

IPN REQUEST RQ 09/01

March 11, 2009

NOTICE OF REGISTRATION

Re: Request for Inspection PANAMA: Land Administration Project (Loan No. 7045-PAN)

On February 25, 2009 the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the Panama: Land Administration Project (the “Project”—in Spanish, Programa Nacional de Administración de Tierras—PRONAT). The Request was submitted by representatives of the indigenous community of Pueblo Naso, several individual members of the community and representatives of some community organizations (the “Requesters”). The Requesters claim that they and the community that they represent have been harmed and are likely to suffer further harm from the above-referenced Project.

The Project

The Project is partially financed by a loan from the International Bank for Reconstruction and Development (the “Bank”) in an amount equal to forty-seven million nine hundred thousand dollars (US\$ 47,900,000). The Loan was approved on January 16, 2001. After experiencing some implementation problems, the Project was restructured on June 23, 2006 to narrow the project scope and outputs and improve “*implementation and financing modalities.*”¹

According to the original Loan Agreement, the objectives of the Project were: (a) *to promote equitable access to land and improve land tenure security by providing Land Administration Services in the Project Area; and (b) to enhance natural resources conservation through the consolidation of the SINAP² and Indigenous Peoples Territories.*

¹ Memorandum and Recommendation of the President on a Proposal to Restructure the Land Administration Project – Loan No. 7045- PAN for the Republic of Panama., dated March 27, 2006. SEC. R2006-0047, dated March 30, 2006.

² The Loan Agreement states that “SINAP” means “Sistema Nacional de Tierras Protegidas” the Borrower’s system of protected areas.

The Amended Loan Agreement provides, however, that “*the objective of the Project is to modernize the land administration system, including priority protected areas and Indigenous Peoples Territories.*”³

After being restructured in March 2006, the Project has four components:⁴

1. Land Policy, Legal and Institutional Framework. This component includes activities aimed at improving the existing policy and legal institutional framework and strengthening the institutions providing land administration services. Such activities include “*the preparation of the required reforms to the legal and institutional framework governing Land Administration Services.*”

2. Land Regularization Services. This component supports the modernization of the Borrower’s geodetic network, the gathering and analysis of land tenure related data, including the development and implementation of an Integrated Cadastral and Registry Information System (SIICAR) and its network in selected provinces and districts, and the resolution of land-related conflicts. This component includes “*the carrying out of legal cadastre surveys and area-based measurement and land demarcation activities.*”

3. Consolidation of Protected Areas and Indigenous Territories. This component supports the consolidation of the National Protected Areas System (SINAP), the establishment and consolidation of protected areas within SINAP, and the establishment and consolidation of indigenous territories in the project area.

4. Project Administration, Monitoring & Evaluation. This component provides technical assistance services and support for land administration entities at national and local level, including support for the design and implementation of a Project monitoring and evaluation system.

The Project Appraisal Document (PAD) states that Project-supported land administration activities cover a range of land regularization actions, including legal rights recognition, titling, conflict resolution, legal cadastre, and registry, and that the consolidation of SINAP and indigenous territories, which include mapping, field demarcation, buffer zone limits, determination of their legal status; and land management plans in selected areas through local and participatory consultation processes.⁵

The Project component related to Consolidation of Protected Areas and Indigenous Territories includes the carrying out of physical demarcation activities in protected areas, including participatory decision-making processes to define boundaries and status of the demarcated areas. In this regard, the PAD states that “*consolidation of indigenous peoples territories includes not only technical actions related to demarcation*” but also a number of complementary activities, including conflict resolution and “*support to design or complete*

³ Amendment to the Loan Agreement, dated June 23, 2006.

⁴ Source: current Project Information Document (PID)

⁵ Project Appraisal Document (PAD) on a Proposed Loan in the Amount of US\$ 47.9 million to the Republic of Panama for a Land Administration Project, dated December 14, 2000, pg. 3

the Cartas Orgánicas [Organic Charters] and other regulations and norms dealing with the administration of indigenous territories”⁶(emphasis added).

The Request

The Requesters claim that, in violation of its own policy on Indigenous Peoples, during implementation of the Project the Bank did not take into account the rights and interests of the Pueblo Naso communities, inter alia, because Project officials are trying to impose a “*Carta Orgánica*” in their territory that is detrimental to their rights, has not been consulted with the indigenous people and lacks legal basis. What follows is a summary description of the situation as depicted in the Request.

The Requesters state that the PRONAT is expected to demarcate the territory of the “*original people*” of the Bocas del Toro Province and that, since its initial implementation, “*the Project has been carrying out activities in their Naso Tjër Di territory with the support of the Dobbo Yala Foundation and the then King Tito Santana [of the Naso people] and his team*” (emphasis added). The Requesters state that, in this context, Bank financing made possible to agree on a Bill of Law, supported by the Naso People, which would create the Province of Naso Tjër Di. This Bill of Law was submitted to the National Assembly of Panama but was never approved.

The Requesters claim that the situation has now changed and PRONAT officials are no longer consulting with the legitimate representatives of the Naso Peoples, and that this has created tensions between the members of the Naso and the Foundation carrying out the consultations.⁷ They state that the Bank-financed Project supported a new Bill of Law establishing collective land property in indigenous territories, which was approved by the National Assembly on December 3, 2008 as Law No. 72. According to the Requesters this new Law created “*an uncertain regime of regional rezoning*”. The Requesters believe that, the Project-supported new law “*constitutes a flagrant and very serious violation of the sole and true aspiration of the Naso People—the creation of a juridical framework that would respect the cultural and all forms of politico-traditional life of our Naso people, as well as the natural, archeological and genetic resources in general that we now have and that we have inherited from our ancestors and that we are entitled to: that is the region of Naso Tjër Di.*”

The Requesters state that they asked PRONAT officials to comply with the World Bank’s Operational Policy on Indigenous Peoples and that, since no reply was received

⁶ PAD pp. 6–7

⁷ The Requesters claim that “*unfortunately, the Dobbo Yala Foundation was contracted by the Public Enterprise of Medellin (Empresa Pública de Medellin or EPM) to carry out an alleged community consultation related to the proposed the Bonyik Hydroelectric Project to be built within the Naso Territory.*” As a result, the Requesters assert that “*in May 2004, the Naso Peoples General Assembly decided to dismiss the then King Tito, and appoint His Majesty Valentín Santana present King of the Naso Peoples.*” The Requesters add that “*several weeks after [this event] the National Assembly rejected the Bill of Law.*” In addition, they state that after the new President of Panama took office, “*several individuals*” of the Dobbo Yala Foundation “*became Government employees working on the PRONAT project.*”

from them, the “*Naso people, jointly with Ngobe leaders affected by the delimitation of the adjacent lands,*” sent a note to World Bank staff, in December 2007, “*requesting an urgent visit to the area.*”

They add that World Bank staff carried out a field visit in January 2008 where they were informed about the concerns of the Naso Peoples in relation to PRONAT. The Request claims that on a follow-up visit to evaluate PRONAT in March 2008, Bank staff did not meet with the Naso people, who were left waiting for them at the community of Bonyik. The Naso people’s concerns were again expressed, at a meeting held later on in Panama City but so far, the Requesters claim, World Bank staff have not responded to their concerns.

In view of the foregoing, the Requesters state that “*we are also disappointed with the World Bank, who has not enforced its operational policies on indigenous peoples,*” adding that for this reason they are “*requesting the Inspection Panel to carry out an in-depth and detailed investigation of all that has happened since the arrival of PRONAT in our territory.*”

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

OD 4. 20	Indigenous Peoples
OP/BP 13.05	Project Supervision

In accordance with paragraph 17 of the Panel’s Operating Procedures (the “Operating Procedures”), I am notifying you that I have, on March 11, 2009, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Please note that the Panel’s registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of the Request for Inspection.

As provided in paragraph 18 of the IBRD Resolution that established the Panel (‘Resolution’), paragraphs 2 and 8 of the “*Conclusions of the Board’s Second Review of the Inspection Panel*” (the “1999 Clarifications”), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than April 9, 2009, with written evidence that it has complied, or intends to comply, with the Bank’s relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

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

The Request has been assigned IPN Request Number RQ 09/01.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Werner Kiene', written in a cursive style.

Werner Kiene
Chairperson

Messrs. Valentín Santana
Adolfo R. Villagra S.

Mr. Robert B. Zoellick
President
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development