

**MANAGEMENT’S RESPONSE TO THE ELIGIBILITY DETERMINATION PROCESS
OF THE REQUEST TO INVESTIGATE
THE RURAL LAND CADASTRE, TITLING, AND REGISTRATION PROJECT
IN PERU (LOAN No. 3370/OC-PE)**

October 5, 2015

I. INTRODUCTION

- 1.1 On September 3, 2015, the Independent Consultation and Investigation Mechanism (MICI) registered Request MICI-PE-2015-0094 submitted by the Asociación Interétnica de Development of the Selva (AIDSEP), the Organización Regional de los Pueblos Indígenas del Oriente (CORPI), the Organización Regional de Pueblos Indígenas de la Amazonía Norte (ORPIAN), the Consejo de Desarrollo de los Pueblos Indígenas de la Región San Martín (CODEPISAM), the Asociación Regional de Pueblos Indígenas de la Selva Central (ARPI), the Coordinadora Regional de los Pueblos Indígenas de AIDSEP (CORPIAA), the Consejo Machiguenga del Río Urubamba (COMARU), and the Federación Nativa de Madre de Dios (FENAMAD), collectively “the Requesters,” represented by Mr. Henderson Rengifo Hualina, President of AIDSEP, in relation to the project entitled “Rural Land Titling and Registration in Peru, Third Phase – PTRT3” (the project). Loan Agreement No. 3370/OC-PE was signed for this project on February 13, 2015 between the Republic of Peru and the Inter-American Development Bank (“the Bank”).
- 1.2 The Requesters allege that:
- (i) The project failed to comply with the following operational policies of the Bank: (i) Operational Policy on Indigenous Peoples (OP-765); and (ii) Environment and Safeguards Compliance Policy (OP-703).
 - (ii) As a result of the failure to observe operational policies OP-703 and OP-765, the titling of individual rural properties in the Amazon could affect the rights of native communities because their territory has not yet been clearly delimited and there are an unknown number of native communities that have not registered their territorial claims.
- 1.3 Management finds that: (i) the project has been designed in full compliance with the environmental safeguards provided for in OP-703, for purposes of ensuring that the project is environmentally sustainable and focused on risk management. It has also been designed in compliance with Policy OP-765, as the potentially negative impacts on the land, territories, and rights of indigenous peoples have been adequately assessed and necessary measures have been devised to anticipate, minimize, and mitigate those impacts; (ii) the Requesters’ allegations do not demonstrate the existence of a potential direct material harm, insofar as they do not fully reflect the scope, structure, and method of execution of the project for the Amazon Region; in particular, the allegations do not take account of the fact that the titling activities will be preceded by the development of the technology platform to streamline land cadastre, titling, and registration services (component 2), and the strengthening of the institutional capacity and policy framework for rural land titling (component 3), which were designed to prevent and mitigate the potential harm that may be associated with the titling component.

- 1.4 Notwithstanding the evidence of the Bank's compliance with its operational policies and the fact that the project is expected to have positive rather than negative impacts on native communities, Management is of the opinion that there is an opportunity and an opening to strengthen the execution of the project in terms of increasing the benefits for those communities. Therefore, Management requests that the MICI temporarily suspend the eligibility determination process, as provided in paragraph 23(c) of the MICI Policy, in order to be able to: (i) finalize the negotiations that are underway between the national authorities and the Requesters regarding the increased number of native communities to benefit from the project and the Requesters' recommendation to begin the titling process with the lands of native communities; (ii) make the appropriate adjustments to the project execution documents, considering the technical, economic, and socio-environmental feasibility and the requirements of the National Public Investment System; (iii) provide the Requesters with additional information beyond that already made available in accordance with the operational policies applicable to the project and the details of the social and environmental risk management and prevention mechanisms adopted by the Bank; and (iv) develop mechanisms and timelines to monitor the agreements and progress made during this period.
- 1.5 Management submits its response to the MICI for consideration, with a focus on the following issues: (i) the objective, targets, and timeline for the execution of the project; (ii) the principal allegations set forth in the claimants' request and Management's response; (iii) the conclusion; including a request to suspend the eligibility determination process; and (v) the action plan for the 45-business day period established as part of the suspension process.

II. THE RURAL LAND TITLING AND REGISTRATION PROJECT IN PERU

- 2.1 **Objective:** The objective of the project to formally record rural property in the jungle and specific areas of the highlands in order to improve the security of rural land ownership.
- 2.2 **Targets:** The project plans to legally record the ownership of approximately 4.3 million hectares of land, roughly half of which (2.1 million hectares) is in the Amazon—the region of interest in this MICI complaint; the remaining 2.2 million hectares to be served by the project on behalf of small farmers and peasant communities are located in the highlands, and therefore not at issue in this Request (see Table 1). The targets of the project in the Amazon are broken down as follows:
- To benefit at least 228 native communities through the titling of approximately 1.5 million hectares. This figure represents 72% of the total surface area served by the project in the Amazon.
 - To benefit approximately 43,180 small rural producers,¹ corresponding to 107,952 individual rural properties and a titled surface area of 585,000 hectares. This comprises the remaining 28% of the total titled surface area in the Amazon.

¹ Legislative Decree 1089 and the Regulations thereto (Supreme Decree 032-2008-VIVIENDA) constitute the current regulatory framework for the formal recording of individual rural properties. A key point in the legal framework is that it establishes a deadline for rural property registration actions. Specifically, it requires that possession must date back to a time prior to December 15, 2008, when the regulation came into force. In this regard, it prevents the attainment of title by settlers who migrated to the Amazon prior to that date.

2.3 **Project Components.** To meet its objectives, the project will be executed in three components:

- **Component 1 (US \$56.14 million).** Rural land cadastre, titling and registry (US\$26 million). This component will support the formal registration of individual rural properties and the lands of peasant and native communities. This investment will serve approximately 45% of the total demand for land titling in Peru.
- **Component 2 (US \$6.54 million).** Development of the technology platform to streamline land cadastre, titling, and registry services. This component will support the development of the technology platform required to improve the accuracy and quality of the titling of the beneficiaries' land, facilitate the execution of cadastre, titling, and rural land registry procedures, and reduce costs.
- **Component 3 (US \$10.84 million).** Strengthening of the institutional capacity and policy framework for rural land titling. This component strengthens MINAGRI's land stewardship functions, as well as the ability of the regional governments to fully perform their rural land titling duties. It also supports the strengthening of the legal framework.

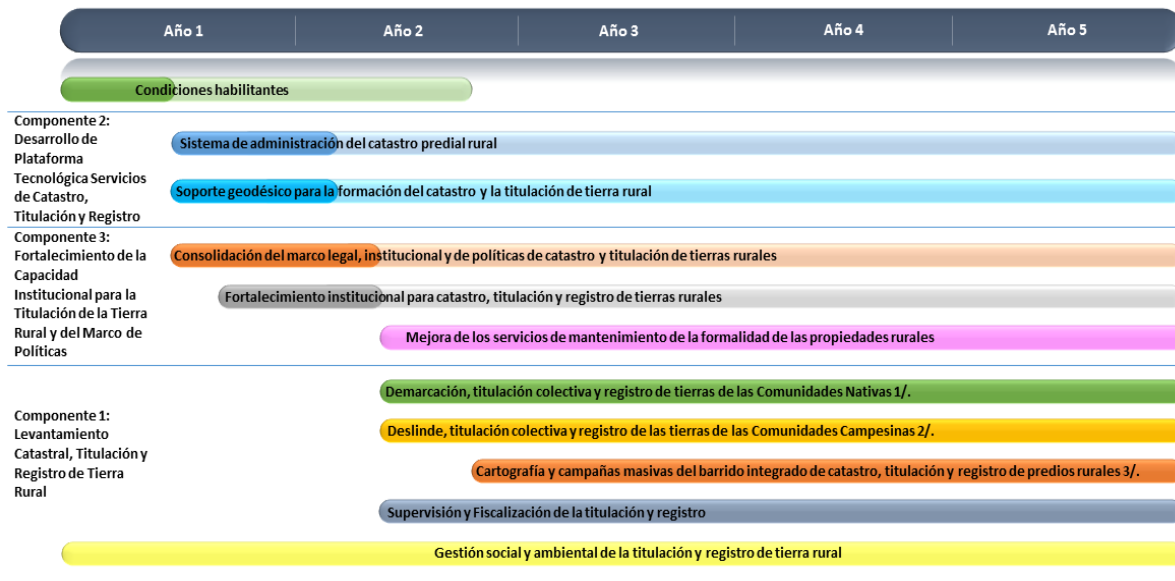
Table 1. Number of Titles Recorded and Area Covered in the Scope of Work

	Number of Titles Processed	Titled Area (hectares)
Native communities in the Amazon	228	1,536,528
Individual rural properties in the Amazon	107,724	584,778
Total in the Amazon (area of interest to this Request)	107,952	2,121,306
Total in the highlands	333,369	2,226,909
Project Total	441,321	4,348,215

2.4 **Project Budget.** The total cost of the project is estimated at US\$80 million. The Bank loan will be for US\$40 million, and the local matching funds will be US\$40 million.

2.5 **Project Execution Timeline.** The project will be executed over a period of five years. Although the request refers to the allocation of resources and the coverage of component 1 (Rural land cadastre, titling and registry), components 2 (Development of the technology platform to streamline land cadastre, titling, and registry services) and 3 (Strengthening of the institutional capacity and policy framework for rural land titling) are of singular importance to the allegation, given that these components contain the preventive and mitigating measures that raise the concern of the Requesters. Accordingly, the activities of components 2 and 3 will begin to be implemented in the first year of the project's execution. The execution of component 1 will be initiated in year 2 (see Figure 1). The execution sequence of the components follows an intervention rationale that is very important because it is the result of the project's social and environmental recommendations; this rationale will be explained in greater detail in section IV of this memorandum.

Figure 1. Summary of the Project Execution Timeline



Nota 1/. Incluye los procesos de Demarcación y Titulación del Territorio, clasificación de tierras, conformidad de linderos, Inscripción en RRPP

2/. Incluye los procesos de Suscripción Actas de Colindancia, Plano y Memoria Descriptiva, Inscripción en RRPP

3/. Incluye los procesos de Acciones previas al Levantamiento Catastral, Levantamiento Catastral Rural, Elaboración de Planos, Precalificación y Calificación, Inscripción en RRPP

III. PRINCIPAL ALLEGATIONS SET FORTH BY THE REQUESTERS AND MANAGEMENT'S RESPONSE

A. Allegations of Noncompliance with the Operational Policies of the Bank

- 3.1 In section II of the request document, the Requesters state that the Bank has failed to comply with operational policies OP-703 and OP-765. They cite potential harm to native communities due to omissions made in the design process that affect the project execution, as they explain in section III of the request. The request alleges noncompliance with seven OP-703 and OP-765 safeguards, specifically:
- Directive B.3 – alleging that the magnitude of the project's impacts warrants a classification under Category "A". Different arguments of noncompliance with other directives are derived from this allegation.
 - Directive B.5 – alleging that: (i) the project supposedly would prioritize the titling of individual rural properties over the titling of native communities, and the environmental assessment does not adequately examine the negative effects and risks that would arise from this action; and (ii) the measures included in the ESMP are inadequate given the risk level of the project.
 - Directive B.9 – alleging lack of territorial planning in the jungle.
 - Directive B.4 – alleging that the Bank has not performed an adequate analysis of: (i) the institutional capacity of the project's executing agencies, the Ministry of Agriculture and the regional governments; and (ii) various risk factors associated with the titling of individual land plots on communal lands.
 - Directive B.7 – alleging that the mechanisms for participation in the project's execution lack the necessary level of detail to ensure that they will work effectively.

- f. Directives B.6 and B.2 – alleging that the communities represented by the Requesters have not taken part in a public consultation and that the government has not engaged in prior consultation in accordance with Law 29785.
- g. OP-765 – the Requesters cite noncompliance with OP-765 on Indigenous Peoples, alleging: (i) the violation of indigenous peoples' rights, specifically those related to their lands and resources; and (ii) the inadequate identification of the project's risk level, thereby circumventing the requirement of obtaining an explicit agreement from the native communities.

B. Evidence of Compliance with the Operational Policies of the Bank

- 3.2 Management considers that all of the Operational Policies of the Bank were observed in the preparation of the project, as explained below:

1. Directive B.3 – Classification of the Project

- 3.3 The project was classified under environmental Category “B” by applying the filters of environmental and social safeguards of the Environment and Safeguards Compliance Policy (OP-703), the Bank's standardized classification instrument. According to that policy, Category “B” is assigned to "Operations that are likely to cause mostly local and short-term negative environmental and associated social impacts and for which effective mitigation measures are readily available."
- 3.4 This category was assigned because: (i) the project's objective is to provide a positive social and environmental solution to the problems of land ownership, which are causal factors in several social and environmental problems in the Amazon Region of Peru in particular; (ii) the purpose of the project is to exclusively acknowledge existing rights, and not to grant new land rights, thus preventing any impact involving the expansion of the agricultural frontier; and (iii) the potential negative effects identified in the environmental and social assessment of the project are moderate; and (iv) known and adequate mitigation measures are provided for in the design and the Environmental and Social Management Plan.
- 3.5 The project is designed to: (i) offer benefits and opportunities to the communities and address the claims of indigenous peoples; (ii) prevent negative effects on the lands of native communities; and (iii) prevent and manage potential risks involving the conversion or degradation of natural habitats as an indirect consequence of the project. For the above reasons, the classification of the project under Category “A” would be inappropriate.²

2. Directive B.5 – Environmental Assessment Requirements

- 3.6 The preparation of the project included an Environmental and Social Assessment (ESA) and the Diagnostic Assessment and Proposed Procedures and Models for the Registration of Lands belonging to Peasant and Native Communities, which, respectively, comply with the scope and requirements of impact assessment under directive B.5 for Category “B” projects, as well as the safeguards of the Policy on Indigenous Peoples OP-765.
- 3.7 The social and environmental assessments and the respective recommendations became an integral part of the project design process. They resulted not only in the

² According to this definition, negative impacts require a Category “A” classification when: (i) they cover a vast geographical area; (ii) they are permanent or occur for a prolonged period of time; and (iii) they are of significant intensity and/or magnitude.

drafting of an Environmental and Social Management Plan (ESMP) but they also contributed significant added value to the project design through the inclusion of various activities focused above all on the titling of communities, which was presented and discussed with representatives from the main indigenous organizations (see ¶3.20).

- 3.8 Those studies made it possible to recognize that the work of titling rural properties, especially in the jungle region, requires significant efforts prior to and during the execution of the operative tasks of land titling in order to prevent negative social and environmental impacts. The studies identify and analyze the risks of reducing the lands of native communities. They also analyze other related risk factors mentioned in the request, including the historical migration of Andean populations to the jungle since the 1960s; the unsustainable use of the land and of natural resources; conflicts over boundary lines between small farmers and native communities; and the highly complex current situation of land ownership and use in the jungle (ESA, sections 6.1-6.7 and 7.3).
- 3.9 Accordingly, components 2 and 3 of the project and the Environmental and Social Management Plan include a number of actions and measures to ensure that: (i) the rights and territorial claims of the native communities are respected within the project execution framework; and (ii) the process of formally recording the property of small producers does not negatively affect the rights of native communities. In concrete terms, these measures include:
- Establishing a logical sequence in the project execution phase that minimizes the risks created by the titling of individual rural properties. Specifically, the titling process will begin only after making significant progress on the execution of components 2 and 3 of the project);
 - Improving the database of information on native communities and their lands (see paragraphs 1.22-25 of the Loan Proposal);
 - Strengthening the regulations and procedures for the titling of native communities (see paragraph 1.25 of the Loan Proposal);
 - Generating the necessary human resources for the appropriate titling of the communities (see paragraph 1.26 of the Loan Proposal);
 - Generating capacity for the supervision and oversight of campaigns for the titling of individual and communal properties (see paragraph 1.18-20 of the Loan Proposal);
 - Improving the management of disputes over land (dispute resolution mechanism – ESMP and component 3);³ and
 - Establishing participatory monitoring mechanisms with the indigenous organizations, in the national and regional advisory committees (see Loan Agreement, special contractual conditions prior to the first disbursement, and ESMP, section 7).
- 3.10 Because of the restrictions imposed on the titling of individual rural properties in the jungle, and given the fact that its beneficiaries will be small rural producers

³ It should be made clear that the Environmental and Social Management Plan contains measures that complement those already included in the project design, such as the dispute management mechanism, whose design is included in the ESMP; component 3 provides resources for their implementation.

established in the Amazon as of December 15, 2008,⁴ the ESA has determined that the project will not contribute to the colonization of the jungle, pressure on communal lands, or deforestation and environmental degradation, as the Requesters allege in section III.14. On the contrary, the project is anticipated to help stop this process, providing legal certainty to the native communities with respect to their lands, and closing the gaps in the formal ownership of land that currently enable abuses and encourage migration to the jungle.

- 3.11 As the ESA notes (section 6.5), deforestation in the jungle is the result of diverse factors, including migratory agriculture, as well as the expansion of the extractive industries engaged in natural resource exploitation. These dynamics are determined by economic factors that go beyond land recording processes, and since 2002 they have arisen in the context of government decentralization. The Forestry and Wildlife Law (No. 29763) of 2011 has strengthened the regulatory and institutional structure for the management of forest resources within the framework of government decentralization.
- 3.12 In this context, the indirect impacts related to environmental degradation in the jungle are described in the ESA as “potential” if prevention and mitigation measures are not taken. Those measures include the need to educate small producers and native communities on sustainable forest use practices and to have a better monitoring system. The measures are included in components 2 and 3 of the project and in the ESMP (sections 7.4 and 8 of the ESA). Because the project has taken all these precautionary measures, Management maintains and affirms that the project design, and its execution, meets the requirements stipulated in Directive B.5.

3. Directive B.9 – Critical Natural Habitats and Cultural Sites

- 3.13 As described in the ESA (section 5.2) the management and protection of forest resources is regulated by Law 29763, which introduces, among others, the Forest Zoning and Planning instrument that must be used by the regional and local governments and which establishes “a mandatory process for the delimitation of forest lands, conducted in accordance with the Ecological-Economic Zoning (ZEE) laws.” The defined forest planning units and the titles for the management of each zoning area are registered in the national forest cadastre and with the SUNARP. The project, in keeping with the provisions of the Law and following the guidelines recommended in the ESMP, includes support for local and regional ZEE processes and the sustainable management of the territory with a focus on the ecosystems of critical importance, thereby ensuring the use of the national territorial planning systems available and applicable to the Amazon Region.

4. Directive B.4 – Other Risk Factors

- 3.14 In compliance with Directive B.4, the ESA took account of the risk posed by the weakness of the institutions involved in the project. Specific studies were conducted during the preparation of the project with detailed analyses of the institutional capacity of MINAGRI and the regional governments (GORE).
- 3.15 The diagnostic assessments have exposed current weaknesses, and component 3 focuses on strengthening the capacity of these institutions to manage the titling process, especially with native communities. The results of these studies were considered in the preparation of the ESA and have helped define the scope of the

⁴ In compliance with Legislative Decree 1089 and the Regulations thereto, Supreme Decree 032-2008-VIVIENDA.

additional strengthening activities included in the project and in the ESMP, which will be implemented prior to the start of the titling process (see Figure 1).

- 3.16 In particular, as a result of these analyses, the project strengthens the plan for the integrated cadastral sweep campaigns⁵ to be conducted directly by the GORES, by requiring that specialized companies be hired through a national and international open competitive process. This change in strategy is the result of the diagnostic assessments of the capacities of the GORES and MINAGRI, which point to serious shortcomings in the operational capacity of the GORES to carry out the tasks involved in titling individual rural properties and native communities on the scale required.

5. Directive B.7 – Supervision and Compliance

- 3.17 The monitoring plan included in the ESMP (section 9), which is part of the official project management and monitoring documents, includes a number of actions to monitor and control the short, medium, and long-term impacts. As part of the project monitoring and evaluation system, eight quantitative social, economic, and environmental indicators are included, in addition to the results indicators set forth in the project's results matrix.
- 3.18 The monitoring plan anticipates strengthening follow-up and evaluation activities during the execution of the project, with the participation of the different authorities (national, regional, local) and requires the establishment of a participatory monitoring mechanism, including guidelines on its composition, structure, functions, and budget, in accordance with Directive B.7.
- 3.19 The operational details of the institutional culture for participatory monitoring, including the respective draft ministerial resolution, terms of reference, and internal regulations, will be developed in a participatory process during the compliance with prior conditions phase, as well as during the first year of project execution.

6. Directives B.6 and B.2 – Consultation and National Laws on Prior Consultation

- 3.20 According to Directive B.6 of OP-703, Category “B” projects require consultations with affected parties at least once, preferably during the preparation or review of the ESMP. As detailed in section 7 regarding Policy OP-765, projects with potentially significant adverse effects on indigenous populations require consultation processes and good faith negotiations.
- 3.21 Although the project is expected to have several positive—rather than adverse—effects on indigenous populations, a broad consultation process was undertaken during the preparation stage that meets the abovementioned requirements. Two consultation and participation meetings were held with representatives of national indigenous organizations and civil society organizations that provide support to the communities. Several measures have been incorporated into the project as a result of the recommendations and concerns raised by the participants, including:
- Request to increase the number of communities benefitted;
 - Recommendations to improve the titling regulations and procedures;

⁵ The cadastral sweep is a methodology for systematic surveying of each and every one of the rural parcels (individual and community) in a given area to gather the basic information (technical and legal) needed for the massive regularization of rural property tenure.

- Project design recommendations to devise measures to prevent the titling of individual rural properties on communal lands;
 - Recommendations to develop a mechanism to resolve land disputes;
 - Ensure the titling of all native communities in their entirety;
 - Ensure the participation of indigenous organizations in the project execution phase;
- 3.22 Meetings have also been held with the project's executing agency, the Bank, the Requesters, and other indigenous organizations to discuss the project and broader issues related to the titling of indigenous lands, resulting in an agreement signed on 04/29/2015 between MINAGRI and the main indigenous organizations, AIDSESP and CONAP. The agreement, which is at the MEF and Bank approval phase, includes the following key points: (i) the increase in the number of native communities to be titled in the jungle region; (ii) the initiation of titling in the jungle by the native communities; (iii) the development of a national inventory of peasant and native communities.
- 3.23 In addition, in order to ensure the involvement of native communities in the execution of the project, a participatory monitoring system will be implemented that will include representatives of indigenous organizations and NGOs. The system will operate at the national level through the National Advisory Committee (CCN) and at the regional level through a Regional Participatory Monitoring Committee (CRMP) in each regional government participating in the project as described in the ESMP (section 9) and the draft MOP (p. 17).
- 3.24 With respect to noncompliance with Directive B.2, Law 29785 grants indigenous peoples the right to be consulted in advance on legislative or administrative measures, as well as national and regional development plans, programs, and projects directly affecting their collective rights; its regulations confer upon the Vice Minister of Intercultural Affairs (VMIC) the duty to agree to, articulate, and coordinate the implementation of the law, as well as to express an opinion, at the request of the sponsoring entities, on the legislative or administrative measures expected to be the subject of prior consultation.
- 3.25 The VMIC has taken part in several meetings during the preparation of the project where he has provided the opinion that the project does not qualify as a subject for prior consultation under Law 29785. This was reiterated in the meeting of September 5, 2014, in response to the participants' inquiry regarding the relevance of applying Law 29785 to the project. The VMIC has added that this law will apply during the execution of the project with respect to potential amendments to the legal provisions applicable to the titling of native communities. Nevertheless, this decision does not affect the fact that the project has conducted a broad prior consultation process, as described above, and expects to maintain a significant level of community participation during the execution phase.

7. OP-765

- 3.26 The Bank respects the international provisions on the protection of indigenous peoples' rights, endorses Peru's strategy of increasing legal certainty—for both the lands of native and peasant communities and the individual rural properties of small farmers—and fully complies with its operational policies on the subject.
- 3.27 As stated in greater detail in previous sections, the project meets the requirements of

OP-765. The project has been designed to include significant benefits for native communities (project components 1 and 3), in keeping with the policy requirement of serving the development needs and opportunities of indigenous peoples in projects with a broader focus. The requisite assessments have been conducted to determine the seriousness of the potentially negative impacts on the lands, territories, resources, and rights of indigenous populations (§3.6). These assessments have not identified any particularly significant potential adverse effects on the native communities that entail a high risk to the physical, territorial, or cultural integrity of the peoples involved. Several measures have been developed to prevent and minimize the potential negative impacts identified, in particular with respect to the titling of individual rural properties within communal lands, which is at the heart of the request (paragraphs 2.2, 2.5, 3.2, and 4.5).

- 3.28 Policy OP-765 requires that projects with potential adverse effects must hold good faith consultation and negotiation processes. The requirement to obtain specific agreements mentioned by the Requesters applies only to projects that pose a high risk to the integrity of the affected groups. A broad, good faith consultation and negotiation process has been conducted with the main national organizations representing indigenous peoples (§3.21), which has resulted in the inclusion of important new components in the project, and a participatory monitoring mechanism will be implemented to ensure the participation of the indigenous organizations in the execution of the project.

C. Allegation that the Titling of Small Producers in the Amazon Affects the Rights of Native Communities

- 3.29 In section, III paragraph 3 of the request document, the Requesters state that, “The project provides for the funding of massive integrated cadastral sweep campaigns for the titling and registration of 441,093 rural properties, as well as the registration of 353,255⁶ rural properties in the public registries.”
- 3.30 It bears noting that the cited figure of 441,093 pertains not only to the Amazon Region but rather to the entire project area. In the Amazon, only 107,952 individual rural properties and 228 native communities will be served (see §2.2). This misunderstanding of the number of small producers benefitting from titling in the Amazon—especially given that the difference between the figure used by the Requesters and the actual project figure is 4 to 1—may be the basis for the Requesters’ belief that the project provides for a “...massive awarding of rural properties in the Amazon...” In addition, the Requesters assert that the titling will be done “...prior to the recognition and titling of indigenous territories,” seriously jeopardizing “...the collective rights of at least 1,166 native communities that are in a state of legal uncertainty because they do not have a specific, delimited, and physically marked territory, and of an unknown number of communities that have not yet lodged their territorial claim.”
- 3.31 First, Management would like to make clear that Legislative Decree 1089 and the regulations thereto (DS 032-2008-VIVIENDA), constitute the regulatory framework

⁶ The process of formally recording individual properties follows the following steps: (i) activities prior to cadastral surveying, (ii) cadastral surveying, (iii) drafting of plans and classification, (iv) titling; (v) recording in land registries; and (vi) delivery of titles. Once the certificate of compliance with requirements has been issued, at the classification stage, the formal registration document is prepared for those landholders whose classification has not been rejected (property title). The project begins with a target of 441,093 individual properties to be served, of which just 80%, based on historical average, meet the requirements for the issuance of title.

currently in force for the formal registration of individual rural properties. Under those procedures, the competent authority gathers the evidence to establish that the person in possession of the land meets the legal requirements, evaluates it, and, through an administrative act, produces a physical title that is taken to the Public Registry for registration. The Peruvian laws that provide the framework for the project prohibit the granting of titles to areas where there are previously existing rights, whether they are indigenous or peasant communities, private owners, or state lands. We consider this clarification to be important because the activities to formally record individual properties will follow the legal requirements established in Peru.

- 3.32 Second, as described above, the project provides for detailed planning and several preventive measures prior to initiating the titling process (see Figure 1). Incomplete information on the territory of native communities is one of the main challenges to progress in the work of titling those communities and formally recording the individual rural properties of small farmers in the Amazon. In addition, the operational registration activities regulated in the operational manuals will be simpler in those cases in which the native communities already have title and georeferenced maps. They will be more difficult when the native communities have title but no georeferenced maps—especially in the case of recognized native communities where titling is in process, or native communities that are still processing their formal recognition, as the Requesters indicate.
- 3.33 The project design includes activities to overcome these limitations. The most important point is that the work of titling will begin in the second year of the project's execution, after a number of enabling conditions have been met focused on improving the titling process, modernizing the technology platform of support services, and improving the legal and institutional framework.
- 3.34 These provisions significantly help to improve the process of titling native communities and ensuring their territorial rights. Management would like to make clear that it continues to support coordination meetings between MINAGRI and the indigenous organizations (AIDESEP and CONAP). As a recent result of these meetings, MINAGRI is coordinating with the Bank and the Ministry of Economy and Finance (MEF) to increase the number of native communities benefitted by the project and to begin titling work with native communities. These decisions will be discussed at the meetings provided for in the action plan (below). Once agreed upon, they will be consolidated in the project's operational documents.

IV. CONCLUSION AND REQUEST FOR THE SUSPENSION OF THE ELIGIBILITY DETERMINATION PROCESS

- 4.1 Management finds that: (i) the project has been designed in full compliance with the environmental safeguards provided for in OP-703, for purposes of ensuring that the project is environmentally sustainable and focused on risk management. It has also been designed in compliance with Policy OP-765, as the potentially negative impacts on the land, territories, and rights of indigenous peoples have been adequately assessed and necessary measures have been devised to anticipate, minimize, and mitigate those impacts; (ii) the Requesters' allegations do not demonstrate the existence of a potential direct material harm, insofar as they do not fully reflect the scope, structure, and method of execution of the project for the Amazon Region; in particular, the allegations do not take account of the fact that the titling activities will

be preceded by the development of the technology platform to streamline land cadastre, titling, and registration services (component 2), and the strengthening of the institutional capacity and policy framework for rural land titling (component 3), which were designed to prevent and mitigate the potential harm that may be associated with the titling component.

- 4.2 Notwithstanding the evidence of the Bank's compliance with its operational policies and the fact that the project is expected to have positive rather than negative impacts on native communities, Management is of the opinion that there is an opportunity and an opening to strengthen the execution of the project in terms of increasing the benefits for those communities. Therefore, Management requests that the MICI temporarily suspend the eligibility determination process, as provided in paragraph 23(c) of the MICI Policy, in order to be able to: (i) finalize the negotiations that are underway between the national authorities and the Requesters regarding the increased number of native communities to benefit from the project and the Requesters' recommendation to begin the titling process with the lands of native communities; (ii) make the appropriate adjustments to the project execution documents, considering the technical, economic, and socio-environmental feasibility and the requirements of the National Public Investment System; (iii) provide the Requesters with additional information beyond that already made available in accordance with the operational policies applicable to the project and the details of the social and environmental risk management and prevention mechanisms adopted by the Bank; and (iv) develop mechanisms and timelines to monitor the agreements and progress made during this period.

V. ACTION PLAN

- 5.1 The action plan proposed as part of the process of suspending the eligibility determination includes the activities detailed in Table 2 below:⁷

Table 2. Action Plan

STAGE	ACTIVITY	RESPONSIBLE PARTIES	PARTICIPANTS	EXPECTED RESULT	DEADLINE
Definitions	Mobilization of the technical team from MINAGRI, AIDESEP and the Bank	IDB	IDB MINAGRI AIDESEP	Formation of the inter-institutional working group in charge of the negotiation and drafting of the Final Agreement	10/15/2015
	Hiring of the dispute management specialist	IDB	IDB	Make specialized services available to the Requesters and the government to mediate in the negotiation and definition of the Final Agreement	10/15/2015
	Meeting to identify work methodology, topics for discussion, and	MINAGRI + Consultant	IDB MINAGRI AIDESEP	Participatory definition of a work plan that covers all of the Requesters' concerns	10/23/2015

⁷ The implementation and realization of the activities and timelines proposed in the action plan will depend on coordinating with AIDESEP and MINAGRI. In this respect, the activities and dates proposed in the action plan will be adjusted according to the needs of the negotiation process. However, the end date for the suspension period at the MICI is not subject to change (12/10/2015).

STAGE	ACTIVITY	RESPONSIBLE PARTIES	PARTICIPANTS	EXPECTED RESULT	DEADLINE
	expected outcomes				
	Outcome # 1: Planning report	IDB + Consultant	IDB	Joint work plan, signed by MINAGRI, AIDESEP, and the Bank	10/26/2015
Negotiation	1 st meeting for the negotiation of the key issues identified	MINAGRI + Consultant	MINAGRI AIDESEP IDB	Clarification of the project's current content and proposal for changes to the main execution documents	10/30/2015
	2 nd meeting for the negotiation of the key issues identified at the planning stage	MINAGRI + Consultant	MINAGRI AIDESEP IDB	Agreement on changes to be made, and agreement on timelines and parties responsible for drafting the Final Agreement	11/06/2015
	Outcome # 2: Report on agreements and pending issues	IDB + Consultant	IDB MINAGRI	Document summarizing the satisfactory resolution of the Requesters' claims through short, medium, and long-term actions	11/09/2015
Final Agreement	Signature of the agreements & next steps	MINAGRI + Consultant	MINAGRI AIDESEP	Final Agreement document signed by MINAGRI, AIDESEP, and the Bank	11/18/2015
	Sending of a copy of the Final Agreement for to the MICI for its information	MINAGRI + AIDESEP	IDB, AIDESEP	End of the suspension period at the MICI	12/10/2015