

**CONSULTATION PHASE**  
**MEMORANDUM OF DETERMINATION OF ELIGIBILITY**

**FROM:** Isabel Lavadenz Paccieri, Project Ombudsperson  
**TO:** Executive Secretary  
**CC:** **MICI**  
**REFERENCE:** Case ARMICI002/2010  
**RELATED PROJECT:** Provincial Agricultural Services Program (PROSAP II) (AR-L1030)  
**COUNTRY:** Argentina  
**DATE OF THIS**  
**MEMORANDUM:** 3 January 2011

---

**Summary:**

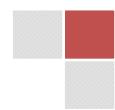
On 3 November 2010, Dr. Gustavo Neme presented a request to the Independent Consultation and Investigation Mechanism (MICI) expressing his concern that the excavations and infrastructure projects would have a major adverse impact on the archeological heritage around the General Alvear and San Rafael oasis, in the Province of Mendoza, Argentina. This damage would be caused by the project on Modernization of the Nuevo Alvear Main Irrigation Canal System (Atuel River). Following the applicable preliminary analysis, the Project Ombudsperson has determined this request to be **eligible for the Mechanism's Consultation Phase process.**<sup>1</sup>

**I. Background**

The program, approved by the Board of Executive Directors on 16 January 2008, has Argentina's Agriculture, Livestock, Fisheries, and Food Secretariat as its executing agency and is taking place in the provinces of Mendoza and Entre Ríos, among others. The concerns indicated by the Requester relate to the destruction of a large part of Mendoza province's archeological heritage.

---

<sup>1</sup> The terms Mechanism, Management, Executive Secretary, Project Ombudsperson, Panel, Policy, Eligibility, Consultation Phase, Assessment, and any other relevant term included in this memorandum are defined in the Policy establishing the Independent Consultation and Investigation Mechanism approved on 17 February 2010.



**Project Ombudsperson**

Independent Consultation and Investigation Mechanism – Inter-American Development Bank  
1300 New York Ave. N.W. Washington, D.C. 20577 USA  
Tel: (202) 623 3952 Fax: (202) 312 4057 Email: [mecanismo@iadb.org](mailto:mecanismo@iadb.org) | [www.iadb.org/mici](http://www.iadb.org/mici)

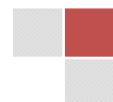
The Requester, and according to him, local residents have brought this concern before the executing authorities at the provincial level and have not received a response to their request. To the contrary, they indicated that the excavation works to build the irrigation canals have continued and are continuing to cause irreversible damage. More recently, with the startup of construction on the Nuevo Alvear main canal, the Requester indicated that earth movement and excavations may have begun in the area known as La Olla, which has already been studied and protected under local decrees. The Requester indicated that his attempt to stop the works and save this archeological site was unsuccessful and that for that reason he has turned to the MICI.

The Requester also stressed the potential noncompliance with IDB policies relating to archeological impact studies and the violation of national and provincial regulations protecting this type of cultural heritage.

### **1. Eligibility analysis**

The Consultation Phase process led by the Project Ombudsperson begins with this eligibility analysis, and as part of it, initial information is gathered on the request and the project. The results of this eligibility analysis are presented in the following table:

ELIGIBILITY CRITERIA	OMBUDSPERSON'S DETERMINATION	COMMENTS
The Requester's full name and contact information are available.	YES	
The project or operation is duly identified.	YES	AR-L1030
The Requester resides in the country where the operation is being implemented.	YES	
None of the exclusions set forth in Section 37 applies.	NO	
The Requester has reasonably asserted that it has been or could be expected to be directly, materially, and adversely affected by an action or omission of the IDB in violation of one or more relevant Operational Policies.	YES	The Requester is very clear in stating that the damage that would be caused to the archeological heritage in the province is damage to a common good, and that it would also violate IDB rules on archeological impact studies or critical cultural sites (policy OP-703, B.9).
The parties are amenable to a Consultation Phase exercise or mediation.	YES	
The Requester has taken steps to bring the issue to the attention of Management.	YES	The Requester has contacted the project team as well as the Executive Secretary of the MICI.



### **Project Ombudsperson**

Independent Consultation and Investigation Mechanism – Inter-American Development Bank

1300 New York Ave. N.W. Washington, D.C. 20577 USA

Tel: (202) 623 3952 Fax: (202) 312 4057 Email: [mecanismo@iadb.org](mailto:mecanismo@iadb.org) | [www.iadb.org/mici](http://www.iadb.org/mici)

## 2. Conclusion

PROSAP II is a very important program in Argentina and the various provinces where it is being executed. As such, all aspects of its implementation are expected to be carefully executed and monitored in accordance with the Bank's sector and operational policies. This being the case, based on the information gathered to date, given the urgent nature of this request, the seriousness of the assertions, and the need for the parties to enter into a productive dialogue, the Project Ombudsperson has determined that **this request is eligible for the Consultation Phase**. This determination implies no value judgment on the merits of the project or the request.

Substantive considerations will be analyzed during the Assessment, which starts following notification of the parties with this Memorandum. The purpose of the Assessment phase is to find solutions and open paths to productive dialogue between the Requester, relevant stakeholders, the executing agency at the provincial level, and the project team in order to address the presented concerns effectively and efficiently.

In accordance with the MICI Policy, the Assessment period is a maximum of 120 calendar days, but may be shorter.

The Executive Secretary **will serve notice of the registration of this Determination of Eligibility to the Requester**, the Board of Executive Directors, the President of the Bank, Management, the project team, and the executing agency.

**Isabel Lavadenz Paccieri  
Project Ombudsperson  
Independent Consultation and Investigation Mechanism  
IDB**

### **Project Ombudsperson**

Independent Consultation and Investigation Mechanism – Inter-American Development Bank  
1300 New York Ave. N.W. Washington, D.C. 20577 USA  
Tel: (202) 623 3952 Fax: (202) 312 4057 Email: [mecanismo@iadb.org](mailto:mecanismo@iadb.org) | [www.iadb.org/mici](http://www.iadb.org/mici)