

Translation from Spanish

Sibundoy Putumayo July 25, 2011

Doctor

VICTORIA MARQUEZ-MEES:

Greetings to the ICIM Executive Secretary

Following your instructions for processing the eligibility determination of the request submitted on June 30, 2011, we hereby confirm our petitions and require that both the Consultation Phase and the Compliance Review Phase be implemented for such request.

On May 3, 2010, the Colombian Government, represented by the Ministry of Economy and Transportation, and the National Roadway Institute (Invías), signed the first loan agreement (2271/OC-CO) in the amount of US\$53 million with the Inter-American Development Bank (IDB) for the implementation of the First Phase of the San Francisco - Mocoa Alternate Road Construction Project; the total cost of the alternate road is estimated in US\$ 203 million to be financed with future loans.

We hereby kindly request again that the ICIM and IDB "DO NOT PROCEED WITH ANY FUNDING DISBURSEMENTS" until any applicable reports for both the Consultation and Compliance Review Phases are conducted and completed.

From the statements in our life plan: *we would like to request that the IDB allows us to reunite with the spirit and thinking of our ancestors and elders, since it is our responsibility to legitimize and defend them in time and space, claiming that our land be respected and we be allowed to live in peace interacting with nature and this land that we perceive as our universal mother "Tsbatsána mamá".*

1. Digital copy of Notarial Protocol dated September 28, 1928.
2. Copy of File OFI-10-32053-DAI-0220 dated September 9, 2010, whereby the General Attorney's Office confirms the existence of the communities.

Besides the above evidence, we hereby state and attach copies of several statements with various certifications by the Agency for Indigenous People; thus, the actions of any public institutions are not clear, as pointed out below:

a) The report by the committee responsible for determining if the San Francisco Mocoa Alternate Road project would influence and adversely affect the local indigenous people determined that:

"Over the course of the tour, as it is noted, no indigenous settlements were found, my opinion is to request a reasonable period of time to be able to issue a final concept, and then proceed to sign the final proceedings, every time that I deem it necessary to hold an independent conversation with the indigenous authorities of San Francisco ... This report is not to be regarded as a final concept..."

b) The Office of Environmental Permits of the Ministry of the Environment, by **Decision No. 202 dated July 25, 1999**, requested the submission of an EIA and required that a preliminary consultation process be initiated, as stated on the second paragraph of Article 2:

"Taking into account the presence of indigenous communities in the project area, as certified by the Ministry of the Interior, General Director Office for Indigenous Affairs, by Decision No. 4587 dated September 15, 1998, the INSTITUTO NACIONAL DE VIAS should develop an Environmental Impact Assessment with the participation of representatives from such communities" (emphasis added)

c) Certification by the General Director Office for Indigenous Affairs dated October 25, 2001, stating as follows:

"Certification of recognition of the presence of Inga-Kamentza and Belen del Palmar Indian Communities; thus, a preliminary consultation process is required".

3. I, Carmenza Tez Juagibioy, Citizenship Identification No. [REDACTED]; residing in Vereda las Cochas, Municipality of Sibundoy, Department of Putumayo – Colombia; as a native of the Pueblo Kamentza, and as sheriff "that watches over the well-being of the Pueblo Kamentza people", have full support of my people to be their spokesperson before the ICIM and IDB, during any and all actions associated with the request submitted on June 30, 2011, signed by the current and former governors of the Inga and Kamentsa town council. (copies of power of attorney)

4. Damages that we think the community will suffer as a result of this project:

Socio-Cultural Damages:

Accelerated loss of culture; rapid migration to cities and coca-growing areas, namely by the youth, and very often this young people leaving to look for new work opportunities are coming back dead; loss of identity as a result of the reduction in the number of speakers of the mother tongue, especially among young people and children; loss of customs and traditional skills in craftwork or handicraft, traditional medicine, uprooting of native plants and nature; and a

similar loss of their own thinking by some Kamentsá natives who have had more contact with the settlers, and live in their midst.

From the statements in our life plan: *"The mother tongue is regarded as the spine of the Camëntsá wisdom, since it has a special gift, and through teaching (jaboátëmban) promotes the kind of thinking, which the taitas and mamas have always had.*

The words of the Camëntsá language provide life to the culture through their expressions, the rituality within the dialog between indigenous people, since every word has content for the Camëntsá, words heal, provide life, instill respect, show feelings of community living, and a need to build relationships and use words to strengthen the culture.

Our own thinking is currently preserved by the elders, who are starting to disappear, together with their experience, thus becoming difficult to recover the taitas own feelings, which are a source of wisdom for the community".

The culture of the Camëntsá people goes beyond dancing on the great day, dressing in a sayo or saying that one is a native; the culture encompasses all sorts of typical Camëntsá manifestations, like speaking the mother tongue, promoting the thoughts, beliefs, and traditions, such as the day of the dead, traditional dances and music. For the Camëntsá, culture is something sacred to be respected and that binds the feelings of the elders since when the indigenous people came into existence. Those having an actively live culture express it in their lifestyle, being in contact with nature, talking to the taitas, sharing their tulpa with the family and using the traditional hierarchy of authority.

"The Camëntsá culture is inside each of us, this feeling is born, built and transmitted through the language from one generation to another. The indigenous culture is shown through the way they laugh, speak, prepare bocoy, take care of their land and other aspects that make the Camëntsá indians so peculiar.

We keep on using the language, lifestyle, chagras, thoughts, feelings, which are barred from being more visible since we are not provided any forum to be heard, and thus, we are rendered invisible; so, we may say that THE KAMËNTSÁ CULTURE HAS BEEN WEAKENED IN ITS SACRED EXPRESSIONS AND MANIFESTATIONS BECAUSE THE GOVERNMENT PROGRAMS OR PROJECTS HAVE NOT PROTECTED IT, AND THEY HAVE ALWAYS SOUGHT TO INTEGRATE US TO THE COLONIZATION PROGRAMS FOR SUCH CULTURE TO BE EXTINGUISHED.

The institutions have been deceiving, manipulating some leaders, taking advantage of their needs and the hunger of the older indigenous people and children, generating violence and divisions within the core of the indigenous communities. We will soon send more data or information on how the indigenous communities are being affected by the San Francisco-Mocoa Alternate Road Project. I wish you the best of luck.

Damages in Self-Governance

Any damages suffered by our organizational and self-governance systems are beyond repair since the institutions have sponsored political campaigns for individuals, who are not qualified to govern, end up leading the general fate and interests of our people, while destroying our good habits of electing our own officials.

Most of the damages caused by the Colombian Government, the Catholic Church and non-governmental organizations have been the deprivation of the territory and the appropriation of sacred places like rivers, wet highlands, springs, ponds, wetlands, forests, cemeteries, parks, development of natural resources without involving the participation nor having the consent of the Kamëntsá or Inga people, and finally denying our existence as millenarian people of the Valley of Sibundoy or (Bengbe Luare) in order to make viable this San Francisco-Mocoa alternate road infrastructure mega-project .

Such effects or damages suffered by the Kamëntsá or Inga people have become worse since the San Francisco – Santiago road, and then the Santiago el Encano road, have been paved; there have been non-local people showing up every day looking for land within our territory; in most cases, they have invaded our forests, cutting down trees, removing lumber, burning coal, and leaving our mountains without trees and causing soil instability and erosion, as well as water shortages.

Spiritual Damages:

Breaking up the bond between the indigenous people and their mother earth. (Tsbatsanamama), acquiring bad habits, such as using drugs, drinking alcohol, especially among young people, annihilation of our beliefs regarding the moon and sun.

Cosmogony Damages:

Adapting to foreign production systems, leaving behind any spiritual beliefs regarding the moon and sun.

Financial Damages:

From the concepts stated in our life plan: *"the Jajañ is our life, since it provides us with food and at the same time it teaches us to farm. Jajañ does not imply having a specific product all fenced in and planted, but having all sorts of items such as animals, plants, and traditional crops around the house; it has existed for a long time, and it has yielded abundant crops and a large variety of species with the purpose of providing a social and cultural well-being that has allowed it to enjoy stable financial strength through the times"*.

The Jajañ has currently disappeared, together with any labor organizational systems like the crews, chiefs or foremen, lotren (individual who prepared food for the governor), bartering, the work system known as *mengay*, and the *huacanamiento* (exchange of firewood for *chicha*

and food and community integration), as well as the loss of any traditional food based on the by-products of corn, beans, cabbages, pumpkins, and palm hearts.

Damages to our Batsanamama or Mother Earth:

Contamination of ravines, streams and rivers, loss of natural fish that guarantee an adequately nourishing diet for children, youth and adults, wild ducks, deer, porcupine, single-crop implementation, appearance of pests and diseases that have killed native plants that are usually used as food or medicine, new illnesses to the detriment of the community, increase of deaths due to stomach, liver and blood cancers, birth deformities, such as cleft lips, extremity deformities; disappearance of native seeds used as food or medicine.

According to statements included in our life plan, "Traditionally, one of our best ways of feeling well has been through exchanging and sharing food, medicinal items, work, space, and most importantly any popular knowledge and feelings, with much respect for individuality within the community, since that is the way in which a family survives, with the exchange of cultural products and ancestral thoughts among families being very respectful of nature and our indigenous brothers and sisters".

5. Open Legal Actions:

As mentioned by you, Victoria, there is an ongoing Legal Action in the Nariño Tribunal since January 2011; we are aware that one of the eligibility requirements for requests is not to be subject of any arbitration or legal proceedings started by any national, supranational or similar organizations; thus, we state as follows:

I) This Request claims that the IDB has not acted upon and/or failed to comply with two of its relevant Operational Policies -- OP-703 (Environment and Safeguard Compliance) and OP-765 (Indigenous People), in the financing awarded to the San Francisco – Mocoa Alternate Road Construction Project, as follows: i) the IDB technical support resources close to US \$ 1,7 million have been approved for conducting Strategic Environmental Assessments, Regional Environmental Assessment (EAR), Environmental Impact Assessment (EIA) and Basic Environmental and Social Management Plan (PBMAS); and ii) in 2009, the IDB developed four technical cooperation projects for the Integrated and Sustainable Environmental and Social Management Plan (PMASIS).

II) If the first disbursement on Loan Agreement No. 2271/OC-CO is made, the IDB would continue its non-compliance of the applicable environment and safeguards policy, as well as the indigenous people policy, including a few of the IDB responsibilities as follows:

- Promoting any appropriate consultation mechanisms, allowing the participation of any indigenous people whose lands and territories are affected by the projects under development.

- Including preliminary consultations with the indigenous people or groups that would be potentially affected, with consultation and good-faith negotiation processes consistent with any legitimate decision-making mechanisms of the indigenous people or groups being impacted.
- Ensuring that the environmental viability of the IDB-financed operations will identify and manage other risk factors that may affect the environmental sustainability of its operations.

6. Contacting the IDB headquarters:

Between October and November 2010, the attorney Juan Muyuy was at the IDB headquarters in Washington, DC, and participated in a conference call with IDB officers, where he made a Power Point presentation showing our concerns about not recognizing the presence of indigenous peoples in the San Francisco - Mocoa Alternate Road Construction Project.

On October 1, 2010, during a phone conversation with Juan Dumas from the Grupo Asesor Independiente (GAI), the Indian Taitas, Santos Jamioy and Angel Jacanamejoy, emphasized the negligent behavior by the Colombian Government for not having conducted any preliminary open and informed consultation process in a project that affects the indigenous people territory of the Sibundoy Valley, which is financed by the IDB and fails to comply with the ILO Convention 169.

Besides, we do not know what other individuals are in contact with the IDB, BUT IT DOES concern us that some former Governors or leaders are using the name of the People or the Peoples without their consent or any consultation with them first; these situations have been going on, and they are serious for our people, who are not informed nor familiar with the processes to address any such situations that would affect them; thus, we encourage you to be very careful, and make sure that any management decision be communicated to the indigenous peoples or communities.

We would be glad to provide further information.

Thanks for your attention to this matter.

CARMENZA TEZ

ALGUACIL PUEBLO KAMENTZA

Documents attached. If you do not get the attached documents, please let us know since it is very difficult to email attachments due to a poor signal during winter time.

Sibundoy, Putumayo, June 30, 2011.

**To the
Project Ombudsperson (IDB)
Washington
United States**

Cordial Greetings.

Elder Luis Marcial Tandioy Muchavisoy, Governor of the Kamentsa – Inga Council of the Municipality of San Francisco Putumayo, Arturo Jacanamijoy Mavisoy, former Governor of the Inga - Kamentsa Community of the Municipality of San Francisco, Aureilano Garreta Chindoy, former Governor of the Inga Council of Condagua Media Putumayo, Karold Henry Mavisoy, Carmenza Tez Juagibioy, María Carlina Tez Juagibioy, Lucy Juagibioy Jacanamijoy, respectfully and urgently send you this letter to inform you of the profound concern that we have regarding the road construction project known as the “San Francisco-Mocoa Alternate Road Construction,” which will be implemented in the Department of Putumayo, with regard to the administrative actions taken by the Colombian Government, headed by its agencies, such as the Ministry of the Interior and Justice, through the Ethnic Group Department and the Prior Consultation Group, Ministry of the Environment, Housing and Territorial Development, the Colombian Institute of Rural Development (INCODER), the Autonomous Corporation for the Sustainable Development of the Southern Amazon (CORPOAMAZONIA), and the National Road Institute (INVIAS), which have been absurdly ignorant of the existence of the Kamentsa and Inga indigenous peoples within this ancestral territory that we have occupied for millennia. The reasons and facts on which our concern is based are as follows:

By Order No. 2170, dated the fifth (5th) of December of 2008, the Ministry of the Environment, Housing and Territorial Development issued an environmental permit for the construction of the San Francisco-Mocoa Alternate Road section, which order was the result of Certification No. 3868, dated the twenty-fifth (25th) of October of 2001, issued by the Prior Consultation Group of the Ministry of the Interior and Justice, which certification not only ignored the existence of the Kamentsa and Inga peoples in the territory in which the road was being built, it also exacerbated the illegal appropriation of watersheds, wetlands, wet highlands (*páramos*), and other natural resources, by entering into inter-institutional agreements between CORPOAMAZONIA and environmental NGOs, among which is Agreement 0285, executed on July 29, 2009, by CORPOAMAZONIA and the World Wildlife Fund for Nature (WWF); the award of land made by INCODER and the illegal invasion of the high part of the mountains by persons other than our indigenous members of the Kamentsa and Inga peoples, and, in general, the plunder of ancestral territory, inherited from the Great Indigenous

Chief Genoa Tamoebioy by his last will and testament dated the fifteenth (15th) of March of 1700, and formalized in Notary Office Two of the City of Pasto, Department of Nariño, on the twenty-eighth (28th) of September 1928.

In view of such abuses to which we have been subjected, both the indigenous communities and the ancestral territory that we occupy, and on which our ethnic identity survives, we have energetically undertaken actions aimed at the defense of our fundamental rights as indigenous peoples, legally recognized by the Colombian State (Constitution, Law 89 of 1890, Law 21 of 1991) and other international legal instruments (Convention 169 of the ILO). So then, making respectful use of our fundamental right to petition the government, we requested, by letter sent to the Ministry of the Interior and Justice to inform us of the factual and legal arguments by which they deny the existence of our indigenous people in the territory in which the road project will take place. The response received from the Ministry consisted of irrationally ratifying that "THERE ARE NO INDIGENOUS COMMUNITIES that might be affected by the implementation of this road project."

Subsequently, we went to the City of Bogota for the purpose of submitting a complaint to the Office of the Attorney General of Colombia and the Office for the Defense of Ethnic Minorities, to request, through these agencies, information and certification denying our existence; the response that the Ministry sent to the Office of the Attorney General of Colombia, by Official Letter OFI -1032053 -DAI - 0220, dated the ninth (9th) of September of 2010 is particularly the following: ***"there is the camentsa Biyá community in the town of el Belén del Palmer in the Municipality of San Francisco and the Inga - Kamentsa community in the City of Mocoa."***

The response by the Ministry of the Interior and Justice sent to the Office of the Attorney General of Colombia evidences not only a serious factual contradiction but also confirms a very serious neglectful and fraudulent attitude of ignorance of provisions of law governing the fundamental rights of the Inga and Kamentsa indigenous peoples, such as the case of the right of prior consultation established in Convention 169 of the ILO, which was ratified by the Colombian State in Law 21 of 1991, according to which right these peoples must be consulted clearly, truthfully, freely and conscientiously.

On the twenty-first (21st) of December of 2010, we were authorized by the indigenous peoples of the Department of Putumayo to submit the complaint and

problem issues to the Ministry of the Interior and Justice, INVIAS and the Ministry of the Environment, Housing and Territorial Development. In the conversation that we had, the aforementioned Ministries made the commitment to send representatives with decision-making power to the Department of Putumayo to find alternatives for solving the problems raised, but this effort has had no results up to now.

Taking the above-described situation into account, there are factual and legal reasons in our favor showing that our concern is legitimate and immense, so that we find ourselves obligated to demand respect for, and the safeguarding of, our ethnic and territorial rights before any national and international forums that are necessary. In Colombia, among the indigenous peoples who run the imminent risk of cultural and physical disappearance over the medium term are we, the Inga and Kamentsa peoples (Decision 004 of 2009 by the Constitutional Court), who live in the Department of Putumayo, so then, it is ironic that it is the very same institutions of the Colombian State that are interested in the execution of this project that are denying our existence and, therefore, ignoring their obligation of consultation with our people in order to agree on a plan for the adequate safeguarding of our reality that would truly guarantee the preservation of the ancestral territories and the aboriginal cultures, existing for millennia, who have contributed to the care and conservation of nature, the environment, our tropical forests and, along there with, the natural resources, flora and fauna enjoyed by humanity which existed in territories such as that in which it is intended to carry out the San Francisco-Mocoa Alternate Road project.

Therefore, we not only bring your attention to the concern to which we have made reference in this letter, but we also raise our voice to you in rejection of the ill-intended actions of entities such as CORPOAMAZONIA and INVIAS, which, for the purpose of concealing the regularities occurring within the process of granting the environmental permit for the construction of the construction of the San Francisco-Mocoa Alternate Road, have been taking actions to pressure the indigenous governments of the six (6) councils of the Inga and Kamentsa of the Upper Putumayo, inviting them to clandestine and personal meetings in order to get them, as our authorities, to sign documents and naively compromise the collective interests of these native groups without providing information to, and allowing real participation by, all members of these peoples and, even more seriously, for these communities to ignore the objectives and content of such documents.

Likewise, we hereby state our disagreement regarding the funds that the Inter-American Development Bank (BID) donated for performing the Environmental Impact Studies for the San Francisco-Mocoa Alternate Road Construction Project; we feel that, with such money, a study could also have been performed

on the socio-cultural impact of this megaproject on the indigenous cultures of the Putumayo, but, unfortunately, this was another act aimed at ignoring and denying our existence, in order to speed up the environmental permitting process that would make the road project viable.

Accordingly, we respectfully request the Inter-American Development Bank **NOT TO DISBURSE THE MONEY** that the Colombian government is borrowing for the construction of the San Francisco-Mocoa Alternate Road (Bypass) in the Department of Putumayo, until the certification that unjustifiably denied our existence is revoked, and, consequently, that it be recognized, respected and provided legal security in the exercise of our ethnic and territorial rights.

Yours truly,

ELDERS

[signature]
LUIS MARCIAL TANDIOY MUCHAVISOY.
GOVERNOR
KAMENTSA – INGA – COUNCIL
MUNICIPALITY OF SAN FRANCISCO

[signature] [REDACTED]
ARTURO JACANAMIJOY MAVISOY
FORMER PASADANG
KAMENTSA – INGA COMMUNITY
MUNICIPALITY OF SAN FRANCISCO

[signature]
JUSTO MUJANAJINSOY TISOY
GOVERNOR INGA COUNCIL
OF SANTIAGO [REDACTED]

[signature]
HIGIDIO MUCHAVISOY
FORMER PASADANG KAMENTSA BIYA
COMM. SIBUNDOY.

[signature] [REDACTED]
SALVADOR CHINDOY
FORMER GOVERNOR OF THE KAMENTSA
COMMUNITY OF SIBUNDOY.

[signature]
NICOLAS CHICUNQUE [REDACTED]
FORMER GOVERNOR OF THE KAMENTSA
COMMUNITY OF SIBUNDOY

[signature] [REDACTED]
MIGUEL CHINDOY
FORMER GOVERNOR OF THE
KAMENTSA BIYADE COMMUNITY SIBUNDOY.

[signature] [REDACTED]
GABRIEL JACANANEJOY M.
FORMER GOVERNOR
SAN FRANCISCO COUNCIL
KAMENTSA - INGA