserts that the PBP is one among various government activities aimed at conserving biodiversity, and is expected to contribute to establishing the necessary mechanisms to fight biodiversity degradation in the State of Paraná.<sup>24</sup>
25. The Response notes that the PBP Project, designed by the State of Paraná, received about US\$8 million from GEF funding, while most of the Project's costs are sustained by an existing government project designed to improve natural resource management (NMR) in the State. This Project was partially financed by the Bank under the Paraná Rural Poverty Alleviation and Natural Resources Management Project.<sup>25</sup>
26. The Response indicates that conservation of biodiversity can be achieved with different approaches, among which is the corridor approach, which was selected for the PBP Project after consideration of other options.<sup>26</sup> According to Management, the corridor approach was chosen because it allows strengthening the conservation units (UC – Unidades de Conservação) previously established within the two ecoregions, which would, without the PBP, remain isolated, with consequent loss of genetic diversity and ultimately extinction of species. Management contends that connecting the UCs within each corridor, as provided under the Project, ensures sustaining of greater biodiversity.<sup>27</sup>
27. With respect to Project implementation, Management claims that “resources have been directed to activities consistent with the project design financing plan” and that “the PBP is following the original PAD endorsed by the World Bank and the GEF.”<sup>28</sup> However, Management acknowledges that during the first half of Project implementation the execution of the biodiversity conservation activities under the PBP were postponed because of an 18-month “delay in agreement over procurement procedures between the new state administration in Paraná (which took office in January 2003) and the Bank.”<sup>29</sup> The Response states that the impact of the delay on the ‘beneficiaries’ satisfaction [...] was noticeable”, but it adds that the beneficiaries’ concerns were noted during the supervision missions to the

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<sup>23</sup> Management Response, Preface, p. 1.

<sup>24</sup> Management Response, ¶ 11.

<sup>25</sup> Management Response, ¶ 14. The Brazil: Paraná Rural Poverty Alleviation and Natural Resources Management Project (IBRD Loan no. 4060-BR) closed on March 31, 2006.

<sup>26</sup> An alternative approach to the corridor method is the “isolated protected areas approach which concentrates on conserving biodiversity in the existing isolated patches.” Management Response, ¶ 15.

<sup>27</sup> Management Response, ¶ 20.

<sup>28</sup> Management Response, ¶ 21.

<sup>29</sup> Management Response, ¶ 22.

Project area and “*broadly discussed with the PIU and relevant state agencies*”.<sup>30</sup> Because of the mentioned delay, the Bank downgraded the Development Objectives and Implementation progress ratings of the Project in June 2005. Once the procurement issue was solved, a four-month Action Plan with short-term goals was finalized in September 2005. Management asserts that Project implementation “*accelerated gradually*” to reach the performance indicators’ target levels by December 2005, so as to allow, in June 2006, upgrading of the Project rating to satisfactory.<sup>31</sup>

28. According to Management, the Project implementing agencies are about to commence the Mid-Term Review, inter alia, “*to identify lessons learned and mechanisms to advance the contribution of project activities to achieving project development objectives.*” Management notes that “*as an input to the Mid-Term Review, the Bank has commissioned a Technical Audit of project status.*”<sup>32</sup>
29. Management Response indicates that the Project supports “*10 core conservation areas within the corridors*”<sup>33</sup> and partly finances infrastructure within these areas, such as visitors’ centers, to ensure conservation management. Management states that the implementation of the Project activities in the corridors created in the Atlantic forest has proceeded “*according to plan*”. No complaint has been “*registered*” and “*stakeholder feedback indicates satisfaction with progress toward project objectives.*”<sup>34</sup> The Araucária forest, however, presents a different situation because the protected areas are limited and there is a high level of fragmentation of forest remnants. Thus, “*an effective construction of the corridor involves a complex participatory planning process with many landowners in their microcatchments.*” Management believes, however, that Project “*implementation is progressing well, following the arrangements set out in the PAD and the Project Manual.*”<sup>35</sup>
30. In response to the Requesters’ complaint that the Project does not work directly with private owners (who seek alternative uses for their lands), Management states that the Project has been working with 12,350 farmers within microcatchments and trained about 38,000 farmers in biodiversity issues. According to Management, this offsets their adoption of conventional cultivation practices.<sup>36</sup> Management Response also claims that the State of Paraná is identifying in the Araucária forest small- and medium-sized properties to help the landowners establish privately owned protected areas (RPPNs) under the federal legal framework. Other innovative instruments, such as tax exemptions and

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<sup>30</sup> Management Response, ¶ 23.

<sup>31</sup> Management Response, ¶ 23.

<sup>32</sup> Management Response, ¶ 24.

<sup>33</sup> According to the Response, in the two Atlantic forests’ corridors there are 7 protected areas (3 in the Caiua-Ilha Grande Corridor and 4 in Iguaçu-Paraná Corridor) totaling 463,500 ha. The corridor in the Araucaria forest has 3 areas totaling 2,256ha.

<sup>34</sup> Management Response, ¶ 31.

<sup>35</sup> Management Response, ¶ 32.

<sup>36</sup> Management Response, ¶ 27.

*“channeling of the “ICMS Ecológico” (Green Value Added Tax) to farmers through environmental service payments”, are also being evaluated.*<sup>37</sup>

31. Management states that the Project is in compliance with OP/BP 4.01 on Environmental Assessment. The Project was classified as Category B for environmental assessment purposes. Management also states that the EA found that the proposed PBP Project would have positive impacts in the targeted ecoregions, especially on the institutional setting, and that the regulations on cutting the Araucária forest were a *“positive step”*, although a contentious one for touching vested lumber interests.<sup>38</sup> According to the Response, NGOs were consulted during the preparation of the Project and continue to be involved in it. The proposed Technical Audit will explore mechanisms for civil society participation.<sup>39</sup>
  
32. Management claims that OP/BP 4.36, issued in 1993, on Forestry does not apply to the Project, because the PBP *“does not fund any logging or deforestation activities”*; it *“does not include any provision to support tree planting for commercial use”*; and it *“supports the reforestation only of areas cleared before the project began.”*<sup>40</sup> The Project *“supports the operation of state-managed nurseries that produce high quality seedlings of local species, including Araucária”* and *“provides technical assistance to farmers regarding planting, spacing, and maintenance and protection of the field”*<sup>41</sup> Management also claims that the State of Paraná informed the Bank that there is no evidence that deforestation has intensified in the Project area.<sup>42</sup>
  
33. Management Response contends that the Bank was aware that the Araucária forest is under threat, but, before the Requesters’ March 21, 2006 letter, had not received any report from the Requesters or other parties about incidents of destruction of native areas described in the Request for Inspection. Management also states that it *“has received assurances from IAP that two of the three incidents were outside of the project area. The third occurrence was a case of legal harvesting of dried out and/or rotten trees in the project area.”*<sup>43</sup> Nevertheless, Management states that this issue will be examined in the Technical Audit to identify issues affecting the PBP Project and actions that could be taken.<sup>44</sup>

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<sup>37</sup> Management Response, ¶ 32.

<sup>38</sup> Management Response, ¶ 37.

<sup>39</sup> Management Response, ¶ 36-41.

<sup>40</sup> Management Response, ¶ 45.

<sup>41</sup> Management Response, ¶ 46.

<sup>42</sup> Management Response, ¶ 47.

<sup>43</sup> Management Response, ¶ 56.

<sup>44</sup> Management Response, ¶ 57. Management Response states that the Terms of Reference (TOR) for the Technical Audit were developed in consultation with the State of Paraná and other stakeholders and consultants were hired in June 2006. The TOR are attached to Management Response as Annex 6.

34. According to Management, Project activities are aimed, among other things, at protecting native forest, in private properties as well. This is achieved by, for example, planting seedlings of native species in private areas to create connectivity among these areas, fencing biodiversity-important zones, and undertaking Rapid Ecological Assessment (currently underway) to identify actions that need to be taken in these areas. Other instruments to protect native areas include training of farmers and dissemination programs, creation of Corridor Committees covering various municipalities and a Technical Corridor Manager for each corridor under the PBP. Management asserts that the Project is also supporting improvement of monitoring and enforcement activities by training IAP staff and inspectors at the state and local levels, utilizing the GIS system. Thus, Management believes that in light of the measures provided under the PBP to protect the natural habitats targeted by the Project, the Project complies with OP/BP 4.04 (Natural Habitats).<sup>45</sup>
35. Management states that the Project complies with the policy on Supervision OP/BP 13.05. It asserts that this Project required “*a special supervision effort*” and that, as a result, an “*intense supervision schedule*” was adopted. A “multidisciplinary” team “involving professionals” with experience in, among other things, biodiversity issues and NRM, conducted nine full supervision missions and several partial and follow up visits.<sup>46</sup> Management claims that during the missions the Bank team met with local authorities, beneficiaries and other stakeholders, including NGOs in the three corridors established under the Project. The Response emphasizes that “*attention was given during supervision to assessing if the project was being implemented with due diligence and within the requirements of the development objectives of the Grant Agreement [...]*”<sup>47</sup> Management also claims that the Bank and Project officials met with the Requesters, who never raised the issues of deforestation described in the Request.
36. In its Response, Management proposes “Next Steps” to address the Requesters’ concerns, i.e. intensive supervision and assistance to the State for improving project implementation and for identifying mechanisms for biodiversity conservation in productive areas. As already noted, Management emphasizes that a Technical Audit is to be undertaken and completed by late September, “*with consultation to follow.*”<sup>48</sup> The results of the Audit, according to Management, are to be discussed with project stakeholders, including interested NGOs, to define a set of complementary actions to allow the State of Paraná to “*focus more sharply on forest remnants in the Araucária corridor.*”<sup>49</sup>

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<sup>45</sup> Management Response, ¶ 63.

<sup>46</sup> Management Response, ¶ 64-66.

<sup>47</sup> Management Response, ¶ 67.

<sup>48</sup> Management Response, ¶ 70 and 71. Annex 6 of the Management Response, “*Terms of Reference for the Technical Audit*”, further specifies that the work performed by the consultants carrying out the Technical Audit shall be ending on October 30, 2006.

<sup>49</sup> Management Response, ¶ 75.

37. Management concludes that the destruction of the Araucaria is an issue to which the Bank will pay increasing attention in the future, but also states that incidents of deforestation raised in the Request “do not imply that the Bank has violated its operational policies, namely 4.01, 4.04, 4.36 and 13.05.”<sup>50</sup> Management believes that the Bank has complied with the applicable policies and procedures and that the Requester’s rights and interests have not been harmed, nor they are likely to be, by the PBP implementation.

## **E. Eligibility**

38. The Panel must determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution<sup>51</sup> establishing the Panel and the 1999 Clarifications<sup>52</sup>, and recommend whether the matter alleged in the Request should be investigated.

39. The Panel has reviewed the Request and Management Response. Panel Member Tongroj Onchan, Head of Panel Team in the eligibility visit, together with Executive Secretary Eduardo Abbott, Deputy Executive Secretary Peter Lallas, and Ralph Schmidt, consultant, visited Brazil from August 26, 2006 to September 2, 2006. During their visit, the Panel met the Requesters, with federal government officials in Brasilia, with state and local government officials in Curitiba, Sao Jorge do Patrocinio and other municipalities in the State of Paraná, and with Bank staff in the Bank Office in Brasilia.

40. The Panel also met with other experts and interested persons during its visit, including Professor Marcos Pedlowski, Center of Human Sciences, Northern Fluminense State University, Rio de Janeiro, Attorney Vania Mara Moreira dos Santos, President of the Institute of the Guardians of Nature in Prudentopolis, representatives of local NGOs in the State of Paraná, and farmers, landowners, and other interested and affected individuals and experts.

41. The Panel wishes to thank the Requesters and the NGO Network of the Atlantic Forest – RMA. The Panel especially expresses its appreciation to the Requesters for their extensive efforts in showing the Panel the areas of concern to them, and for providing additional documentation and information.

42. The Panel also wishes to thank officials of SEAIN from the Federal Ministry of Planning, Budget and Management, and from the State of Paraná Secretariat of the Environment and Water Resources (SEMA) and the Secretariat of Planning and General Coordination (SEPL) for providing information and documents to the

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<sup>50</sup> Management Response, ¶ 78.

<sup>51</sup> Resolution No. IBRD 93-10 of September 22, 1993, hereinafter “the Resolution”.

<sup>52</sup> The 1999 Clarifications to the Resolution (hereinafter “the 1999 Clarifications”) are contained in the “Conclusions of the Board’s Second Review of the Inspection Panel” dated April 20, 1999.

Panel and for showing the Panel team biodiversity-related activities in the field.<sup>53</sup> The Panel wishes to thank the Mayor and officials of Sao Jorge do Patrocino and other municipalities in the State of Paraná for meeting with the Panel. The Panel is grateful to Bank staff in the Bank office in Brasilia for providing information to the Panel relating to the Project, and for assistance on logistical arrangements. The Panel would also like to thank Mr. Alvaro Milanez, Jr., for providing interpretation services to the Panel.

43. In the context of the review of the Request, including the March letter to the Panel, the Panel found that the Requesters felt unduly pressured by Bank staff and others not to file a Request for Inspection and then to withdraw the Request. The Requesters have cited various arguments as having been used to exert pressures. The Panel finds that this practice threatens the integrity of the Panel process, and may have a chilling effect on local people who genuinely feel harmed or potentially harmed by Bank projects. The Panel wants to call the attention of the Board of Executive Directors and Bank Senior Management to this matter, and trusts that these kinds of practices will not recur.
44. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The Requesters have a common interest and common concerns as required in Paragraph 9(a) of the 1999 Clarifications.
45. The Panel notes that the Request “*assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters.*” (Paragraph 9(b)).
46. The Requesters assert that the changing Project activities have contributed, and will contribute, to a worsening of the current situation of deforestation and loss of biodiversity. They believe that this is resulting in long-term adverse effects on the environment and the livelihood of people in the affected areas, and on sustainable development in the State of Paraná. They highlight in particular that the changing direction of the Project and some activities under the Project are contributing to the loss of the last remaining remnants of the unique Araucaria forests and their related biodiversity, and that the Project is missing perhaps the last opportunity to protect these remnants.<sup>54</sup> They consider that the Project, by giving the impression that biodiversity conservation is being achieved, is obscuring the actual situation that there is a continuing and possibly increased rate of deforestation of the Araucaria forests, which may have the unintended consequence of intensifying the problem of biodiversity loss.

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<sup>53</sup> The Panel team wishes to make a special note of thanks to CCPG officials Erich G. Schaitza and Gracie Maximiano for their special efforts in showing the Panel team project-related activities in the field.

<sup>54</sup> Indeed, both the Requesters and Management agree that there is less than 0.8% of the original area of Araucaria forest remaining in the State.

47. The core of the complaint underlying the Request is that, although positive actions are being supported by the Project, the “advanced successional stage”<sup>55</sup> *Araucaria* forests, those small and scattered remnants that added up to 60,000 ha in 2001, continue to be cleared, converted, deforested and destroyed.
48. The Panel Mission observes that almost all ecologists and natural resource managers would agree that it is critical to preserve and protect the last mostly undisturbed remnants of this unique forest ecosystem (now reduced to less than 1%) if its biodiversity is to survive even in the short term. Other actions, even though they could be essential parts of a comprehensive biodiversity conservation program, may be irrelevant and futile if the remaining old growth core is not protected.
49. The Panel at this stage cannot make any definitive judgment on the extent of current destruction of the old growth *Araucaria* remnants. However, meetings and some field observation strongly indicate that this deforestation is occurring at some scale and those mechanisms for protection of at least the largest of these very special areas may not be appropriately designed or effectively implemented. At the same time, as discussed below, there are also clear indications that the Requesters and project management are in dialogue and that project orientation and priorities may soon change.
50. The Requesters claim that they have brought their concerns to Management’s attention on various occasions. The Panel is therefore satisfied that the Request *“does assert that the subject matter has been brought to Management’s attention and that, in the Requesters’ view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures”* as set forth in Paragraph 9(c).
51. The Panel notes that the subject matter of the Request is not related to procurement, as required by paragraph 9(d).
52. The Request therefore satisfies the requirement in paragraph 9(e) that the related grant has not been closed or substantially disbursed.<sup>56</sup>
53. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).
54. The Panel notes, however, that this Request has special circumstances which affect the Panel’s consideration of whether an Investigation is merited at this time.
55. In late July 2006, after the Request for Inspection was submitted to the Panel, Management agreed to carry out a Technical Audit of the Project and the

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<sup>55</sup> One might say ‘old growth’.

<sup>56</sup> According to the Resolution, *“this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.”* Footnote to Paragraph 14 (c).

biodiversity conditions in the State. The Requesters had previously asked for a Technical Audit to help address their concerns about the Project.

56. As described in Management Response, the Technical Audit will be carried out by two consultants, a biodiversity specialist and a project management specialist, selected and employed by the Bank. The Technical Audit is to be *“based on an analysis of the status of conservation of ecosystems targeted by the project, with special reference to Araucária forests, of the technical and operational procedures adopted, of the efficiency of instruments used, and of the level of execution of physical and financial targets, recommending adjustments, if necessary, in order to achieve project objectives.”*<sup>57</sup>. The Technical Audit is expected to produce a Work Plan, an initial diagnostic of the Project’s operational performance, and a Final Assessment Report. The work of the Technical Audit is to be performed beginning August 1, 2006 and ending October 30, 2006.
57. During its visit, the Panel learned that the consultants have already been hired and the Technical Audit is in progress.
58. In addition to this action under the Project, officials of the State Government of Paraná recently prepared a draft proposal to re-orient strategic directions and activities under the Project to respond to concerns of the Requesters. The State Government has provided this draft proposal to Requesters and other interested and affected parties for input and comment. Among its other elements, this proposal calls for increased focus and attention on actions to conserve the remaining remnants of Araucaria forests.
59. During the Panel’s visit, the Panel observed that this draft proposal has generated a constructive and potentially fruitful dialogue between government authorities, the Requesters and Bank staff regarding possible steps to change the direction of Project implementation in a manner that addresses the issues and concerns raised by the Request. The Panel noted an openness on the part of the State Government and the Requesters to see if the current dialogue and the draft proposal, coupled with the anticipated results of the Technical Audit, can lead to changes in the approach in Project implementation that address the concerns raised by Requesters, including a substantially greater focus on conservation of the remaining remnants of Araucaria native forest.
60. In light of the foregoing and Articles 4 and 5 of the 1999 Clarifications, and consistent with prior similar recommendations approved by the Board, the Panel recommends to defer the decision on whether to recommend an investigation until further time has elapsed to determine if the issues and concerns raised by the Request can be addressed by the current dialogue among the Requesters, government authorities, the Bank, and other interested parties, as noted above. The Panel expects to be able to make a determination by February 2007 as to whether an investigation is merited.

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<sup>57</sup> Management Response, p. 54.

## **F. Conclusions**

61. In light of the foregoing observations and in fairness to all the parties concerned, the Panel, as it has done in a similar situation in the past with Board approval, does not take a position at this time on whether the Request merits an investigation.
62. Since the Panel is not making a recommendation on this issue, the Requesters may still have recourse to the Panel later if they consider there are serious violations of Bank policies and procedures causing material adverse effect, which are based on specific acts or omissions of the Bank relating to the Project.
63. The Panel, therefore, recommends to the Board of Executive Directors that it approve the Panel's proposal to refrain from issuing a recommendation at this time on whether an investigation is warranted in this case, but rather await further developments on the matters raised in the Request for Inspection. The Panel expects to be able to make a determination by February 2007 as to whether to recommend an investigation.