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**REQUEST FOR INSPECTION PURSUANT TO THE INDEPENDENT INVESTIGATION  
MECHANISM OF THE INTER-AMERICAN DEVELOPMENT BANK  
PABLO LUIS FACUNDO FOLONIER, [REDACTED]**

[REDACTED] City of

Paraná, Province of Entre Ríos, Republic of ARGENTINA, having elected domicile for  
purposes of the present proceedings at [REDACTED]

[REDACTED] Entre Ríos, Republic of ARGENTINA, hereby submits the following  
request for inspection by the Independent Investigation Mechanism of the Inter-American  
Development Bank, doing so on its own behalf as affected by the visible and multiple  
violations to the local Environmental and Access to Information regulations, as well as by  
the violations of several of the "Multisectoral Policies" of the bank.

**SUMMARY**

These violations are obvious, because the social and environmental impacts of the  
proposed project "Multiphase program for the Development of Product Support  
Infrastructure in Entre Ríos" that appears in the IDB's system under the nomenclature  
AR-L1036, were neither fully identified, nor was their true extent quantified. As a result,  
Mr. Folonier along with several other local families have been unaccountably excluded

from a proper evaluation process, in violation of their right to access to information and public participation, despite the fact that he owns and has occupied the lands for the proposed project for more than twenty years. This outrageous exclusion has severely affected him, since he is soon to be injured by the forthcoming expropriation of his lands based on invalidly passed regulation.

**I. Electric Substation “Nueva Gran Paraná ET de 500kV/132kV”**

This request for investigation involves an IDB funded project that is a part of an overall program for the development of infrastructure in the Province of Entre Rios. The overall project is called “Multiphase program for the Development of Product Support Infrastructure in Entre Rios” and appears in the IDB’s website under the nomenclature AR-L1036<sup>1</sup>.

AR-L1036 sets forward the overall framework and describes the technical and material steps that are to be undertaken in the City of Paraná among which the electric substation is comprised.

Another project, project AR-T1029<sup>2</sup>, is intimately related to AR- L1036, and focuses on the implementation and financing studies of the earlier.

**A. AR-L1036**

This project is supposedly intended to enhance the socio-economic development of the Province of Entre Ríos through improvements in infrastructure. According to IDB, economic growth in the area has not been accompanied by growth in infrastructure, including the electricity sector.<sup>3</sup>

The local government broke the project down to four subsectors. In phase I, “Development of Basic Infrastructure to Support Production”, the second subsector

<sup>1</sup> <http://www.iadb.org/projects/project.cfm?lang=en&query=&id=ar-l1036&project=ar-l1036>

<sup>2</sup> <http://www.iadb.org/projects/project.cfm?lang=en&query=&id=ar-t1029&project=ar-t1029>

<sup>3</sup> Loan Proposal. Page 1. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232679>

contemplates the intervention in the electric sector, with the construction of the electric substation “Gran Paraná” of 500 / 132 kV that concerns our request.<sup>4</sup>

The project was approved in November 14<sup>th</sup> 2007 and the corresponding contract dates April 17<sup>th</sup> 2008. The project is currently in “implementation” stage<sup>5</sup> and according to IDB’s available records it has no exceptions to the Bank’s policies.<sup>6</sup> Regarding the total cost of the project, the documents differ: the project outline establishes a total cost of US\$ 130.000.000 (US\$ 104.000.000 through an investment loan and US\$ 26.000.000 paid by the Country as counterpart);<sup>7</sup> the web summary of the project and the Loan Proposal establish a total cost of US\$ 125.000.000 (US\$ 100.000.000 paid by the IDB through a Single Currency Facility from the Ordinary fund Capital and US\$ 25.000.000 by Country Counterpart Financing).<sup>8</sup> The cost of the energy infrastructure works is US\$ 54.000.000 (US\$ 43.200.000 by the IDB, US\$ 10.800.000 by Argentina).<sup>9</sup>

#### B. AR-T1029

As mentioned before, AR-T1029 is a Technical cooperation program. The goal of this program is to finance the EIA and other studies related to AR-L1036.<sup>10</sup> The technical cooperation was requested as part of the preparation of program AR-L 1036,<sup>11</sup> which will physically execute the different installations.

<sup>4</sup> AR-L1036 Project Outline. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=917253>. Loan Proposal. Page 11. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232679>

<sup>5</sup> <http://www.iadb.org/projects/project.cfm?id=AR-L1036&lang=es>

<sup>6</sup> Loan Proposal. See: summary of the project.

<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232679>

<sup>7</sup> AR-L1036 Project Outline. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=917253>

<sup>8</sup> <http://www.iadb.org/projects/project.cfm?lang=en&project=ar-l1036&id=ar-l1036&query=>. Loan Proposal. See: summary of the project.

<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232679>

<sup>9</sup> Loan Proposal. Page 14. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232679>

<sup>10</sup> Operations Plan. Pg 1. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

<sup>11</sup> Operations Plan. Pg 4. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

The project was approved on July 23<sup>rd</sup> 2007 and the date of the contract is October 23<sup>rd</sup> 2007<sup>12</sup> and is currently in “implementation” stage.

The EIA and other studies for the “Paraná” substation are included in component 2, subcomponent 1.<sup>13</sup> The EIA had a budget of US\$ 35.000, to be paid by the local authorities. The basic Engineering studies had a budget of US\$ 200.000 to be paid by the IDB. The actualization of the Detailed Electric Studies had a budget of US\$ 20.000 to be paid by the local authorities.<sup>14</sup> The EIA was expected to be finalized by August 2007.<sup>15</sup> The “expected results” of this project are obtaining the necessary studies for the execution of the energy installations of AR-L1036.<sup>16</sup>

**II. Violations and Serious Irregularities in the approval at the local level**  
Numerous and serious irregularities have occurred in the process of initiation and implementation of the “Nueva ET 500/132KV Paraná” project in the City of Paraná. Irregularities have occurred both on the Municipal and the Provincial level, in violation of the laws of Argentina:

**A. Expropriation Law n° 9846**

Law n° 9846 declared that Mr. Folonier’s family 16 ha ranch in the City of Paraná is subject to public interest and thus subject to expropriation, for the construction of the “Nueva ET 500/132KV Paraná” project. ENERSA, firm that will be undertaking the construction of the project and current electricity supplier of the Entre Rios Province, is obliged by the General Law of the Environment n° 25.675 (GLE) to draft of an

<sup>12</sup> <http://www.iadb.org/projects/project.cfm?id=AR-T1029&lang=es>

<sup>13</sup> Operations Plan. Pg 6. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

<sup>14</sup> Operations Plan. Annex I. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

<sup>15</sup> Operations Plan. Annex II. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

<sup>16</sup> Operations Plan. Pg 6. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1086798>

Environmental Impact Assessment (EIA) of the project<sup>17</sup>. The EIA needed to be presented to the Environmental Authority of the Province of Entre Rios, for its joint analysis with the Environmental Authority of the Municipality of Paraná.

Both authorities were obliged by the same statute to deliver an analysis, inform the public and call for public participation, procedures after which an administrative act needed to be published, namely the Environmental Impact Declaration (EID). The EID would approve, observe or deny the EIA, based on a technical and legal analysis.

The process of expropriation was develop without this administrative act, on an obvious noncompliance with the GLE.

**B. Right to Access to Environmental Information**

Every attempt by the Folonier family to access the information related to the Project have been unfruitful to date. Even when addressing the issue to Environmental Secretariat of the Province of Entre Rios by means of an Official requirement of socio-environmental information. In response to this request, the head of the Secretariat stated by file n° 4643 to the Entre Rios Legislature that “under his area of conduction and jurisdiction of the environmental policy of the Province, this Secretariat has no objections to the execution of the project”. The Secretariat did not show nor deliver a proper administrative act (namely an EID) that approves, observes or denies the project’s EIA, on a clear violation of articles 11 and 12 of the GLE. “Having analyzed the documents, this secretariat does not oppose the execution of the project.” (See File n° 4643 under exhibit A).

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<sup>17</sup> Articles 11 and following of the GLE.

Therefore, it is clear that no local nor provincial assessment of the impacts have been performed by the competent authorities, with no concrete evaluation of the impacts on the natural or urban environment, nor of the impacts of the project in the 16 has ranch selected by Law n° 9846. The selected ranch is part of a riparian zone of native mount and hills, declared decades ago an area of special value and concern for the City of Paraná.

The aforementioned is in direct violation of articles 41, 43 and 124 of the National Constitution of Argentina, articles 1, 2 inc c), g) and i), article 3 and 4 on the precautionary and sustainable yield principle, articles 11, 12, 13 and 16 of GLE n° 25.675, and finally articles 3, 4 and 8 of Law n° 25.831 on the Free Access to Environmental Information.

**C. Law n° 9092**

Article 3 of Law n° 9092 states that every conservation and recovery project in riparian, mount and lake areas are of Provincial interest.

The Folonier family has requested the protection of their property under the Natural Protected Areas status. What's more, their land borders with 4 other protected areas, i.e.: the Rio Paraná Medio, the Toma Vieja, the Area Vecinal Toma Vieja and the Berduc/San Martin Park. (See Documents under Exhibit B).

**III. Violation of IDB Multisectoral Policies**

The IDB has the following binding policies and procedures that apply to the analysis and implementation of the "Nueva ET 500/132KW Gran Paraná" Project:

- Multisectoral Policy 703: Environment and Safeguards Compliance;
- Economic Infrastructure Sectors Policy 733: Energy; and
- Economic Infrastructure Sectors Sub-policy 733-1: Electric Energy.

Each of these operational policies has been violated, because the IDB has failed to follow them on the implementation of the "Gran Paraná" project. I hereby describe the specific provisions that the IDB failed to observe:

***A. Multisectoral Policy 703: Environment and Safeguards Compliance***

According to the January 19, 2006 revised version, the specific objectives of the Policy are: (i) to enhance long-term development benefits to its members countries by integrating environmental sustainability outcomes in all Bank operations and activities and strengthening environmental management capacities in its borrowing member countries; (ii) to ensure that all Bank operations and activities are environmentally sustainable as defined in this Policy, and (iii) to foster corporate environmental responsibility within the Bank. According to 703 Policy, the IDB will act to achieve these specific objectives by adopting measures to mainstream the environment into overall economic and social development, and to safeguard the environment in all Bank activities<sup>18</sup>. The IDB sets out a packet of measures that need to be undertaken to ensure that these goals are accomplished where ever one of their funded projects is developed. Many of the IDB's regulations, especially the ones regarding environmental impact assessments have not been observed by the local authorities and by the IDB while approving the project, as is established below:

<sup>18</sup> Environment and Safeguards Compliance Policy. III, Objectives.

1. The IDB fails to comply with the following policy directives concerning the Management of Environmental impacts and risks
  - **IV. B.1. Bank Policies: 4.14** “The Bank will only finance operations and activities that comply with the directives of this policy, and are consistent with the relevant provisions of other Bank policies.”
  - **IV. B.2. Country Laws and Regulations: 4.15** “The Bank will also require the borrower for that operation to ensure that it is designed and carried out in compliance with environmental laws and regulations of the country where the operation is being implemented, including national obligations established under ratified Multilateral Environmental Agreements (MEAs).” As noted earlier, local statutes related to the administration, public participation and access to information in environmental matters have seriously been violated. The violations have recently been acknowledged by the Argentinean Federal Justice.<sup>19</sup> This violates paragraph 4.15.
  - **IV. B3. Screening and Classification: 4.17** “All Bank-financed operations will be screened and classified according to their potential environmental impacts.” The statute provides with 3 different categories (A, B and C). None of the documents available for the public mention the category of the “Nueva ET 500/132KW Gran Paraná” Project. This is not only in violation of paragraph 4.17, but also in violation of the IDB’s norms on Disclosure of Information (OP-102).

<sup>19</sup> Press articles available at <http://www.unoentrecios.com.ar/noticias/nota.php?id=3940> see also <http://analisisdigital.com.ar/noticias.php?ed=1&di=0&no=101875> and <http://www.recintonet.com.ar/nota/10246/La-licitacion-de-la-planta-transformadora-de-energia-de-Parana-se-frena-por-un-fallo-judicial.html>

- **IV. B.5. Environmental Assessment Requirements. 4.19** “Preparation of Environmental Assessments (EA) and associated management plans and their implementation are the responsibility of the borrower. The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs), Strategic Environmental Assessments (SEAs), Environmental and Social Management Plan (ESMP), and environmental analyses, as defined in this Policy and detailed in the Guidelines.” As shown by this party, the bank has failed to require minimum requirements in the EIA, and has expressed its conformity with it even in the face of its severe lack of seriousness and completion<sup>20</sup>.
- **IV. B.7. Supervision and Compliance. 4.21** “The Bank will monitor the executing agency / borrower’s compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations.” In the face of the recent judicial events, it is patent that the IDB has failed to comply with his duty of supervision over the borrower’s legal and environmental performance.
- These policy directives are to be applied throughout the entire project cycle to ensure its environmental sustainability. We have given enough proof that they have not been respected since the beginning of the operation, thus making them void in the rest of the stages that the project has been through.

***B. Economic Infrastructure Sectors Policy 733: Energy<sup>21</sup>***

<sup>20</sup> Multiphase Program For The Development Of Production Support Infrastructure In Entre Ríos Phase I (AR- L1036). Paragraph 4.22 “Based on the findings of the aforementioned environmental studies, the projects that comprise the program will not have significant environmental impacts.” Available at <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1232689>

<sup>21</sup> EISP 733 available at [http://www.iadb.org/aboutus/pi/OP\\_733.cfm](http://www.iadb.org/aboutus/pi/OP_733.cfm)

In the analysis of proposed Energy projects, the IDB has set a list of basic criteria that need to be met for approval, among which are:

1. Promote development in their areas of influence through the generation of subsidiary economic activities.

It has been shown by the concerned families that support this request, along with the Folonier family, that the siting of the project involves not only the Expropriation of the Folonier's 16 has, but also the impairment of the nearby lands to be agriculturally productive. What is more, the "Nueva ET 500/132KW Gran Paraná" Project doesn't provide for the generation of any subsidiary economic activities.

2. There should be assurances that the rural energy plans and projects include, within the national energy context, the economic and physical requirements of the rural areas and rural communities and that the energy projects would contribute to the creation of new jobs in the non-farming sector to strengthen rural social and economic development.

The project doesn't include the creation of long term jobs, much less of long standing and sustainable working positions, unlike the working source provided by the arable lands that are to be impaired by the project.

3. The energy projects should be conceived and designed in a manner compatible with environmental protection requirements.

Little doubt remains regarding the environmental noncompliance of the local authorities, and the little if any safeguards related to the protection of the surrounding ecosystems and human environment affected by the project.

*C. Economic Infrastructure Sectors Sub-policy 733-1: Electric Energy*<sup>22</sup>  
Similar criteria need to be met, according to the Electricity Sub policy of the IDB,  
whenever the project involves the generation or transmission of electricity, namely:

1. The environmental component

- The projects need to be “environmentally acceptable, with emphasis placed on measures to preserve the quality of air water and soil which could be affected by the project. To the extent possible, every effort will be made to analyze the investments impact on the area's ecological balance. The projects should be formulated taking into account the need for preserving and improving the environment.” As mentioned above, when local authorities fail to provide with the adequate assessment of the project’s potential adverse effects, a project cannot be reasonably found to be “environmentally acceptable” nor can it be said that “every effort” has been made on the analysis of the impacts or the formulation of the project. Let it be said that to this date, no administrative act has been properly notified to the public, concerning the evaluation of the developers EIA.

2. Place due emphasis on the conservation of natural resources:

- As mentioned in point I, C, the terrain where the project is to be sited has high ecological and cultural value for the City of Paraná, and is surrounded by at least 4 protected areas of similar features. No safeguards have been taken towards the protection of the natural resources in the area, nor has the authority approved any mitigation plan on its regard.

<sup>22</sup> EISSP 733-1 available at [http://www.iadb.org/aboutus/pi/OP\\_733\\_Lcfin](http://www.iadb.org/aboutus/pi/OP_733_Lcfin)

**IV. Adverse effects**

According to the facts described above, it is fair to state that I have suffered, and it is reasonably likely that I will directly suffer material adverse effects because the IDB has failed to follow its own operational policies in the project, as mentioned in this request for Inspection.

**V. Requests**

Therefore, I request:

1. That having waived true domicile and elected legal domicile for the purpose of the present proceedings, I be accepted as a party to these proceedings;
2. That the Panel accept the production of the accompanying documentary evidence and of any further evidence offered;
3. That the Panel give favorable consideration to the registration of the present Request for Inspection and take the necessary steps to determine possible Noncompliance (omissions) on the part of the IDB;
4. That the Panel handle the present proceedings as an *urgent matter*, urging the IDB to withhold on a preventive basis the funds corresponding to disbursement of the Loan corresponding to the Project;
5. Lastly, that the anonymity of the party requesting for the Inspection proceedings be respected.

Respectful regards,

**PABLO LUIS FACUNDO FOLONIER**  
Attorney at Law

