



INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM

MEMORANDUM

CONSULTATION PHASE ELIGIBILITY DETERMINATION

FROM: Isabel Lavadenz-Paccieri, Project Ombudsperson
TO: Executive Secretary
CC: MICI
REFERENCE: Case AR MICI1/2010
RELATED PROJECT: Multiphase Development Infrastructure: Support Production Entre Rios (AR-L1036) and Technical Cooperation AR-T1029
COUNTRY: Argentina
DATE: October 8, 2010

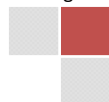
Summary:

On June 28, 2010, Pablo Luis Folonier, Albino Matias Folonier y Sara Ramona Quiroga submitted a complaint expressing social and environmental concerns with regards to the *Multiphase Development Infrastructure: Support Production Entre Rios Project (AR-L1036) (the Project)*, in particular regarding its Energy component. After a detailed review, this Ombudsperson has determined that the complaint is eligible for the Assessment and Consultation Phases under the Mechanism¹.

I. Background

The Project, approved by the Board on November 14, 2007 is located in the City of Parana, Province of Entre Rios of the Republic of Argentina. The complaint raised a series of environmental and social concerns spanning from the lack of due process to expropriate the family lands for the electric station, to the non disclosure of key documentation such as the Environmental Impact Assessment (EIA). This is a Sovereign Guaranteed loan of 104 million dollars financed by IADB.

¹ **The terms:** Mechanism, Management, Executive Secretariat, Project Ombudsperson, Panel, Mechanism Policy, Eligibility, Consultation Phase, Assessment and any other relevant term in this memorandum shall have the meaning assigned to them in the Independent Consultation and Investigation Mechanism (ICIM) Policy approved on February 17, 2010.



Project Ombudsperson

Independent Consultation and Investigation Mechanism- Inter-American Development Bank

1300 New York Ave. NW. Washington D.C. 20577 USA

phone: (202) 623 3952 fax: (202) 312 4057

mecanismo@iadb.org | www.iadb.org/mici

The complainants had also requested the protection of their property under the Natural Protected Areas Law since they claim, their property neighbors with other four protected areas². More explicitly, they argue that IADB -through the Project- has explicitly violated, among others, the following policies:

- Environment and Safeguards compliance Policy 703
- Sector Policy 733, Energy and the Economic Infrastructure Sectors Sub-policy 733-1 Electric Energy.
- Disclosure of Information, Policy 102

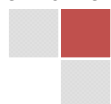
The complainants emphasize the violation of country laws and regulations as it is a requirement in IADB's Policy 703³ for the Project to be in compliance with the national environmental laws and regulations. Regarding disclosure of information, they argue that their right to access to information was violated since every attempt by the Folonier family was blocked by various government agencies, including the Environmental Secretariat of the Province of Entre Rios. The complainants also noted that the IADB's policies, in particular the ones regarding environmental impact assessments have not been observed either by local authorities or by IADB itself. They provide, as an example of this, among others, the lack of screening and classification of the Project.

II. Eligibility Analysis

The Ombuds process starts with the Eligibility Determination to then move to the Assessment phase and finally to the Consultation and mediation Phase, if so agreed by all parties. As part of the Eligibility analysis, an initial dialogue with the Project team is established, and information on the complaint, complainants and the relevant project (s) is gathered. The results of such an analysis are expressed in the table below.

² Rio Parana Medio; the Toma vieja area and the Berduc/San Martin national Park

³ Policy 703, B.2 "The Bank will also require the borrowerto ensure that (an operation) is designed and carried out in compliance with environmental laws and regulations of the country where the operation is being implemented....."



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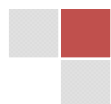
Inter-American Development Bank 1300 New York Ave. NW. Washington D.C. 20577 USA

phone: (202) 623 3952 fax: (202) 312 4057 Email: mecanismo@iadb.org | www.iadb.org/mici

ELIGIBILITY CRITERIA	OMBUDS DETERMINATION	COMMENTS
Names and contact information available	YES	From Folonier Brothers and Mrs Sara Quiroga,
Bank-financed operation identified	YES	AR-L1036 and AR- T 1029
Requesters reside in the country	YES	The Folonier family owned the area where the Electric Station will be established.
None of the exclusions of the policy applies	YES	
Requesters have asserted that they have been or could be directly, materially affected by the Project, and they have described the direct and material harm by an act carried out or omitted to be carried out by the Borrower in relation to the Project in violation of a relevant Operational Policy	YES	Complainants argue that (a) IADB's policies were not complied with; (b) the surrounding ecosystems and human development in the area will be impacted by the Project; and (c) the type of plant and equipment included in the design are hazardous for the health of the surrounding population.
Parties are amenable to a Consultation Phase and dialogue	YES	Complainants and Project team are amenable to dialogue and initiate the following phases.
Requesters have taken steps to bring the issue to the attention of Management and/or project team	Yes, to some extent	Requesters have sent a number of emails and press articles to the ES, but only this week they have gotten in touch with the Project team. The Project team was made aware of this request much earlier by the Project Ombudsperson.

III. Initial consultation with Management

The ICIM's policy calls for an initial consultation with Management to learn what the status of the issue at hand is, confirm that the project team and/or management and/or the relevant country office have been made aware of the complaint, verify the steps taken by the requester to bring this issue to the attention of the Bank, and learn more about the operational response, if any. In this case, the requesters have initially requested confidentiality which they waived through a communication only on October 5, 2010. The complainants have written to this Mechanism confirming its concerns with copy to the Project team. The Project team has been contacted by the Mechanism and is already collaborating with this process.



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IV. Conclusion

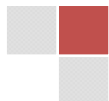
In line with the ICIM Policy, the Project Ombudsperson has determined that the complaint related to the Multiphase Development Infrastructure: Support Production Entre Rios Project (AR-L1036)- (the Project) **is eligible** for the Consultation Phase.

The Consultation Phase starts with an Assessment by the Ombudsperson. The purpose of the Assessment is to work with the complainants, management and interested stakeholders to identify -on the ground- and clarify the issues raised by the complainants, gather information on the various points of view and help stakeholders determine whether and how they may be able to find solutions. The Assessment period is limited to a maximum of 120 days, but may be completed more quickly.

Although a complaint may meet ICIM's eligibility criteria, **this does not imply** any judgment on the part of the ICIM of the merit of the issues raised in the complaint.

Within the next two (2) business days, the Executive Secretariat will post the notice of registration on the Registry and notify the Requester.

Isabel Lavadenz Paccieri
Project Ombudsperson
Independent Consultation and Investigation Mechanism
IADB



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