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Report No. 35470

The Inspection Panel

Report and Recommendation

Honduras: Land Administration Project
(IDA Credit 3858-HO)

March 14, 2006

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Report and Recommendation
On
Request for Inspection

Honduras: Land Administration Project (IDA Credit No. 3858-HO)

1. On January 3, 2006, the Inspection Panel received a Request for Inspection ("the Request") related to the Honduras: Land Administration Project ("the Project" – in Spanish *Programa de Administración de Tierras de Honduras,* PATH[1]). The Request refers to alleged negative impacts of the Project on the Garífuna people and their land claims; it does not refer to other Project components. The Request received was in Spanish. It includes 13 attachments. The Panel registered the Request on January 10, 2006.

2. The Organización Fraternal Negra Honduras (OFRANEH) submitted the Request on behalf of the indigenous Garífuna population of Honduras. OFRANEH states that it is a federation whose members are elected every three years by the Garífuna communities as their representatives.

A. The Project

3. **Project Objective:** According to the Development Credit Agreement the objective of the Project is "*to establish and operate (as part of the broader Program) an integrated and decentralized land administration system, composed of public and private entities, which provides users in the Project area with accurate information on urban and rural land parcels and effective land administration services (e.g. purchases, mortgages, cadastral and registry certifications) in a timely and cost-effective manner.*"[2]

4. **Project Components:** The Project is composed of three parts (A, B and C) respectively aimed at developing policy framework and institutional strengthening for the creation and operation of a National Property Administration System (in Spanish *Sistema Nacional de Administración de la*

[1] In this report, the Spanish acronym "PATH" will also be used to indicate the Project.
[2] Development Credit Agreement (Land Administration Project) between Republic of Honduras and International Development Association, August 18, 2004, [hereinafter "Credit Agreement"], Schedule 2.

Propiedad - SINAP); systematizing the regularization, titling and registration of lands in the Project area; and carrying out monitoring and evaluation activities.

5. Particularly relevant to the claims presented in the Request for Inspection is the Project's Part B, which provides for systematic land regularization, titling and registration of lands in the Project Area. Under this component, the Project will carry out field surveying of macro boundaries (e.g. municipal lands), urban and rural areas, forests, protected areas and ethnic lands.[3] Part B further provides for parcel-level surveying and validation in the form of systematic cadastral field surveys of urban and rural areas to demarcate property boundaries and property rights in each parcel. Legalization, titling and registration of these lands will then be carried out. The Project Appraisal Document (PAD) states that this Project component will be implemented in seven regional departments of Honduras: Cortes, Francisco Morazán, Comayagua, Atlántida, Colon, Gracias a Dios and Choluteca. [4] According to the PAD, ethnic lands are to be surveyed, regularized, titled and registered in the departments of Atlántida, Colon and Gracias a Dios.

6. The Project is the first phase of a three-phase Land Administration Program, which provides for establishing a fully integrated and decentralized National Property Administration System (SINAP) to increase security and transparency in land issues, improve governance and "*stimulate the emergence of secondary financial markets such as insured bundled mortgages*".[5] The PAD states that Phase I of the program – the Project subject to the Request for Inspection – provides for, inter alia, incorporating in the national property administration system/SINAP real estate property located in the seven above-mentioned departments. Phase II, to be started in 2008, aims at completing the parcel-based regularization and registration initiated under Phase I, expanding these activities to seven additional departments, and integrating into SINAP other property registries, such as movable assets, intellectual property etc. Phase III, set to start in 2012, provides for, among other things, the completion of the regularization and registration of all urban and rural land parcels and the integration and consolidation of all property registries under SINAP.[6]

7. Management Response to the Request for Inspection states that the development of this three-phase Land Administration Program builds on a previous Bank-financed project, the Rural Land Management Project (PAAR) implemented between 1997 and 2003, which supported activities and land

[3] According to the Project Appraisal Document (PAD), the Project adopts the definition of ethnic lands included in the Convention concerning Indigenous and Tribal Peoples in Independent Countries (C169), 1989, as "*those lands that have ancestrally and historically been settled by Amerindian groups and/or Afro-Honduran communities for their use and that constitute their habitat on which they undertake their traditional productive and cultural practices.*" Project Appraisal Document (PAD) Land Administration Project in support of the first phase of a Land Administration Program, January 22, 2004, p. 5

[4] PAD, p. 3.

[5] PAD, p. 5.

[6] PAD, p. 3.

procedures to create a parcel-based land registration method (in Spanish "*Folio Real*"). These activities were piloted in the Department of Comayagua where, according to Management, 27,500ha of land in thirteen indigenous Tolupán communities were demarcated and titled.[7]

8. **Financing**: The Project is financed by an IDA Credit of 16,900,000 Special Drawing Rights (SDR), about USD 25 million. When the Request was submitted to the Panel (January 3, 2006) about USD 17.5 million had been disbursed, approximately 69% of the Credit. The Credit was approved by the IDA Board of Executive Directors on February 24, 2004, and became effective on December 2, 2004. The closing date is April 30, 2008.

9. The Project is financed through an Adaptable Program Loan (APL), which provides phased support for long-term development programs by means of a series of loans, which build upon the lessons learned from the previous loans in the series. Moving to the next phase(s) of a program depends on satisfactory progress in meeting agreed milestones, benchmarks and triggers.[8] According to Management, agreed triggers to move to Phase II of the Land Administration Program include the creation of the SINAP, the achievement of at least 80 percent of the Project Development objective indicators and the "*adoption of legal/regulatory framework for Indigenous People's lands.*"[9]

10. **Implementation Arrangements**: According to the Credit Agreement, the overall implementer of the Project is the Minister of Interior and Justice (SGJ) with the assistance of Executing Agencies and applicable municipalities.[10]

B. The Request

11. The Requesters claim that the Bank did not take the rights and interests of the Garífuna people into consideration in the design, appraisal and implementation of the PATH Project and violated its own policies and procedures.

12. The Request presents an overview of the history of the Garífuna people, which the Requesters believe is useful to understand the magnitude of the damage that the PATH implementation may cause to them. The Garífuna people are descendants of African survivors of a shipwreck, who arrived to the island of Saint Vincent, in the Caribbean Sea, in the 17th Century, and joined the Kalinaku indigenous people. In 1797 they were forcibly displaced to the island of Roatan by the British. The Garífunas subsequently settled in the city of Trujillo, in the Honduras mainland coast, but left it in the 19th century and

[7] Request for Inspection Panel Review of the Honduras Land Administration Project – Management Response, February 9, 2006, [hereinafter "Management Response"], ¶ 8.
[8] Management Response, ¶ 9.
[9] Management Response, ¶ 9.
[10] Credit Agreement, Article III, Section 3.01 (a).

established their villages along the Central American Caribbean coast.[11] The Request asserts that in the first part of the 20th century the Garífuna territory was gradually recognized and their ancestral lands were collectively titled and registered as *ejidos* that could not be attached or sold. The first collective *ejido* title dates back to 1905 and was granted to the community of Iriona. According to the Requesters, during the 1960s and 1970s the Government recognized their legal status and legitimized their collective lend tenure system. However, the Requesters also state that in the same period invasions of the Garífuna territory started and have become more intense in the current times. In addition, in the 1990s the Government implemented a titling program which left the 46 Garífuna communities of Honduras totally unsatisfied because the program did not take into account the demographic expansion of the Garífuna population – and thus the amount of land they were titled was less than they expected – and did not recognize their functional habitat. [12]

13. The Requesters note that, under the PATH Project, ancestral lands are to be regularized in favor of indigenous and Afro-Honduran populations by recognizing communal or individual land rights, based on the preference of each community, and by registering such rights in the land registry. They also observe that properties and possessions supported by ancestral title or certification can be registered as private property and enjoy full ownership rights. However, the Requesters fear that the land titling and procedures provided under the Project will ultimately cause the demise of collective property in favor of individual property, which is contrary to the land tenure system they prefer, and could give their land, which they consider as their functional habitat, to people outside the Garífuna communities. They fear that the new titling program under the Bank-financed project will cause a "*severe damage to the Garífuna people and a serious violation of their rights*" [13]because these arrangements do not reflect the special legal situation of the Garífuna people or their preferred land tenure options.

14. The Requesters claim that, in designing and implementing the Project, the Bank did not take into account the rights and interests of the Garífuna communities and, as a result, violated a number of its policies and procedures, such as OD 4.20 on Indigenous People, OP/BP 4.01 on Environmental Assessment and OP/BP 4.04 on Natural Habitats. The Request also refers to the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries Convention C169, and state that the Convention, ratified by Honduras in 1994, recognizes the rights of the peoples with respect to the ownership and tenure of the lands they traditionally occupy, as well as the special protection of the natural resources of these lands.[14]

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[11] Garífuna populations can be found today in Belize, Guatemala and Honduras.
[12] Request, p. 9.
[13] Request, p. 11.
[14] Request, p.2.

15. According to the Request, Bank staff did not consult with affected people prior to preparing the Indigenous Peoples Development Plan (IPDP), and did not distribute Project background material. The Requesters assert that the Bank disseminated the text of the plan only a short time before the single consultative meeting that took place with the Garífuna people on December 17-19, 2003, in Sambo Creek. The Requesters state that, on that occasion, the representatives of all the Garífuna communities of Honduras signed a document that presented a firm rejection of the IPDP, and proposed several alternatives. The Requesters claim that the Bank did not take into account any of the people's proposals or their criticisms about inconsistencies in applying the titling arrangements provided under the Project.[15]

16. The Request also refers to a meeting held in April 2005 in Trujillo in which pilot communities for the PATH were selected. The Requesters claim that the interested communities did not receive information about the Project, and no explanatory material was ever given to the communities' representatives who participated to that meeting.[16] According to the Requesters, the representative of the patronatos of the community of Triunfo de la Cruz refused to sign the document related to the pilot activities fearing that the Project would be dangerous for the survival of the community.[17]

17. The Requesters also mention a consultation workshop in San Juan de Tela, on October 18, 2003, but state that this meeting was related to the draft Property Law to which the Garífuna people are firmly opposed. The Requesters assert that they are aware that issues related to the property law are not within the Panel's jurisdiction. However, they complain that, although Bank staff were aware during Project preparation that the Government was to enact a Property Law, which was to be the centerpiece of the land titling program, they did not mention this law in the legal framework section of the Project documents. The failure to reference the Property Law and the lack of consultative meetings with the affected people have generated confusion within the Garífuna communities, because the Project documents, including the IPDP, on the one side, and the Property Law on the other, provide for two different sets of procedures for land titling and conflicts resolution. [18]

18. According to the Requesters, the conflict resolution method provided for in the IPDP, arbitration, not only is unconstitutional but is also different from the one called for in the Property Law. In any event, the Requesters claim that both sets of procedures are inadequate because they do not respond to their social and political reality. In addition, in the Requesters' view, conflicts that are decades old cannot be solved through mechanisms such as the Mesa Regional,[19] or

[15] Request, p. 4.
[16] Request, p. 4.
[17] Request, p. 5.
[18] Request, p. 7.
[19] In this context the Requesters refer to the Mesa Regional as Mesa Interetnica.

conciliation, settlement and mediation procedures "where the disparities of the interests represented, power elites on the one hand and indigenous peoples on the other, cannot but lead to completely unfavorable decisions for the indigenous peoples." [20]

19. The Requesters fear that under the Project their collective rights will not be recognized. They claim that, in preparing the IPDP, the Bank did not consider the legal status of the indigenous populations as well as the procedures to issue collective legal titles, as defined in the country's Constitution and legislation. The Requesters also claim that the IPDP provides for the issuance of regulations to delimit and demarcate indigenous peoples' lands, but these were never issued. [21] As a result, when indigenous peoples wish to present a territorial claim they would have to follow existing procedures (*Reglamento de Afectación*) and file their claim with the National Agrarian Institute *(Instituto Nacional Agrario* – INA*)*. However, according to the Request, the IPDP provides for the creation of an "Indigenous Affairs Unit" (*Unidad de Asuntos Indigenas*) which would be in charge of carrying out and monitoring the titling procedures for indigenous peoples' lands. It is unclear to the Requesters how this latter institution will coordinate its work with INA and which titling procedures will be applied. In any event, the Requesters claim that, even if these regulations were issued, this would only generate more confusion among the people regarding the applicable procedures to file territorial claims. [22]

20. As an example of this, the Requesters state that the PATH Project coordination unit had given OFRANEH a document including a set of rules called Methodology to Determine and Measure the Lands to be Titled to the Ethnic Communities. OFRANEH heavily criticized this document with Bank staff and Project officials, who in turn responded that the document was only a draft. In the Requesters' view the lack of clarity as to which documents are official confuse the people and feed the impression that those responsible for the Project do not have a clear definition of how to implement it. In addition, according to the Requesters, this draft Methodology is the document providing for the creation of the Mesa Regional[23], which is an institution not recognized by OFRANEH because it "*has been created in spite of the disagreement of the communities, was not elected by the communities, [and] is not an organization that represents them.*" The Requesters believe that the Mesa is composed of people who cannot be considered "*other Garífuna representatives"* as claimed by the Bank, and that it is alien to their own institutions.[24]

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[20] Request, p. 7.
[21] Request, p. 6.
[22] Request, p. 6.
[23] The Mesa Regional is a "consultation board" created by the Government under the PATH. See infra, Section C, ¶ 36 for more information.
[24] Request, p. 12.

21. According to the Request, the Bank did not comply with OP 4.01 on Environmental Assessment because, although the environmental analysis addresses the problems affecting the Garífuna land, it does not provide that the Garífuna communities may manage or co-manage their land to restore their control over the "functional habitat" that they have preserved for centuries. Similarly, they claim that the demarcation of the water limits is not being carried out and they are not aware of any measures "designed to eliminate or at least mitigate the presence of government institutions in the management of the protected areas in favor of the permanent presence of the members of the communities."[25] The Request claims that the Project did not take into account the importance of natural habitats for the livelihood of the Garífuna communities, as required by OP 4.04 on Natural Habitats.[26] According to the Request, the management of these areas is already given to institutions defined in the Project's manual, and in particular to NGOs with no participation of indigenous communities provided or required. For example, the Request claims that the Project Environmental Manual provides that the Serra Río Tinto Forest Reserve, which is not yet established as protected area, will be managed by the NGO known as MOPAWI, a non Garífuna NGO that does not represent the interests of the Garífuna people.[27]

22. The Requesters state that they brought their concerns to the attention of Bank Management in several occasions but did not find the solutions proposed by the Bank satisfactory. They wrote to the Bank on August 22, 2005, expressing their concerns about the Project and about Bank violations of its policy on Indigenous Peoples. Management thus invited OFRANEH to a meeting which was held on September 21, 2005. According to the Requesters, following this meeting, Management summarized their discussion in a letter sent to the Requesters on October 20, but misrepresented the Requesters' concerns claiming that their complaint were only related to the new Property Law, rather than the PATH. After expressing the intention to resort to the Panel, OFRANEH states that it received an additional Bank letter inviting OFRANEH to a meeting on November 4, 2005, and expressing the willingness to understand their preoccupations. However, since representatives of the Mesa Regional were present at this meeting, OFRANEH did not take part in the discussion because, as noted above, it does not believe that the members of the Mesa can be considered representatives of the Garífuna communities. [28]

23. The Requesters believe that implementing the Project will endanger the survival of the Garífuna people "*because they cannot agree to solutions unless they are based on a concrete will to resolve the conflicts and recognize the*

[25] Request, p. 8.
[26] Request, p. 8.
[27] Request, p. 10.
[28] Request, p. 12.

rights over the lands that ancestrally belong to them."[29] They therefore request that the Panel recommend an investigation to the Board of Executive Directors.

24. The Panel notes that the above claims may constitute violations by the Bank of various provisions of the following operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OP/BP 4.04	Natural Habitats
OD 4.20	Indigenous Peoples
OP/BP 13.05	Project Supervision
World Bank policy on Disclosure of Information	

C. Management Response

25. On February 9, 2006, Management submitted its Response to the Request. The Response includes 7 annexes.

26. The Response's section headed "*Project Background*" includes information about the Project's objectives, components[30] and status, and offers a summary of Management Response to the claims raised in the Request for Inspection.

27. **Status**: Management states that, to date and as planned, the SINAP and its subcomponents have been created; 140 municipalities are operating SINAP's subsystems; five property registries (out of eight) operate under the folio real system and 23 percent of the target parcels for Phase I have been surveyed while 50 percent of municipal boundaries have been demarcated. Project implementation is however moving slower with respect to the regularization of indigenous lands because, according to Management, "*field activities are preceded by extensive consultation with communities.*"[31]

28. **Summary**: Management states that overall the Response focuses on four main points. First, Management claims, as of the date of the Response, that no implementation activities involving surveying, demarcation, conflict resolution and titling have taken place in any Garífuna lands. Management adds that, in any event, when these activities occur, appropriate safeguards are built into the Project to protect indigenous people's lands. Second, Management maintains that "*community participation in the Project is voluntary and broad participatory mechanisms are operational.*" Third, the Response states that the Project complies with national legislation, including the 2004 Property Law, as well as with Bank policies. Fourth, Management claims that it has responded to

[29] Request, p. 13.
[30] See Part A (The Project) of this Report for a description of the Project, its objectives and components.
[31] Management Response, ¶ 16, 17.

the Requesters' concerns and "*remains committed to ongoing meaningful consultations that include all interested Garífuna stakeholders.*"[32]

Special Issues of the Garífuna Communities

29. In a section headed "*Special Issues*" Management Response presents an overview of the history, socio-economic conditions, representative organizations and issues involving the Garífuna people.[33] In particular, Management states that the "*Garífuna communities currently face multiple and long-standing unresolved land conflicts*" among community members, with third parties, and with national and local authorities, because, according to Management, different types of ownership (e.g. individual, collective, titled for a smaller amount of land than expected, titled to non-Garífuna people etc.) coexist in the region and the titling programs that the National Agrarian Institute carried out in the past decades have not been satisfactory to the Garífuna people.

30. The Response also states that the Bank has supported research in land issues of indigenous and afro-Honduran people, among which a land tenure study that mapped the territorial claims of 25 communities and is used by "*many Garífuna organizations ...as one of the empirical sources for their land claims.*" In addition, the Response states that the Bank has supported institutional building of Afro-descendant people, including Garífuna, in Latina America and a specific study on indigenous and Afro-Honduran people in Honduras. [34]

Response to the Requesters' Claims

31. The Response groups the Requesters' claims under four categories: consultations and participatory nature of the Project; legal framework; protected areas and territorial claims; and responsiveness to the Requesters' concerns.

Consultations and Participatory Nature of the Project

32. Management claims that OFRANEH "*has participated in ten consultation events to date, including during Project preparation and implementation*", which were related to the Property law, the preparation of the Project and the Indigenous People Development Plan (IPDP). Management also claims that since the beginning of Project implementation the Requesters participated only to three consultation meetings, although they were invited to seven of them. Management states that a "*wide range of Garífuna stakeholders*", including municipal authorities, community leaders, individuals and civil society organizations, was consulted for the preparation of the Social Assessment and the IPDP, through "*15 structured interviews*" and "*30 household*

[32] Management Response, ¶ 18.
[33] Management Response, ¶ 23-26.
[34] Management Response, ¶ 27.

questionnaires".[35] It also claims that proposals made by affected people during consultation meetings were taken into consideration in Project design. The Response refers in particular to a workshop "*organized by OFRANEH, and financed by the Bank-funded PAAR*" which took place on October 25-26, 2003 in San Juan de Tela, to which 109 Garífuna representatives participated, and seven working groups were formed to discuss issues such as indigenous lands, protected areas, natural resource management, participation etc. Management claims that the Project "*incorporated many*" of the recommendations formulated in this workshop. [36]

33. With respect to the IPDP in particular, Management states that OFRANEH participated in two consultation events held in November and December 2003. According to the Response, since in the November 26 meeting OFRANEH had requested more time to review the draft IPDP, a second meeting was held on December 2. In this meeting, Management claims, the participants agreed to consult their communities to appoint representatives to form a *Mesa Nacional Indígena*, a consultation board that would facilitate the participation to the Project of the affected indigenous communities. The Response also states that the Government decided, later on, to form two ethnic-based consultation boards – in Spanish, *Mesa Regional* – one for Garífuna and one for Miskito indigenous peoples. Management claims that at the two above-mentioned meetings no major objections to the Project were raised.

34. As to the December 2003 Sambo Creek document mentioned in the Request for Inspection, according to Management the Requesters have misrepresented its content because the document "*praises the diagnosis of the Garífuna land tenure issues presented in the IPDP.*" Moreover, Management claims that all the relevant issues addressed in the document were considered in Project preparation and design, while "*most of the 12 land tenure issues...are explicitly addressed by the Project*" and "*many of the proposals ...were incorporated in the Project design and are currently under implementation.*"[37] Among the noted 12 land tenure issues, the Response mentions lack of titling of Garífuna lands and lack of registration of existing titles; conflicts between land claims raised by Garífuna communities and those raised by others, such as municipalities and private landholders; and lack of participation in the management of protected areas. The Response also lists the Garífuna people's proposals that were incorporated into the Project; among them are voluntary community participation, prior informed consultations before land regularization, and issuance of communal titles to Garífuna communities if they choose to do so.

35. Management also emphasizes that community participation in the Project is voluntary and thus land demarcation and titling will occur only in those communities willing to participate in the Project.

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[35] Management Response, ¶ 31.
[36] Management Response, ¶ 32.
[37] Management Response, ¶ 36-39.

36. **Garífuna Mesa Regional**: According to Management, the Mesa Regional is a consultation board that "*includes a broad range of Garífuna stakeholders.*"[38] This Mesa was formed in 2005 following invitations sent by the Government to "*representatives of a wide range of Garífuna communities and organizations, including Ofraneh, to participate in a meeting to establish an inter-institutional commission to organize the Mesa Regional*". Management states that at a meeting held in Trujillo, Colon, on March 15-17, 2005, 112 Garífuna people, which included representatives of 25 communities, members of *patronatos*[39], municipalities, the Garífuna church organization and organizations representing the Garífuna people, established the *Mesa Regional de Regularización y Resolución de Conflictos* (Regional Board of Regularization and Resolution of Conflicts), operating under the principle of non-exclusion so that all interested parties can participate and express their views about the Project.

37. Management claims that one representative of OFRANEH was present at the March meeting and is now part of the Mesa. This person, however, is not one of the Requesters. Management also claims that currently the leadership of OFRANEH is under dispute, and the OFRANEH-Requesters refused to participate in the meeting that created the Mesa Regional.[40] Management does not believe, as the Requesters do, that the members of the Mesa are "*outsiders*" to the communities or "*Garífuna clowns*".[41] In addition, at the mentioned March meeting, the Response notes that "*eight communities and twelve protected areas were selected by participants as candidates for participation and demarcation and titling activities under the Project.*"[42] Moreover, aside from the Mesa Regional, Management states that *Mesas Locales* were created specifically for each community to work with communities' assemblies so that all members can participate in the Project.[43]

38. Management claims that there is "*broad support for the Project*", although there is also "*diversity of opinions among various Garífuna stakeholders regarding the role of the Project in addressing their land claims.*"[44]

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[38] Management Response, ¶ 42.
[39] "*Grassroot organizations*" with legal personality located within the communities whose members are selected by community members directly. See Management Response, ¶ 40.
[40] Management Response, ¶ 42-45.
[41] Management Response, ¶ 86.
[42] Management Response, ¶ 43.
[43] Management Response, ¶ 44. Mesa locales have so far been created in the communities of Santa Fe, San Antonio, Sagrelaya, Guadalupe, and Cocalito.
[44] Management Response, ¶ 46, 47.

Legal Framework

39. **IPDP and the Property Law**: Management emphasizes that the Government passed the Property Law after the Bank Board of Directors had approved the Project. However, Management states that, although the Law is not discussed in the Project documents because at the time of Project appraisal and approval it was still uncertain whether the law would be passed, the Project design takes it into consideration and provides "*mechanisms for the continuous flexible adaptation of the Project to the new law.*"[45]

40. The Response also notes that three gaps in the Honduran legal framework were identified during Project preparation, namely the lack of legislation specifically addressing land rights of indigenous and Afro-Honduran peoples, the lack of a parcel-based property registry and the lack of procedures to demarcate protected areas. "*After careful consideration*" and discussions about the legal situation, Management decided to proceed with the Project "*under the existing legal and institutional framework, while building into the design specific safeguards*" to address the mentioned gaps.[46] According to the Response, these safeguard measures were: a Regulatory Decree issued by the Supreme Court to authorize a parcel-based property registry, and specific safeguards incorporated in the Credit Agreement to protect the rights of the indigenous and Afro-Honduran people. Among the latter, Management notes the provision to carry out an IPDP acceptable to the Bank and the provision that procedures to protect the people and consult them must be in place before demarcation and titling of lands adjacent to ethnic lands take place. Management also states that a trigger for Phase II of the Land Administration Program is the "*adoption of legal/regulatory framework for Indigenous Peoples lands.*"[47]

41. With respect to the new Property Law, Management found it acceptable and determined that as the Project safeguards provisions were not in conflict with the law, the law and the Project "*could be harmonized.*" Management also states that these Project safeguards provide that the Bank must issue its no-objection to any updating of the IPDP, for example with respect to the land regularization and conflict resolution procedures, which have to be based on meaningful consultations. As to the still un-issued regulations on land regularization mentioned by the Requesters, they have yet to be issued because a draft document is currently subject to consultations with indigenous communities. Management also claims that this was explained to the Requesters in a meeting held on September 21, 2005.[48]

42. **Conflict Resolution Mechanisms**: To the claim that the Project's conflict resolution method, arbitration, is against the new Property law and generates

[45] Management Response, ¶ 52.
[46] Management Response, ¶ 54.
[47] Management Response, ¶ 55.
[48] Management Response, ¶ 56, 59, 60.

confusion among the people, Management responds that the arbitration procedures included in the IPDP are consistent with national law in force at the time of Project preparation and are in compliance with OD 4.20. In addition, the Response notes that the Mesa Regional was established as a "*participatory consultation framework*" to "*discuss and provide inputs into the development of land regularization procedures and conflict resolution mechanisms under the Project.*" Furthermore, as noted, any change to these procedures is subject to the Bank's no-objection.[49]

43. Management states that the Project recognized that access to justice for Garífuna people is limited, and thus provided for budgetary allocations, within the IPDP, to create training programs for local community leaders on national law and regulations related to the Project and for conciliators and arbitrators. With respect to the territorial claims presented to the Inter-American Commission of Human Rights (IACHR), the Response notes that two of the communities subject of the claims (Cayos Cochinos and Triunfo de la Cruz) were not considered for the Project, and the third, Punta Piedra, was initially listed as potential community, but then withdrawn because of opposition from community members. In any event, Management states that it takes no position with respect to these claims before the IACHR.[50]

44. **Collective and Individual Titling**: Management asserts that it has analyzed Honduras' legal framework vis-à-vis the issue of collective versus individual titles. The new Property Law guarantees indigenous and Afro-Honduran communities "*full recognition of their communal property rights...through communal [emphasis added] fee-simple titling (titulación y dominio pleno).*"[51] Management states that the Project does not favor or encourage individual titling in the Garífuna communities. Rather, recognizing the importance of this issue and the risk of outside influence on the people to ask for individual titles, the Project established procedures to "*protect the rights of Garífuna communities, including their right to choose a tenure regime.*" Management adds that it "*endorses the Government's position to respect the decisions made by the Mesa Regional and individual communities regarding their preferred land tenure regime.*"[52]

Protected Areas and Territorial Claims

45. The Response states that the Project was assigned environmental Category B and the Environmental Assessment identified among the potential impacts "*the possible overlap between existing communities (both indigenous and non-indigenous) and protected areas.*"[53] As a result, communities may be restricted

[49] Management Response, ¶ 67.
[50] Management Response, ¶ 68-71.
[51] Management Response, ¶ 72.
[52] Management Response, ¶ 73, 74.
[53] Management Response, ¶ 77.

access to resources in demarcated areas. For this reason a Process Framework and Environmental Management Plan was developed. Under the Project, the demarcation of protected areas will occur "*only if and when local communities agree*". According to the Process Framework, co-management of protected areas by agencies, NGOs and communities will be possible, and "*strict provisions for the recognition and demarcation of land areas in favor of indigenous communities*" are envisaged for the cases of overlap between land claims and protected areas.[54] In addition, water limits of protected areas will be demarcated on a case by case basis, based on specific circumstances.

46. **Natural Habitats**: According to Management, to protect indigenous peoples and in compliance with OP 4.04 on Natural Habitats and OD 4.20, the Project establishes that: only legally established protected areas are eligible for demarcation; no Project field activities will take place in or near a proposed protected area; and procedures to protect the interests of the people must be in place before demarcation or titling occur on lands adjacent ethnic lands. For example, the Rio Tinto Forest Reserve mentioned in the Request is a proposed protected area and no project field activity will take place in or near this area. Management also states that no protected area was "*delivered*" to NGOs as claimed by the Requesters. Rather, the Project Environmental Assessment includes "*a comprehensive inventory of existing and proposed protected areas* [...] *and factual information regarding the organizations involved in the management of those areas.*" The Response claims that the list of organizations "*involved in the management of those areas in Project documents should not be interpreted as a Project proposal or endorsement of those organizations*". Management adds that "*the list reflects a relationship between the Government and those organizations working in a given protected area.*"[55]

47. Finally, Management asserts that, because it recognized that if natural habitats were titled erroneously this would affect indigenous communities, the Project provides for mitigation activities, i.e. exclusion of proposed protected areas from demarcation, and inclusion of "*chance find procedures in the Process Framework.*"[56]

Responsiveness to the Requesters' Concerns

48. Management states that the August 2005 Requesters' letter to the Bank focused mainly on the Property Law which is the responsibility of the Government. It adds, however, that Management invited the Requesters to a meeting on September 21, 2005, in Tegucigalpa, to clarify their concerns, specifically those related to the PATH Project. According to the Response, the minutes of the

[54] Management Response, ¶ 77, 78.
[55] Management Response, ¶ 79.
[56] Management Response, ¶ 84.

meeting clearly show that it was agreed to hold a follow up meeting with the Requesters, Government representatives, as well as other representatives of the Garífuna people. Though the Requesters believe that the presence of other Garífuna representatives disrupt the dialogue, Management believes that this "*broad and open dialogue is appropriate*" especially in light of the fact that one of the Requesters' concerns relate to the composition of the Mesa Regional. At the follow-up meeting set for November 4, 2005, to which members of the Mesa Regional were to participate, the Requesters did not attend. [57]

49. Management believes that it "*took action to address the Project-specific concerns expressed by the Requesters and notified Ofraneh of these promptly*", for example with respect to the agreement reached with the Government that the communities themselves must decide whether to be part of the Project.[58] Management also "*has consistently maintained its commitment to meaningful consultations, broad participation and open dialogue with all Garífuna stakeholders.*" Management claims that for this reason, on November 18, 2005, it wrote to the Requesters proposing again a meeting with them, the Government and other Garífuna representatives, but has yet to receive any reply.[59]

E. Eligibility

50. The Panel must determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications, and recommend whether the matter alleged in the Request should be investigated.

51. The Panel has reviewed the Request and Management's Response. The Panel Chairperson, Edith Brown Weiss, together with Deputy Executive Secretary Peter Lallas and Operations Officer Tatiana Tassoni visited Honduras from February 12 to February 17, 2006. During their visit, the Panel Team met with the signatories of the Request for Inspection and members of Garífuna communities, Bank staff, national and local authorities, and members of the Project's Mesa Regional. The Panel visited the cities of Tegucigalpa, La Ceiba and Trujillo and also met with Requesters and other affected people in the communities of Sambo Creek and Guadalupe. The Panel wishes to emphasize its appreciation of the significance of the Project.

52. The Panel is satisfied that the Request meets all of the eligibility criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications.

[57] Management Response, ¶85, 86, 89.
[58] Management Response, ¶ 87.
[59] Management Response, ¶ 90.

53. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The persons who signed the Request live in Project-affected areas, have a common interest and common concerns, and reside in the Borrower's territory, as required by Paragraph 9(a).

54. The Panel notes that the Request *"assert*[s] *in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters"* as required by Paragraph 9(b).

55. During the Panel visits, the Requesters expressed serious concerns about the implementation of the Project because they fear that the PATH may ultimately lead to the demise of their collective titles, and thus to the loss of their ancestral lands, their culture and traditions. The Requesters do not oppose actions to recognize collective rights to their lands. However, they have significant concerns regarding the design and implementation of this Project in the way it affects their claims to their ancestral lands. The Requesters claim that the Garífuna communities were not properly consulted in the design and planning of the PATH, including in the development of the Indigenous Peoples Development Plan and in the selection of the pilot communities where the Project would be implemented first.

56. The Panel notes that there is disagreement as to whether the consultation process established under the Project is by-passing the structures developed over time by the Garífuna communities to represent the interests of their people. The Requesters state that the Project and the World Bank have not meaningfully consulted with the communities and their legitimate representatives and have opted to rely on people who were not chosen by the communities to represent their interests. They contend that the Project consultation process is fragmenting and dividing their communities and their representative structures, and thus may cause irrevocable harm to their people's traditions and culture. Government officials and others the Panel met during its visit to Honduras indicated that problems in consultation and representation in addressing the needs of indigenous and ethnic communities in Honduras have the potential to inflict significant harm on those communities.

57. The Panel observes that Bank Policy on Indigenous Peoples provides that the Bank must ensure *"that indigenous peoples do not suffer adverse effects during the development process, particularly from Bank-financed projects, and that they receive culturally compatible social and economic benefits."*[60] The Panel observes that the Requesters believe that the views and preferences of the Garífuna communities have not been, and will not be, properly taken into consideration in decisions regarding land titling, demarcation of land rights and other matters of critical interest to the Garífuna people. They allege that this is

[60] OD 4.20 (September 1991) Indigenous Peoples, paragraph 6.

in violation of ILO Convention 169 and is not in compliance with the Policy on Indigenous Peoples. The Panel found significant differences of opinion as to whether the Bank has followed, or is following, its own policies and procedures on these matters and whether the Project will or may have negative effects on the interests of the Garífuna.

58. Of particular concern to the Inspection Panel is the Requesters' assertion that the Project has a high potential to undermine their claims to ancestral lands before national and international bodies. Ownership of these lands is crucial for the Garífunas' economic survival and the maintenance of existing patterns of social organization. They have forcefully represented to the Panel that, in their view, the Project, if implemented as designed, will not only affect their land claims but could make any decisions in other bodies in favor of the Garífuna people largely irrelevant and cause them irreparable harm.

59. The Panel also notes that the Requesters claim that the arbitration proposed as dispute settlement procedures for indigenous peoples' land disputes conflicts with the constitution and laws of Honduras, and therefore lacks legitimacy. According to the Requesters, the means for resolving disputes under the Project do not consider that there is an unequal power relationship between the Garífuna people and the country's power elites, which affects the ability of the people to have access to justice. The Requesters fear that the Project will ultimately lead to the recognition of individual claims on Garífuna lands while the Garífuna communities want to retain collective title.

60. Management, as indicated in its Response, believes that the consultation process has been open and conducted in accordance with Bank policies. It also contends that the dispute settlement mechanisms envisaged under the Project are consistent with local legislation and enable proper consideration of the views of the Garífuna people.

61. The Panel finds that the Requesters have alleged that the World Bank actions constitute a violation of Bank policies and procedures on indigenous peoples, natural habitats, environmental assessment and supervision and that these actions have had or could have a significant adverse effect on the Requesters' rights, as required by Paragraph 9(b). The Panel notes the need for factual inquiry into the Requesters' claims that the Bank violated its own operational policies and procedures.

62. The Panel confirmed that the World Bank has been aware of concerns from OFRANEH and the Garífuna communities they represent and their fear that their collective titles would not be recognized under the PATH.

63. The Panel is therefore satisfied that the Request *"does assert that the subject matter has been brought to Management's attention and that, in the Requesters' view, Management has failed to respond adequately demonstrating*

that it has followed or is taking steps to follow the Bank's policies and procedures." Hence, the Request meets the requirement of Paragraph 9(c).

64. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d).

65. The Credit financing the Project was approved by the Board of Executive Directors on February 26, 2004. The expected closing date of the PATH is April 30, 2008. When the Request was filed, January 3, 2006, about 69% of the Credit had been disbursed. The Request therefore satisfies the requirement in Paragraph 9(e) that the related Credit has not been closed or substantially disbursed.[61]

66. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).

67. The Requesters and other affected persons, Management's Response, the Panel's visit to Honduras, interviews with Government officials and Bank staff, confirmed that there are sharply differing views on the issues raised in the Request for Inspection. In order to ascertain compliance or lack thereof with Bank policies and procedures in the design and implementation of the Honduras: Land Administration Project, the Panel must conduct an appropriate review of all relevant facts and applicable policies and procedures. The Panel recognizes the importance of the Project, and notes that the investigation would be directed to the discrete issues raised by the Request.

F. Conclusions

68. The Requesters and the Request meet the eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications. The Request and Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures.

69. In light of the foregoing, the Panel recommends that an investigation be conducted.

[61] According to the Resolution that established the Panel, "*this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.*" Footnote to Paragraph 14 (c).

Some of the below listed Annexes to the Request and Management Response are herein attached respectively to the Request and Management Response. The remainder of the below listed Annexes are available upon request to the Executive Secretary of the Inspection Panel.

Annexes in the Request (as listed in the Request)

Annex 1: Comunicado Publico, respecto al PATH (Public communication regarding the PATH) (attached)

Annex 2: Denuncia Ofraneh violaciones DO 4.20 (con anexos) del 22 agosto del 2005 (Ofraneh's complaint regarding violations of OD 4.20 (with annexes) of August 22, 2005) (attached with second annex)

Annex 3: Carta Banco Mundial 14 de septiembre del 2005 (World Bank letter of September 14, 2005) (attached as Annex 4.1 of Management Response)

Annex 4: Minuta Reunion Ofraneh – Banco Mundial del 21 de septiembre del 2005 (Minutes of Ofraneh – World Bank meeting of September 21, 2005) (attached)

Annex 5: Carta Banco Mundial del 20 de octubre del 2005 (World Bank letter of October 20, 2005) (attached as Annex 4.4 of Management Response)

Annex 6: Carta Ofraneh del 25 de octubre del 2005 (Ofraneh letter of October 25, 2005)) (attached)

Annex 7: Carta Banco Mundial del 27 de octubre del 2005 (World Bank letter of October 27, 2005) (attached as Annex 4.6 of Management Response)

Annex 8: Carta Ofraneh del 31 de octubre del 2005 (Ofraneh letter of October 31, 2005) (attached)

Annex 9: E mail Ofraneh del 3 de noviembre del 2005 (Ofraneh e-mail of November 3, 2005) (attached)

Annex 10: Carta Ofraneh del 4 de noviembre del 2005 (Ofraneh letter of November 4, 2005) (attached)

Annex 11: Carta Banco Mundial del 18 de noviembre del 2005 (World Bank letter of November 18, 2005) (attached as Annex 4.9 of Management Response)

Annex 12: Certificaciones deposito peticiones a la Comisión Interamericana de Derechos Humanos (Certificates of submittal of petitions to the Inter-American Commission on Human Rights) (attached)

Annex 13: Constancias y Puntos de Actas de las comunidades Garífunas, presentando su posición respecto al PATH (Certificates and points in minutes of the Garifuna communities, stating their position regarding the PATH)

Annexes in Management Response

Annex 1: Claims and Responses (attached)

Annex 2: Chronology of Key Project Preparation and Implementation Events

Annex 2.1: Chronology of events from January 2003 to November 2005 (attached)

Annex 2.2: Consultation events on the design of a project to integrate the National Registry and Cadastral System (SINREC), January-February 2003
Annex 2.3: Aide Memoire of consultation between representatives from civil society and PAAR Project, August 26, 2003
Annex 2.4: Consultation event on draft Property Law, October 8, 2003
Annex 2.5: Consultation workshop organized by Ofraneh, and financed by PAAR Project, San Juan, Tela, October 25-26, 2003
Annex 2.6: Aide Memoire of meeting between representatives from Ofraneh and members of National Congress, November 12, 2003
Annex 2.7: First round of consultations on the Indigenous Peoples Development Plan and Environmental Assessment, November 26, 2003 (attached)
Annex 2.8: Second round of consultations on the Indigenous Peoples Development Plan and Environmental Assessment, December 2, 2003 (attached)
Annex 2.9: Aide Memoire of meeting between the Vice-president of Ofraneh and PATH staff, January 13, 2005 (attached)
Annex 2.10: Report of dissemination activities conducted by PATH staff in Garífuna areas, January 2005
Annex 2.11: Invitation and minutes of working session to integrate the provisional Inter-Institutional Commission for the demarcation and titling of Garífuna communities, February 24, 2005 (attached)
Annex 2.12: Minutes of the creation of the *Mesa Regional de Regularización y Resolución de Conflictos de Atlántida y Colón,* and preliminary selection of 8 communities and 12 protected areas to participate in the Project, March 15-17, 2005 (attached)
Annex 2.13: Public statement against PATH issued by Ofraneh, April 28, 2005
Annex 2.14: Minutes of the *Mesa Regional's* meeting in Sangrelaya, April 29, 2005 (attached)
Annex 2.15: Minutes of the meeting between members of *Mesa Regional* and representatives from Ofraneh, June 9, 2005 (attached)
Annex 2.16: List of participants integrating the working commission of *Mesa Regional* and the three *Mesas Locales* of Guadalupe, Cocalito, and Sangrelaya, June 9, 2005 (attached)
Annex 2.17: PATH newsletter reporting Project activities in Miskito and Garífuna communities, April-July, 2005
Annex 2.18: Letter sent to the World Bank by Ofraneh, August 2005
Annex 2.19: Minutes of the meeting between *Mesa Regional* and World Bank staff, September 22, 2005 (attached)
Annex 2.20: Minutes of the meeting between *Mesa Regional* and World Bank staff, November 4, 2005 (attached)
Annex 2.21: Special minutes issued by *Mesa Regional*, November 4, 2005
Annex 2.22: Letter from the World Bank to the *Mesa Regional* as a follow-up to the November 4 meeting, November 11, 2005

Annex 3: Ofraneh Statements Regarding Their Internal Dispute

Annex 3.1: Notification from Ofraneh interdicting Mr. Ángel Amilcar Colón from acting as the Organization's General Coordinator, March 4, 2005 (attached)

Annex 3.2: Press release from Ofraneh signed by Mr. Ángel Amilcar Colón declaring invalid the extra-ordinary assembly of March 23, 2005 (attached)

Annex 4: Correspondence Between Requesters and Bank Management (August to November 2005)

Annex 4.1: Letter from the World Bank to Ofraneh, September 14, 2005 (attached)

Annex 4.2: Minutes of meeting in Tegucigalpa between World Bank staff and Ofraneh representatives, September 21, 2005 (attached as Annex 4 of the Request)

Annex 4.3: Minutes of meeting between *Mesa Regional* and World Bank staff in La Ceiba, September 22, 2005

Annex 4.4: Letter from the World Bank to Ofraneh, October 20, 2005 (attached)

Annex 4.5: Letter from Ofraneh to the World Bank, October 25, 2005 (attached as Annex 6 of the Request)

Annex 4.6: Letter from the World Bank to Ofraneh, October 27, 2005 (attached)

Annex 4.7: E-mail from Ofraneh to the World Bank, November 3, 2005 (attached as Annex 9 of the Request)

Annex 4.8: Letter from Ofraneh to the World Bank, November 6, 2005 (attached as Annex 10 of the Request)

Annex 4.9: Letter from the World Bank to Ofraneh, November 18, 2005 (attached)

Annex 5: Minutes of Internal Bank Management Meeting, November 18, 2005

Annex 6: Selected Project Supervision Documents

Annex 6.1: Management Letter following Project supervision missions, September 19-23 and October 11-15, 2005

Annex 6.2: Management Letter following a Project supervision mission, November 2-4, 2005

Annex 7: Unofficial English Translation of Title V, Chapter III, and Arts. 110 and 111 of Honduras Property Law (No. 82-2004)

Map 1 - IBRD No. 34485 "Honduras Land Administration Project, Garífuna Communities and Related Sites (attached)

ANNEX I

REQUEST FOR INSPECTION

Request for Inspection

To: The Executive Secretary
The Inspection Panel
1818 H St. NW Washington, D.C. 20433, U.S.A.

We, the Fraternal Black Organization of Honduras (*Organización Fraternal Negra Honduras* - Ofraneh) with headquarters in La Ceiba (Honduras), 2nd floor Librería el Trébol, Barrio El Centro, telefax +(504)443-2492 and e-mail ofraneh@laceiba.com, with attorneys Gianluca Gaia and Maurizio De Martino, of the Naples Bar Association with offices in Naples (Italy) in via Posillipo, 176/3, Telefax 39.081.5754535, e-mail addresses gaiakan@yahoo.it and maodema@hotmail.com with the attached power of attorney, who represent the Garifuna communities of Honduras (we underline that Ofraneh is not a Non Governmental Organization but rather a Federation the members of which are elected every three years by an assembly of the Garifuna people who grant them the representation of the people in accordance with the provisions of the organization's bylaws) declare the following:

1) **World Bank Financed Project that is the Subject of the Request**
The Honduras Land Management Program (*Programa de Administración de Tierra en Honduras – PATH*), funded by the World Bank, is a project designed to guarantee the necessary legal security and stability of the land assets to resolve the endemic problem connected to the same (only 30% of the country's lands are registered and barely one third has a cadastral reference.) The PATH contemplates a decentralized system of real estate property management (regularization, titling, cadastre, registration in folios) comprising public and private entites) to generate, register and link public and private information, on transactions with urban and rural plots, in an accessible, efficient and updated manner in the Project areas.

In the aspect more closely related to the parties hereby represented the Project establishes that: with reference to properties and/or holdings backed up by ancestral certifications or titles these are grouped in the category of private property. Once the rights of the communities have been recognized and recorded in the property registry these enjoy all the rights applicable to full ownership.

In connection with indigenous property, it contemplates the regularization of the ancestral lands in favor of the various indigenous and Afro-Honduran peoples guaranteeing fully the rights of ownership over the same, recognizing communal and/or individual property (according to the will of each of the peoples) by recording the ownership in the corresponding registers, with the direct participation of the communities in the legalization process, so that they may enjoy the rights of full ownership.

The Word Bank in its report number 27604 HO published on January 20, 2004, underlines that the project fosters OD 4.20 since it supports the demarcation and titling of ancestral indigenous and Afro-Honduran lands to these peoples. The same report indicates that, to comply with OD 4.20, an Indigenous People Development Plan (IPDP) has been prepared by the Government. The document goes on to clarify that, based on the informed participation of the peoples involved, it will attempt to ensure that the

Indigenous Peoples are not adversely affected by the Project and that they receive culturally compatible social and economic benefits.

2) **Applicable Operational Policies**
On September 17, 1991, based on its experience with the document OMS 2.34 and the evolution of the international standards related to the treatment of indigenous peoples, the World Bank issued Operational Directive 4.20 as a guideline for its operating staff. The directive offers policy guidelines to ensure that the indigenous peoples benefit from development projects. OD 4.20 includes broad criteria definitions, as well as a recognition of the international standards on indigenous peoples rights, with emphasis on cultural and participatory strategies for an appropriate development. Its objective is to ensure that the development process promotes the respect to their dignity, human rights and cultural uniqueness. Specifically, the core objective of this directive is to ensure that the indigenous peoples suffer no adverse effects during the development process and receive social and economic benefits that are culturally compatible (paragraph 6).

In the case of interest to us, the Bank uses other policies related to the territory or functional habitat of the Garifuna people of Honduras: OP 4.01 (Environmental Assessment) that focuses on the important environmental issues of a project and OP 4.04 (Natural Habitats) with which the Bank supports the protection, maintenance and rehabilitation of the natural habitats and their functions.

As from July 1, 2005 Operational Policy 4.10 and Bank Procedural Standard BP 4.10 have become effective. In this respect, we point out that we have considered it convenient to also make a brief reference to said policies and procedures.

3) These policies have been designed and are frequently reviewed so that the Bank, in executing its projects, respects the international rules and standards designed to safeguard the rights of indigenous peoples, as stipulated in international agreements (Convention 169 of the International Labor Organization; Convention on Biological Diversity, Draft United Nations Declaration on the Rights of Indigenous Peoples, Draft American Declaration on the Rights of Indigenous Peoples.)

On July 30, 1994 with Decree 26-94, Honduras ratified the International Labor Organization's Convention 169 on Indigenous and Tribal Peoples. In connection with lands, the Convention contains (articles 13 to 19) a series of provisions recognizing the rights of the peoples of reference to the ownership and tenure of the lands they traditionally occupy, as well as the special protection of the natural resources existing in said land. On July 31, 1995 of the same year [sic] Honduras also ratified the Convention on Biological Diversity.

These Conventions define, recognize and safeguard legal rules related to the interests of the Garifuna people that are designed to obtaining the conservation of their ancestral territory and the natural resources found in the same in order to sustain their livelihood and sustainable development needs, within a framework of respect for the culture and Cosmo vision pertaining to this people. Furthermore, the Garifunas aspire to the recognition of all their special rights, both collective and individual. In the paragraph relating to the actual and potential damages caused by the Project there is extensive clarification of the dimension of the issues and the territorial claims of the communities

through an account of the background of the titling programs of the Garifuna community.

We may anticipate here that the Garifuna communities have not been satisfied by the titling programs that have taken place successively at various times. Said programs have produced: a reduction of their functional habitat, the legitimation of land invasions, the consequent problem of the presence of non indigenous persons in the lands assigned to the indigenous peoples. Therefore, the peoples, accompanied by the requesting organization, have initiated a process seeking to obtain title to the areas claimed and untitled by the state. To that end, the Ofraneh and the affected communities have submitted three petitions to the Inter-American Commission on Human Rights (IACHR) all of them related to the violation of their territorial rights, besides currently conducting lobbying to advocate for a reform of the Property Law Decree 84 of 2000. The communities demand that the titling process be carried out with in a general legal framework in accordance with the international standards that safeguard their special rights. They also demand an active participation for the members of the communities not only through consultation over predefined materials but rather by presenting legislative and regulatory proposals including administrative matters and proposals for conflict resolution arrangements.

All of the above means that the communities want to be active subjects in the decision making over their future as a people. Faced with the dangers represented by the free market for land, the Garifuna people have maintained the system of community ownership of the territories.

4) **Infringement of Operational Policies**

Unfortunately, the Wold Bank has not taken into account the rights and interests of the Garifuna people and, in spite of what is provided in its operational manuals, has violated its own policies in the following way:

4.1) *INFRINGEMENT OF THE RIGHT TO CONSULTATION*

The Bank has infringed the provisions contained in paragraph 8 and emphasized in paragraphs 14 a) and c) of OD 4.20 that provide:

8. *The Bank's policy is that the strategy for addressing the issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves. Thus, identifying local preferences through direct consultation, incorporation of indigenous knowledge into project approaches, and appropriate early use of experienced specialists are core activities for any project that affects indigenous peoples and their rights to natural and economic resources.*

14. *Prerequisites of a successful development plan for indigenous peoples are as follows:*
(a) The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.
(d) Local patterns of social organization, religious beliefs, and resource use should be taken into account in the plan's design.

We can assert without doubt that the Bank's experts have never carried out consultation programs in advance of the drafting of the Indigenous Development Plan. Such Plan, as well as the Environmental Plan were delivered to the organization little before the holding of the only consultation meeting regarding the PATH and the IPDP. At that time, at a meeting in the Garifuna community of Sambo Creek on December 17, 18 and 19, 2003, the representatives of all of the Garifuna communities of Honduras signed a document that presented a firm rejection of everything that was established in the IPDP, while proposing several alternatives. However, the Bank did not take into account any of those proposals. None of those suggestions or criticisms that addressed the inconsistencies in the application of the titling arrangements contemplated by the project to the legal particularity that the Garifuna people represent were considered.

Summarizing, none of the options preferred by the peoples involved were considered, nor the local social organization patterns with the election of the collective holding system and the repercussions in terms of exclusion from development in the case of opening up to the system of individual ownership of land.

On October 18, 2003, two months after the above mentioned meeting, a consultation workshop was held in San Juan, Tella on the draft of what would become Decree 84 – 2000 Property Law. At that time, the representatives of the communities came out vocally against the issuance of said Law for reasons that are made clear by a reading of the attached documents that were drafted in the consultation and lobbying phase by the undersigned and with the support of consultations with international experts and institutions.

In this respect, we indicate that the Requesters are well aware that said Law is an act of the Government, outside the *jurisdiction* of the Panel's staff, but it should be noted that the same staff already knew that the Government was about to issue shortly a land law that would be a key to the future land titling programs, besides already knowing of the opposition of the Garifuna people to said Law. However, in spite of knowing that the Property Law would become the statutory framework for the PATH project, they made no mention of that part relating to the statutory framework that would guide the project. This omission and the lack of intervention through successive socialization meetings, seems absurd and has generated confusion across the Garifuna communities. They find themselves faced with two different arrangements to implement the titling procedures and conflict resolution: the PATH Manual with the Indigenous Development Plan and the Bank rules and what is mandated by the Property Law. Besides, both instruments are inadequate from the point of view of the Garifuna people and present voids. Merely as an example, we indicate that one of the PATH regulations that are being disseminated are considered to be simply drafts in the words of the Bank's staff themselves; the consultation meetings with the pilot communities are carried out without even giving the interested parties a brochure explaining the Project (the Garifuna population is furthered based on an oral cultural tradition and it would have been appropriate to hold preventive meetings in the communities in accordance with such a cultural pattern.)

In the PATH consultation, carried out in Trujillo in April 2005, in which the project's pilot communities and protected areas were selected, the community representatives that had been invited to the meeting were not given explanatory materials. At that time, Mr.

Ángel Castro, invited as President of the *Patronato* (foundation) of the Garifuna community of Triunfo de la Cruz refused to sign a document with which the government officials sought consensus on the application of said plans in the Garifuna communities.

The President of the *Patronato* of Triunfo de la Cruz, realizing the dangers for the survival of his people and the damages that the application of the arrangements contemplated in the Bank's Project would entail, left the meeting and decided to refrain from attending further meetings on the same subject. He was supported in his decision by all the members of the community he represents and, later, by all the representatives of several communities.

We finally emphasize that the Bank's staff has never delivered to the members of the communities the documents, information and training required to be informed of the Project's execution arrangements. Likewise, the Requesting organization has never received copy of key documents such as the Loan Agreement between the World Bank and the Government of Honduras. In spite of this further violation to the right to consultation and informed participation in the Project the Requesters have gathered sufficient information on which to base this Request as will be seen from the following paragraphs.

For the above reasons the World Bank has also infringed the provisions contained in paragraphs 6; 10; 11; 12 and 15 of Operational Policy 4.10. It has been established without question that there is no support for the project from the Garifuna people.

OP 4.10 states that "the World Bank pays special attention to the social assessment and to the minutes and the result of the previous, free and informed consultations with the affected indigenous communities, as a basis to determine if said support exists. The Bank does not pursue the processing of the project if it is unable to determine the existence of said support."

4.2 *INFRINGEMENT OF PARAGRAPH 15 OF OD 4.20*

Furthermore, the Bank has violated the provisions of OMS 2.34 paragraph 5 and OD 4.20 paragraph 15 a) and c) and paragraph 9 of OD 4.20 that are reported below.

We underline that the Bank expressed that it would not provide assistance for any development activity that knowingly entails the invasion of safeguarded territories or lands (OMS 2.34; paragraph 5 OD 4.20 paragraph 15 a) and c).

Paragraph 15
(a) Legal Framework. *The plan should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife, and water) vital to their subsistence and reproduction.*

(c) Land Tenure. *When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary or traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples. These steps should be taken before the initiation of other planning steps that may be contingent on recognized land titles.*

9. *The borrower, through a full range of positive actions must ensure that indigenous people benefit from development investments.*

Appraisal teams should be satisfied that indigenous people have participated meaningfully in the development of the plan as described in para. 14. It is particularly important to appraise proposals for regularizing land access and use.

The concrete violation becomes effective in the circumstance that, as we have already pointed out in the previous paragraph, [in] the design of the IPDP no consideration has been given to the legal status of the groups comprised by this Operational Directive, as reflected in the country's constitution, main legislation and subsidiary legislation (regulations, administrative orders, etc.). The Indigenous People Development Plan in no way takes into account the existing legislation on indigenous people and the legal procedures for collective titling.

In effect, the Indigenous Development Plan provides that *the legal framework contemplates the issuance of rules to develop the legal framework for the protection of indigenous peoples; additionally to instructions for the delimitation and demarcation of ancestral land holdings* (page 3 of the IPDP).

In this respect we clarify that never, since the release of the IPDP, have rules been developed in connection with the demarcation and delimitation of the areas claimed by the indigenous peoples which would, therefore, follow the procedure contemplated in the Affectation Rules addressing their expansion requests and their claims to the *Instituto Nacional Agrario* (National Land Institute.) The IPDP does, however, contemplate (see page 12 of the IPDP) the creation of an Indigenous Affairs Unit with as the institution that will be responsible for carrying out and monitoring the procedure of indigenous people land titling. We do not understand how this later institution will coordinate its work with the *Instituto Nacional Agrario* and which will be the titling procedure to be applied.

In any case, the issuance of regulations would only contribute to originating a lack of clarity in the applicable rules to the detriment of the claim of the indigenous peoples. In this respect, we point out that the Coordination Unit of the PATH Project had provided OFRANEH with a set of rules called Methodology to Determine and Measure the Lands to be Titled to the Ethnic Communities –a document drafted by the PATH's Project Coordination Unit. After a claim was presented to the World Bank where that document was severely criticized, the representatives of the W.B. and members of the PATH clarified that it was merely a draft. This type of behavior increases the confusion of the indigenous peoples and fosters the idea that those who are coordinating the Project's

execution lack a clear and defined vision of how they will execute a project of such a magnitude and that has an essential importance for the survival of the Garifuna people. This circumstance raises concerns especially with regards to possible errors in the assessment of the negative long term effects over the Garifuna peoples involved in the project.

The above mentioned lack of regulatory clarity escalates to chaos when a review is made of the analysis of the IPDP's legal framework (page 6 of the IPDP). Surprisingly, this manual does not contemplate the Property Law that, by establishing the mechanisms for the titling of the areas occupied by indigenous peoples and conflict resolution arrangements, stands out as the fundamental legal pillar.

We take this opportunity to clarify that the Garifuna people of Honduras is well aware that such law is an act by the Government and as such falls outside the Panel's *jurisdiction*, but at the same time, logic indicates that it is a duty of the financial institution to establish the regulatory elements of such an important titling project in coordination with the legislation in force in the country.

The lack of attention and coordination on the part of the Bank and the borrower has translated into the development of two parallel regulations that oppose one another (the Bank's operating manuals and rules and the Government's legislation.)

As an example we indicate that the IPDP provides for arbitration as the arrangement for the resolution of the conflicts that pertain to the holding of land by indigenous peoples (page 17 of the IPDP); such solution, that we consider unconstitutional insofar as it contemplates a single legal instance, is different from the one included in the Property Law in its Title VI articles 110 and 111. Which procedure will be applied? Furthermore, it should be noted that the Garifuna people already expressed during the consultation phase their firm rejection of the conflict resolution mechanisms proposed by the PATH. We are concerned because conflict resolution instances are being proposed (see page 12 of the IPDP) that do not correspond to the social and political reality of the members of the communities; you cannot propose to resolve conflicts that date back to several decades by means of Interethnic Boards or Conciliation, Settlement or Mediation Procedures, where the disparities of the interests represented, power elites on the one hand and indigenous peoples on the other, cannot but lead to completely unfavorable decisions for the indigenous peoples.

The PATH, instead of standing out as a project in the forefront of land titling for the protection granted to the indigenous peoples involved, rather affects the path of said peoples towards the recognition of their territorial rights to the extent that it generates confusion regarding the titling procedures and the applicable legislation, the institutions responsible for granting titles and the instances and procedures designated to solve the conflicts.

On the other hand, we underline that in drafting the Project's IPDP, no account has been taken of the *real ability* of the indigenous and black peoples to obtain access to the legal system and use it effectively to defend their rights. No mention is made of any study establishing the level of access of the Garifuna people to the domestic legal system. Besides, no consideration was given to the circumstance that the impossibility for the Garifuna of obtaining justice in connection with their territorial claims through the local

court system, has forced them to resort to international instances as a last attempt to solve their problems. In October 2003, i.e. before the PATH was disseminated in Sambo Creek, the Ofraneh representing the Garifuna peoples of Honduras presented to the Inter-American Commission on Human Rights Commission a petition, denouncing the violation of their territorial rights by the Government of Honduras and asking for the recognition of the territory they claim. The Commission divided the petition into three cases, registering them under numbers 1118/03 Garifuna Community of Punta Piedra vs. the Government of Honduras; 1119/03 Garifuna Community of Cayos Cochinos vs. the Government of Honduras; 906/03 Garifuna Community of Triunfo de la Cruz vs. the Government of Honduras. On October 18, 2005 a public hearing was held at the venue of the Inter-American Commission on Human Rights focusing on the admissibility of petition number 906.

After the hearing a petition was filed for a precautionary measure with the purpose of freezing any transactions involving the lands being claimed, in connection with the Garifuna communities settled in the zone of *Bahia de Tela.* In said document, as well as in the hearing, the Honorable Commission was made aware of the potential damages to the procedure of expansion, regularization and territorial vindication (use and exploitation of the natural resources existing in the territory) that the execution of the PATH entails. However, none of the people responsible for the Project has reacted to these circumstances.

For the above reasons, the World Bank has also violated the provisions contained in paragraphs 5, 16 and 17 of Operational Policy 4.10.

4.3) *INFRINGEMENT OF OP 4.01*

Although in their Environmental Assessment Operating Manual the World Bank experts recognize the issues that affect the tenure of land by the Garifuna people, especially in connection with the circumstance of the overlapping between protected areas and territories claimed by the communities no hypothesis are set forth on the development of management arrangements or, at least, of co-management that would restore to the Garifuna the power on their functional habitat that they themselves have preserved for centuries. The demarcation of the water limits is not being carried out and we have no knowledge of measures designed to eliminate or at least mitigate the presence of government institutions in the management of the protected areas in favor of the permanent presence of the members of the communities. Instead, almost all of the NGOs and the institutions that in the PATH manual appear as responsible for the management of the protected areas do not contemplate the presence of indigenous elements and are not in line with the Cosmo vision of said peoples. We refer to paragraph 7 for an analysis of the overlapping between claimed territories and supposedly protected areas, mentioning as an example the issues arising from the protected area Sierra Rió Tinto.

4.4) *INFRINGEMENT OF OP 4.04*

Finally, we underline that the PATH has not taken into account the importance of the natural habitats and their inter-relation with the Garifuna communities that occupy said habitats.

5) **Damage suffered by the Garifuna people**

The damage suffered by the Garifuna people is materialized in the current and potential damage entailed by the PATH to pursue the process of vindication and recognition of the territory of the Garifuna people, or in other terms the claims relating to their territorial rights. The further potential damage is materialized in the serious risk of atomization of the community's collective title in favor of individual titles, contrary to the choise of a preferred system of land tenure made by the whole of the Garifuna people.

We consider that the action and failure to act that results from all of the above is the Bank's responsibility; the causality link is based on the circumstance that had the WB not implemented said plan the communities would not suffer and would not be exposed to the above mentioned damages and would continue pursuing their claim process.

To be able to understand the magnitude and the foundation of the damage implied in the execution of the PATH, it is necessary to resort, even briefly, to the history of the Garifuna people and their fight for the defense and recognition of their rights and their territory.

The historical background has demonstrated the inability of the Government of Honduras to implement a legal system designed to effectively safeguard the Garifuna people.

The socio-genesis of the Garifuna people dates back to the mid 17th Century when the survivors of a shipwreck loaded with Africans arrived to the island of Saint Vincent where they joined the Kalinaku indigenous people.

Due to the frequent struggles against the successive invaders, the Garifuna, considered a threat to the colonial system, were displaced to the island of Roatan.

Having arrived in Roatan in 1797, the Spanish Mayor Ramon de Anguiano envisaged the opportunity of repopulating the city of Trujillo, which had remained uninhabited from 1643 to 1780, after having been repeatedly looted by English pirates and finally destroyed by Puritan William Jackson. Consequently the Garifuna settled in the city of Trujillo. Successively, due to the political turbulences that resulted from the war of independence that took place in the Americas at the beginning of the 19th century, the Garifuna abandoned Trujillo and gradually established villages along the coast of the Central American Caribbean.

At that time the coast was uninhabited, since the original dwellers, the Pech, had mostly chosen to settle further inland, due to the pressures exerted on them by the Miskitos, which enslaved the peoples settled along the whole of the Central American Caribbean coast.

It was around 1860 that the exodus of the Olanchanos to the North coast began, and they settled in the zones of La Ceiba, El Porvenir and Armenia. The Garifuna shared with them their trade secrets, introducing them to the business that years later ended up being dominated by Sicilian immigrants, who soon took over the purchase and sale of bananas for the markets in the South of the United States.

The first decades of the 20th century saw a gradual recognition of the Garifuna territory by the Manual Bonilla administration, which extended recognition title on the communities of Cristales and Rio Negro, which included from Punta Caxinas to Silin, granting full land concessions to the Trujillo Railroad Company. Likewise the communities of the Iriona municipality were granted occupation title, where ownership was recognized to the Garifuna communities up to Rió Sico.

At that time lands were titled and registered on behalf of the Garifuna communities as *ejidos*. Already then the territory was collectively titled. The first example of collective *ejido* title, with the proviso that it could not be attached or sold, dates back to 1905 and was granted to the Iriona community. It should be noted that according to oral testimonies priest Jose de Subirana, in the 18th Century, obtained a community title for the Garifuna peoples that comprised the coastal lands from the San Juan de Tela community up to Trujillo.

During the 1960s and 1970s, in the full boom of agrarian reform in Latin America, the land laws passed by the government recognized the legal particularity represented by the indigenous and Garifuna peoples and legitimized the system of collective land tenure, characteristic of the ethnias, under a protectionist approach.

It was a that time, however, that the first invasions of the Garifuna territory took place, creating conflicts, insecurity and problems that have become more acute in the current times. In the 1990s a titling program was implemented which, once completed, left the 46 Garifuna communities of Honduras completely unsatisfied.

In effect, a simple analysis shows that the titles issued under the program covered the same amount of land titled at the beginning of the century, without taking into account the considerable demographic expansion of the people. The Garifuna people were not granted recognition over their functional habitat.

Since then, the Garifuna communities as a whole began a process designed to obtain:
a) legal recognition of their own functional habitat
b) the regularization of their territory; meaning that the Government pay to the foreign intruders for any improvements in order to evict them and restore the land.
These demands of the Garifuna people have materialized in the presentation of uncountable requests for the expansion of the community title. Almost all of the communities have claimed respect for their territorial rights. The measure was shown to be insufficient.

A sample of the expansion requests filed by the 16 communities settled in the zone of Iriona shows that they requested 27,600 hectares and only 8,580 hectares were titled. The *Instituto Nacional Agrario* declared that not titled [to the communities] thus excluding *ab origine* any hypothesis of regularization were the lands occupied by foreigners and the lands comprised in the environmental reserve zone designated with the name of Reserva Rio Tinto.

The protected Area is indicated in the Environmental Manual of the Honduras Land Management Project (page 25 table 7 number 4) as Forest Reserve Sierra Rió Tinto; such zone would comprise an area of 69,487 hectares and would have the institutional support of the environmental NGO known as MOPAWI, totally foreign to the Garifuna

people and alien to their interests and Cosmo vision. Besides such area has not yet been legally recognized as a Protected Zone, no Decree has been issued in that sense.

This circumstance underlines the violation of its operational policies by the Bank operatives; any titling project that contemplates the delivery of zones being claimed by the Garifuna people (since they constitute their functional habitat) to non indigenous NGOs or individuals, represents a **severe damage to the Garifuna people and a serious violation of their rights.** Therefore the implementation of the project would generate a serious damage as compared to what would have prevailed if the project had not been developed.

In this sense we underline that part of the territory claimed by 28 of the 46 communities is within protected areas or their buffer zones. The Ofraneh has accompanied the communities throughout this process and supported their claims.

In view of the impossibility of resolving the conflicts domestically, because of the well-known difficulty of accessing the court system and the systematic harassment by the judiciary, Ofraneh, as already mentioned, had to resort to international instances.

In 2003 the organization filed with the Inter-American Commission on Human Rights regarding three emblematic cases linked to the recognition of territorial rights.

Also in this case the PATH activities prejudge and will have a negative incidence on the communities' claim process [already] submitted to the jurisdiction of an international tribunal. It is enough to underline that part of the Punta Izopo reserve, claimed by the above mentioned Triunfo de la Cruz community, under the Bank's design has already been handed over to an NGO that is alien to the community.

Summarizing, the World Bank damages the Garifuna people by establishing in advance the delivery of their territory to foreign people, besides determining measures that favor the atomization of community titles. Furthermore, there is a clear risk that the lack of clarity regarding the procedures applicable to the titling and the pertinent legislation, originating in the arrangements proposed by the PATH, will paralyze the progress of the territorial claims.

These damages result from the violations of the Operational Directive and other operating policies, which have been discussed in paragraph 4 of this Request. The current and potential damages mentioned above stand out as a result of the lack of compliance on the part of the Bank of the operating procedures and policies related to the project's design, assessment and implementation.

6) **Requesters claims prior to submitting the Request**
Before reaching the decision of presenting this Request, Ofraneh and the affected communities took a series of steps designed towards a constructive dialogue with the institutions involved in the project.

After the consultation meeting dated August 22, 2005, Ofraneh presented a complaint to the World Bank Management detailing its claim and pointing to the violations of OD 4.20. The Bank received the complaint on August 26, 2005 and promptly invited the representatives of Ofraneh to a meeting that took place in Tegucigalpa on September 21,

2001 [sic]. The meeting was held with members of the Bank and Ofraneh. Ofraneh presented its issues and concerns and made its complaint; the Bank clarified that there existed specific provisions to comply with the safeguard policy regarding Indigenous Peoples such as clause 3.11 in the Loan Agreement. The clause specifies that in the areas of influence of the project there will be no physical demarcation or titling of lands adjacent to the lands of indigenous peoples unless procedures are followed to safeguard their rights, duly consulted with the affected parties in a manner satisfactory to the World Bank and included in the Project's Operating Manual.

In a fax dated October 20, 2005 Mr. Walter Benjamin summarized what had transpired in the meeting and identified the specific suggestions of Ofraneh: (i) enhancing the respect and transparency in the process of its socialization (ii) letting the communities themselves decide if they participate in the PATH or not through the internal decision making process (iii) requesting a three-party meeting with the Government, to be set for November 4. In a letter dated October 25, 2005 Ofraneh answered that the PATH project had been causing concern and promoting the division of the Garifuna people and opposed the tone of the correspondence of Mr. Benjamin McDonald, clarifying that the dissatisfaction of the Garifuna people was not limited to the Property Law as the letter intimated, but with the PATH which violated Operational Directive 4.20.

To end, it expressed the determination to present a request to the Inspection Panel. The World Bank, through Mr. Jorge Muñoz, responded with a fax on October 27, underlining that they had the greatest willingness to understand in more detail the concerns of the communities and asked for a time and a place to be named for the three party meeting with Ofraneh, the World Bank and a Government delegation in La Ceiba on November 4, 2005.

Ofraneh, by fax dated October 31 confirmed by an e-mail dated November 3, 2005, communicated it would take part in the meeting.

However, on November 4, 2005 at the place selected to carry out the meeting, there appeared representatives of the *Mesa Regional* (Regional Board), an institution that is not recognized by Ofraneh and the Garifuna people and is alien to the institutions, the Government and the World Bank, with which the organization was communicating. Hence, it [the organization] sent a fax to the Bank in which it underlined its perplexity and disagreement with the way the dialogue between the institutions had been organized, underlining that they lacked seriousness. Besides the presence of outsiders, it had to be construed as an attempt to alter the solution procedure on the part of the agents involved. However, Ofraneh expressed its willingness to have a further meeting before presenting the inspection request. The Bank, through Mr. Benjamin, in a letter dated November 18, 2005, answered that the dialogue on the development of the Project needed to include the representatives of the *Mesa Regional.* Mrs. Miriam Miranda, of Ofraneh's executive board, in a conversation held with Mr. Muñoz on November 4, underlined the illegality of the set up of said Board, which has been created in spite of the disagreement of the communities, was not elected by the communities, is not an organization that represents them and results from a draft (the above mentioned Methodology) and not an official document. It may be noted that the members of the *Mesa Regional* cannot be considered *other Garifuna representatives*, as they are described by Mr. Benjamin McDonald in his letter of November 18, 2005.

Therefore the Ofraneh, rejecting the representativeness of an institution involved in the dialogue with the Government and with the Bank, considering that they had done what was possible to find a solution to the problems resulting from the Honduras Land Management Project, made the decision to send this request.

Considering what has been indicated above we may assert that clearly the contents of this action has been made known by the requesters to the Bank.

7) **Unsatisfactory responses from the World Bank**
The solutions provided by the World Bank are unsatisfactory because, considering the background, they offer no concrete short term measure or solution, to channel the titling process in accordance with the preferences selected by the members of the communities and pursuing the process of vindication of their territory that goes back one decade. The execution of the PATH endangers the very survival of the Garifuna people because it cannot agree to solutions unless they are based on a concrete will to resolve the conflicts and recognize the rights over the lands that ancestrally belong to them.

8) **Measures taken by the Requesters**
Finally, we have already mentioned the measures to resolve our problem addressed at the national instances (lobbying and political advocacy work to achieve the amendment of the Property Law; filing cases related with tenure in the domestic courts) and international (presentation of three petitions to the Inter-American Human Rights Commission to achieve recognition of their territorial rights.)

Conclusions

Therefore, we consider that the actions and failures of the World Bank mentioned above, which are contrary to the already mentioned policies or procedural standards, have affected (by violating the right of consultation and the inconsistencies and disagreements caused by the establishment of operating rules on the titling of Indigenous lands that have not taken into account the existing legal framework and the real situation of access to justice by the Garifuna people, thus contaminating and increasing the complexity of the process of vindication of their territory) and will affect, through the potential damages discussed in paragraph 6, in a substantial and negative way the rights of the Garifuna people. We therefore request that the Panel recommend to the Bank's Board of Executive Directors that an investigation be conducted.

The following documents are attached:
1) Public communication regarding the PATH
2) Ofraneh's complaint regarding violations of OD 4.20 (with annexes) of August 22, 2005
3) World Bank letter of September 14, 2005
4) Minutes of Ofraneh – World Bank meeting of September 21, 2005
5) World Bank letter of October 20, 2005
6) Ofraneh letter of October 25, 2005
7) World Bank letter of October 27, 2005
8) Ofraneh letter of October 31, 2005
9) Ofraneh e-mail of November 3, 2005
10) Ofraneh letter of November 4, 2005
11) World Bank letter of November 18, 2005

12) Certificates of submittal of petitions to the Inter-American Commission on Human Rights
13) Certificates and points in minutes of the Garifuna communities, stating their position regarding the PATH.

We authorize the public dissemination of this Request

Signatures.....

Luis Fernandez
OFRANEH Executive Committee
There is a seal: Organización Fraternal Negra Hondureña La Ceiba, OFRANEH, Presidente (Fraternal Black Honduran Organization La Ceiba, OFRANEH, President)

Gianluca Gaia
Ofraneh and Triunfo de la Cruz Attorney

Maurizio De Martino
Triunfo de la Cruz Attorney

There are 3 other signatures indicating "Comite Ejecutivo" (Executive Committee)

Solicitud de Inspección

Para: El Secretario Ejecutivo
El Panel de Inspección
1818 H St. NW Washington D.C. 20433 EE. UU.

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THE INSPECTION PANEL

Nosotros, Organización Fraternal Negra Honduras (Ofraneh) con sede en La Ceiba (Honduras), 2do. Piso Librería el Trébol, Barrio El Centro, telefax +(504)443.2492 y correo electrónico, ofraneh@laceiba.com, con los abogados Gianluca Gaia y Maurizio De Martino, del colegio de los abogados de Napoli con bufete en Napoli (Italia) en la vía Posillipo, 176/3. Telefax: 39.081.5754535, correos electrónicos gaiakan@yahoo.it y maodema@hotmail.com con carta poder anexa, quienes representamos a las comunidades garífunas de Honduras (subrayamos que la Ofraneh no es una Organizacion No Gubernamental sino una Federación cuyos miembros son elegidos cada tres años por el pueblo garifuna reunidos en asamblea el que le confiere la representatividad del pueblo ajustándose a cuanto previsto en el estatuto de la organización) evidenciamos lo siguiente:

1) **Proyecto Financiado por el Banco Mundial objeto de la Solicitud**
El Programa de Administración de Tierra en Honduras (PATH), financiado por el Banco Mundial, es un proyecto encaminado a garantizar la estabilidad y seguridad jurídica necesaria sobre el bien tierra para resolver el problema endémico ligado a esa (solamente un 30% de la tierra del país están registradas y de estas apenas un tercio posee referencia catastral). El PATH prevé un sistema descentralizado de gestión de la propiedad inmueble (regularización, titulación, catastro, registro en el folio real) integrado por entidades publicas y privadas) el cual genere, registre y vincule información publica y privada, sobre transacciones de parcelas urbanas y rurales, de manera accesible, eficiente y actualizada en las áreas del proyecto.

En la parte que mas se relaciona con mis representados el Proyecto establece que: en referencia a propiedades y/o posesiones respaldadas por títulos o certificaciones ancestrales estas se agrupan dentro de la categoría de propiedad privada. Una vez reconocidos los derechos de las comunidades e inscritos en el registro de la propiedad aquellas gozan de todos los derechos aplicables a la propiedad plena.

En relación a la propiedad indígena, se prevé la regularización de las tierras ancestrales a favor de los diferentes pueblos indígenas y afro – hondureños que garantizara plenamente el derecho de dominio sobre las mismas, mediante el reconocimiento de la propiedad comunal y/o individual (según la voluntad de cada pueblo) mediante la inscripción del dominio en los registros correspondientes, con la participacion directa de las comunidades en el proceso de legalización, para que gocen de esta forma de los derechos de propiedad plena.

El Banco Mundial en su informe numero 27604 HO, publicado en fecha 20 de enero de 2004, remarcaba que el proyecto impulsa la DO 4.20 ya que apoya la demarcación y titulación de tierras ancestrales indígenas y afro – hondureñas en nombre de esos pueblos. En el mismo informe se afirma que, para cumplir con la DO 4.20, un Plan de Desarrollo de los Pueblos Indígenas (PDPI) ha sido preparado por el Gobierno. El documento sigue aclarando que, basándose en la participacion informada de los pueblos involucrados, intentara asegurar que los Pueblos Indígenas no se vean adversamente afectados por el proyecto y que reciban beneficios sociales y económicos culturalmente compatibles.

Solicitud de Inspección

Para: El Secretario Ejecutivo
El Panel de Inspección
1818 H St. NW Washington D.C. 20433 EE. UU.

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2) **Políticas Operacionales Aplicadas**

En fechas 17 de septiembre de 1991, con base en su experiencia con el documento OMS 2.34 y la evolución de las normas internacionales relativas al tratamiento de los pueblos indígenas, el Banco Mundial emitió la Directriz Operativa 4.20 para orientar su personal operativo. La directriz ofrece una orientación de política para asegurar que los pueblos indígenas se beneficien de los proyectos de desarrollo. La DO 4.20 incorpora definiciones de amplio criterio, así como un reconocimiento de los estándares internacionales sobre derechos de pueblos indígenas con énfasis en las estrategias culturales y participativas para un desarrollo apropiado. Su objetivo es asegurarse que el proceso de desarrollo promueva el respeto hacia su dignidad, derechos humanos y singularidad cultural. Específicamente, el objetivo central de esta directriz es asegurarse que los pueblos indígenas no sufran efectos adversos durante el proceso de desarrollo y que reciban beneficios sociales y económicos que sean culturalmente compatibles (párrafo 6)

El Banco utiliza en el caso que nos atañe otras políticas relacionadas con el territorio o hábitat funcional del pueblo Garífuna de Honduras: la OP 4.01 (Evaluación Ambiental) cuyo enfoque se centra en las cuestiones ambientales importantes de un proyecto y la OP 4.04 (Hábitats Naturales) con la que el Banco respalda la protección, el mantenimiento y la rehabilitación de los habitats naturales y sus funciones.

A partir del 1 de julio del 2005 ha entrado en vigor la Política Operacional OP4.10 y las Normas de Procedimiento del Banco BP4.10. Al respecto señalamos que hemos considerado oportuno indicar brevemente también dichas políticas y normas.

3) Dichas políticas han sido diseñadas y vienen a menudos revisadas, para que el Banco, en la ejecución de sus proyectos, respete los estándares y la normativa internacional prevista a tutela de los derechos de los pueblos indígenas, tal como se estipula en los convenios internacionales (Convenio 169 de la Organización Internacional del Trabajo; Convenio sobre la Diversidad Biológica, Proyecto de Declaración de los Pueblos Indígenas de las Naciones Unidas, Proyecto de Declaración Indígena de la Organización de Estados Americanos).

El 30 de julio de 1994 mediante Decreto 26 -94 Honduras ratifico el Convenio 169 de la Organización Internacional del Trabajo sobre Pueblos Indígenas y Tribales. En relación a las tierras el convenio contiene (artículos 13 a 19) una serie de disposiciones, mediante las cuales se reconoce a los pueblos interesados el derecho de propiedad y posesión sobre las tierras que tradicionalmente ocupan, así como la protección especial de los recursos naturales existentes en dicha tierra. El 31 de julio de 1995 del mismo año Honduras también ratifico el Convenio sobre Diversidad Biológica

Estos Convenios definen, reconocen y amparan, normas jurídicas de los intereses del pueblo garifuna que se sustancian en obtener la conservación del territorio ancestral y de los recursos naturales que en el se encuentran para poder satisfacer la necesidad de subsistencia y desarrollo sostenible, siempre enmarcados en el respeto a la cultura y cosmovisión propia del pueblo. Ademas los garífunas anhelan el reconocimiento de todos los derechos especiales, tanto los derechos colectivos, como individuales. En el párrafo relativo al perjuicio actual y potencial que el proyecto acarrea, se aclarara bien la dimensión de la problemática y los reclamos territoriales de las comunidades a través de un recorrido de los antecedentes de los programas de titulación de la comunidad garifuna.

Aquí podemos adelantar que las comunidades garífunas han quedado insatisfechas por los programas de titulación que se han sucedido en varias épocas. Dichos programas han arrojado: la reducción del propio hábitat funcional, la legitimación de invasiones territoriales, el consecuente problema de la presencia de personas no indígenas en las tierras adjudicas a los pueblos indígenas. Por lo tanto los pueblos, acompañados por la organización solicitante, han iniciado un proceso encaminado a la obtención de los títulos de las áreas reclamadas y no tituladas por el Estado. Para tal fin. la Ofraneh y las comunidades afectadas, han presentado tres peticiones ante la Comisión Interamericana de Derechos Humanos CIDH, todas relacionadas con las violaciones de los derechos territoriales, ademas de estar llevando a cabo un proceso de cabildeo para la reforma de la Ley de Propiedad Decreto-84 del 2000. Las comunidades exigen que el proceso de titulación se desarrolle en un marco normativo general que se ajuste a los estándares internacionales que tutelen sus derechos especiales. Ademas se exige que los miembros de las comunidades tengan participación activa no solo a través de la consulta sobre material predefinido sino a través de las presentaciones de propuestas legislativas y reglamentarias incluso en materia administrativa y de propuestas de mecanismos de solución de los conflictos.

Cuanto expresado significa que las comunidades pretenden ser un sujeto activo en la toma de decisión sobre su futuro como pueblo. Frente a los peligros representados por el libre mercado de tierras, el pueblo garifuna ha mantenido el sistema de posesión comunitario de los territorios.

4.) **Violación a las Políticas Operacionales**

El Banco Mundial, lastimosamente, no ha tenido en cuenta los derechos e intereses del pueblo garifuna y, a pesar de cuanto dispuesto en sus manuales operacionales, ha violado sus propias políticas de la siguiente manera:

4.1) *VIOLACION DEL DERECHO A LA CONSULTA*

El Banco ha violado las disposiciones previstas por el párrafo 8 y remarcado por el párrafo 14 a) y c) de la DO 4.20 que establecen:

8. *La política del Banco es que la estrategia para tratar los asuntos referidos a pueblos indígenas debe estar basada en la participacion informada de los propios pueblos indígenas. De esta manera, la identificación de las preferencias locales a través de la consulta directa, la incorporación del conocimiento indígena en los enfoques de los proyectos y la utilización de especialistas desde una etapa inicial son actividades centrales para cualquier proyecto que involucre a los pueblos indígenas y sus derechos sobre recursos naturales y económicos.*

14. *Los prerrequisitos para un plan de desarrollo exitoso de los pueblos indígenas son los siguientes:*
a) *la clave en el diseño de proyectos es la preparación de un plan de desarrollo culturalmente apropiado, basado en la plena consideración de las opciones preferidas por los pueblos indígenas involucrados en el proyecto.*
d) *los patrones locales de organización social, las creencias religiosas y el uso de recursos deben ser tomados en consideración en el diseño del plan.*

Sin lugar a duda podemos afirmar que los expertos del Banco nunca han llevado a cabo programas de consulta preventivas a la redacción del Plan de Desarrollo Indígena. Dicho Plan, así como el Plan Ambiental han sido entregados a la organización poco antes de que tuviera lugar la única reunión de consulta relacionada con el PATH y el

PDI. En aquella ocasión, reunidos en la comunidad garifuna de Sambo Creek en fecha 17, 18 y 19 de diciembre del 2003, los representantes de todas las comunidades garífunas de Honduras suscribieron un documento que sonaba como denuncia firme de cuanto establecido con el PDPI, ademas de proponer varias propuesta alternativas.
Sin embargo el Banco no tomo en cuenta ninguna de esas propuestas. No se consideró ninguna de esas sugerencias ni críticas dirigidas a cuestionar la incongruencia en la aplicación de los mecanismos de titulación previstos en el proyecto a la particularidad jurídica que el pueblo garifuna representa.

En síntesis no se han considerado ninguna de las opciones preferidas por los pueblos involucrados, ni los patrones locales de organización social con la elección del sistema de tenencia colectivo y las repercusiones en termino de exclusión del desarrollo en el caso de apertura al sistema de tenencia individual de tierra.

En fecha 18 octubre de 2003, dos meses antes de la mencionada reunión, se llevo a cabo en San Juan, Tela un taller de consulta sobre el borrador de lo que mas allá será el Decreto 84 – 2000 Ley de Propiedad. En aquella ocasión los representantes de las comunidades levantaron su voz en contra de la emisión de dicha Ley por motivos que se pueden aclarar con la lectura de los documentos anexos elaborados en fase de consulta y cabildeo por los abajo firmantes y apoyados por las consultorías de expertos e Instituciones internacionales.

Al respecto evidenciamos que los solicitantes están bien conscientes que dicha Ley es un acto del Gobierno, fuera de la *jurisdicción* del personal del Panel, pero cabe subrayar que el mismo personal ya sabia que el Gobierno emitiría dentro de poco tiempo una ley territorial clave en los futuros programas de titulación de tierra, ademas ya conocían la inconformidad del pueblo garifuna a esa Ley. Sin embargo, aun a sabiendas de que la Ley de Propiedad se volvería el eje normativo del proyecto PATH, ellos no hicieron mención de esa parte relativa al marco normativo en el que giraría el proyecto. Dicha omisión, y la falta de intervención a través de reuniones de socialización sucesivas, parece absurda y ha engendrado confusión entre las comunidades garífunas. Estas se encuentran frente a dos mecanismos distintos para llevar a cabo los procedimientos de titulación y la solución de los conflictos: el Manual del PATH con el Plan de Desarrollo Indígena y los reglamentos del Banco y lo previsto por la Ley de Propiedad. Ademas ambos instrumentos son inadecuados según el punto de vista del pueblo garifuna y presentan lagunas. A manera de ejemplo señalamos que unos de los reglamentos del PATH que vienen divulgados son considerados solo como borradores según palabras del mismo personal del Banco; las reuniones de consulta sobre las comunidades pilotos se llevan a cabo sin otorgar a los interesados ni siquiera un folleto explicativo respecto al Proyecto (la población garifuna ademas se basa sobre tradiciones culturales orales y hubiera sido apropiado tener reuniones preventivas en las comunidades en conformidad còn dicho patrón cultural).

En la consulta sobre el PATH, llevada a cabo en Trujillo en abril del 2005, en la que se eligieron las comunidades pilotos del proyecto y las áreas protegidas, no se lo proporciono material explicativo a los representantes de las comunidades invitados a la reunión. En aquella ocasión, el señor Ángel Castro invitado como Presidente del Patronato de la comunidad garifuna del Triunfo de la Cruz se rehusó a firmar un documento, con el que los funcionarios gubernamentales buscan consenso sobre la aplicación de los mencionados planes dentro de las comunidades garífunas.

El presidente del Patronato de Triunfo de la Cruz remarcando los peligros para la sobrevivencia de su pueblo y los prejuicios que conllevaría la aplicación de los mecanismos previstos por el Proyecto del Banco, se alejó de la reunión y no quiso mas acudir a ulteriores encuentros sobre el mismo tema. El fue apoyado en su decisión por la totalidad de los miembros de la comunidad que representa y, sucesivamente, por la totalidad de los representantes de varias comunidades.

Finalmente remarcamos que el personal del Banco nunca ha entregado a los miembros de las comunidades los documentos, las informaciones y las capacitaciones necesarias para estar al tanto sobre los mecanismos de ejecución del proyecto. Igualmente la organización solicitante nunca ha recibido copia de documentos clave como el Convenio de Crédito entre el Banco Mundial y el Estado de Honduras. A pesar de esa ulterior violación al derecho de consulta y participacion informada en el proyecto los solicitantes han recogido informaciones suficientes para fundamentar la presente solicitud así como se podrá notar en los párrafos siguientes.

Por los motivos mencionados el Banco Mundial ha violado también las disposiciones previstas por los párrafos 6; 10; 11; 12 y 15 de la Política Operacional 4.10. No cabe duda que se ha establecido que no existe apoyo al proyecto por parte del pueblo garifuna.

En la OP 4.10 se afirma que "el Banco Mundial presta especia atención a la evaluación social y a las actas y el resultado de las consultas previas, libres e informadas con las comunidades indígenas afectadas, como base para determinar si existe dicho apoyo. El Banco no sigue adelante con la tramitación del proyecto si no puede determinar la existencia de dicho apoyo".

4.2) *VIOLACION DEL PARRAFO 15 DE LA DO 4.20*

Ademas el Banco Mundial ha violado las disposiciones prevista por la OMS 2.34 párrafo 5 y DO 4.20 párrafo 15 a) y c) y el párrafo 9 de la Do 4.20 que aquí se reportan.

Subrayamos que el Banco expreso que no brindaría asistencia para ninguna actividad de desarrollo que entrañe a sabiendas la invasión de tierras o territorios de salvaguardia (OMS 2.34; párrafo 5 DO 4.20 párrafo 15 a) y c).

Párrafo 15
a) Marco legal *El Plan deberá contener una evaluación de (i) el estado legal de los grupos involucrados por esta DO, tal, como este reflejado en la constitución, legislación principal y legislación subsidiaria (regulaciones, ordenes administrativas, etcétera) del país; (ii) la habilidad de dichos grupos para obtener acceso al sistema legal y usarlo eficazmente para defender sus derechos. Deberá darse atención particular a los derechos de los pueblos indígenas a usar y desarrollar las tierras que ellos ocupan, a ser protegidos contra y a tener acceso a recursos naturales vitales para su subsistencia y reproducción.*

c) *Tenencia de la Tierra. Cuando la legislación local necesite fortalecimiento, el Banco deberá ofrecer al prestatario asesoría y asistencia para asegurar el reconocimiento legal del sistema tradicional de tenencia de la tierra de los pueblos indígenas. En aquellos lugares donde las tierras tradicionales de los pueblos indígenas, hayan pasado por ley al dominio del Estado y donde sea inapropiado convertir los derechos tradicionales a aquellos de propiedad legal, deberán ser implementados arreglos alternativos para asegurar a largo plazo los derechos renovables de custodia y uso de*

los pueblos indígenas. Estos arreglos deberán tomarse antes de la iniciación de otros pasos del plan que podrían requerir títulos reconocidos de tierras.

9. El prestatario, a través de una gran gama de acciones positivas, deberá asegurar que los pueblos se beneficien de las inversiones para el desarrollo.

Los equipos de evaluación deberán asegurase que las poblaciones indígenas hayan participado significativamente en el desarrollo del plan, como fue descrito en el párrafo 14. Es de particular importancia evaluar propuestas para la regularización del acceso y uso de la tierra.

La violación se concreta en la circunstancia que, como ya hemos señalado en el párrafo anterior, no se ha considerado el diseño del PDI, el estado legal de los grupos involucrados por esta Directiva Operacional, tal como esta reflejado en la constitución, legislación principal y legislación subsidiaria (regulaciones, ordenes administrativas, etcétera) del país. El Plan de Desarrollo Indígena no toma en cuenta de ninguna manera la legislación vigente sobre los pueblos indígenas y los procedimientos legales de titulación colectiva.

En efecto el Plan de Desarrollo Indígena prevé que *el marco normativo contempla la emisión de reglamentos para desarrollar el marco jurídico de protección de pueblos indígenas; ademas de instructivos para la delimitación y demarcación de tierras de posesión ancestra*l (pagina 3 del PDPI).

Al respecto aclaramos que nunca, desde la emisión del PDPI, se han desarrollado reglamentos relativos a la demarcación y delimitación de las áreas reclamadas por los pueblos indígenas los cuales, por lo tanto, seguirían el procedimiento previsto por el Reglamento de Afectación dirigiendo sus solicitudes de ampliación y sus reclamos al Instituto Nacional Agrario. Sin embargo el PDI prevé (véase pagina 12 del PDI) la creación de una Unidad de Asuntos Indígenas con la función de institución encargada de llevar a cabo y monitorear el procedimiento de titulación de tierra de pueblos indígenas. No se comprende como esta última institución se coordinara con el Instituto Nacional Agrario y cual será el procedimiento de titulación que se aplicara.

De todas formas, la emanación de reglamentos contribuiría solo a originar una falta de claridad de la normativa aplicable en detrimento de las reivindicaciones de los pueblos indígenas. Al respecto señalamos que la Unidad Coordinadora de Proyecto del PATH había proporcionado a la OFRANEH un reglamento denominado Metodología Para Determinar y Medir las Tierras a Ser Tituladas a las Comunidades Étnicas – documento elaborado por la Unidad Coordinadora de Proyecto (UCP) del PATH. Después de la denuncia presentada al Banco Mundial donde se criticaba duramente dicho documento, los personeros del B.M y los miembros del PATH, aclararon que se trataba solo de un borrador. Actuaciones como esa aumentan la confusión en los pueblos indígenas y fomentan la idea que los que están coordinando la ejecución del Proyecto no tienen una visión clara y definida de cómo ejecutaran un proyecto de tal magnitud y que reviste una importancia esencial para la sobrevivencia del pueblo garifuna. Esa circunstancia levanta preocupaciones sobre todo con respecto a posibles errores de evaluación de los efectos negativos a largo plazo sobre los pueblos garífunas involucrados en el proyecto.

La mencionada falta de claridad normativa asciende a un caos cuando se pasa a revisar el análisis del marco normativo del PDI (pagina 6 del PDI). Ese manual asombrosamente no contempla la Ley de Propiedad que, estableciendo los mecanismos

de titulación de las áreas ocupadas por los pueblos indígenas y los mecanismos de solución de los conflictos, se destaca como el eje normativo fundamental.

Aprovechamos la ocasión para aclarar que el pueblo garífuna de Honduras está bien concientes que la mencionada ley es un acto del Gobierno y por lo tanto cae fuera de la *jurisdicción* del Panel, pero al mismo tiempo la lógica requiere que es deber del instituto financiero establecer la emisión de los elementos reglamentarios de un proyecto de titulación tan importante en coordinación con la legislación vigente en el país.
La falta de atención y coordinación por parte del Banco y del prestatario, se ha traducido en el desarrollo de dos normativas paralelas y contrastante entre si (los manuales operativos y los reglamentos del Banco y la legislación del Gobierno).

Como ejemplo señalamos que el PDI prevé el arbitraje como instancia para la resolución de los conflictos que tienen como objeto la tenencia de tierra de los pueblos indígenas (pagina 17 del PDI); esa solución, que consideramos inconstitucional en cuanto prevé un único grado de justicia, es distinta respecto a las que prevé la Ley de Propiedad en sus Titulo VI artículos 110 y 111. ¿Cual procedimiento se aplicara? Ademas cabe subrayar que el pueblo Garifuna ya expreso en la fase de consulta su firme rechazo a los mecanismos de solución de los conflictos propuestos por el PATH. Preocupa que se planteen instancias de resolución de conflictos (véase pagina 12 del PDI) que no responden a la realidad social y política en la que viven los miembros de las comunidades; no se puede pretender resolver conflictos que se remontan a decenas de años atrás por medio de Mesas Interétnicas o Procedimientos de Conciliación, Concertación o Mediación donde las disparidades de los intereses representados, elites de poder por un lado y pueblos indígenas por el otro, no pueden que desembocar en resoluciones totalmente desfavorable para los pueblos indígenas.

El PATH, en cambio de destacarse como proyecto a la vanguardia en la titulación de tierra para el amparo que brinda a los pueblos indígenas involucrados, mas bien afecta el camino de dichos pueblos hacia el reconocimiento de sus derechos territoriales en cuanto genera confusión con respeto a los procedimientos de titulación y a la legislación aplicable, a las instituciones encargadas de otorgar los títulos y a las instancias y procedimientos designados para solucionar los conflictos.

Por otro lado, subrayamos que no se ha tomado en cuenta, en la redacción del PDI del Proyecto, de la *real habilidad* de los pueblos indígenas y negros para obtener acceso al sistema legal y usarlo eficazmente para defender sus derechos. No se hizo mención de ningún estudio que estableciera el nivel de acceso al sistema legal domestico del pueblo garífuna Además no se tomo en consideración la circunstancia que la imposibilidad para los garifuna de obtener justicia en relación a su reclamos territoriales a través del sistema judicial local, les ha obligado a acudir a instancias internacionales como ultimo intento para solucionar sus problemas. En octubre del 2003, o sea antes que se socializara en Sambo Creek el PATH, la Ofraneh en representación de los pueblos garífunas de Honduras presento ante la Comisión Interamericana de Derechos Humanos una petición, con la que se denunciaba la violación de sus derechos territoriales por parte del Estado de Honduras y se pedía el reconocimiento del territorio reclamado. La Comisión desgloso la peticiones en tres casos, registrándolos bajo los números 1118/03 Comunidad Garifuna de Punta Piedra vs. Estado de Honduras; 1119/03 Comunidad Garifuna de Cayos Cochinos vs. Estado de Honduras; 906/03 Comunidad Garifuna de Triunfo de la Cruz vs. Estado de Honduras. EL 18 de octubre del 2005 tuvo lugar una audiencia pública en la sede de la Comisión Interamericana de Derechos Humanos con objeto de la admisibilidad de la petición numero 906.

Sucesivamente a la audiencia se presento una petición de medida cautelar con objeto el congelamiento de las transacciones sobre la tierra en reclamo, relativamente a las comunidades garífunas asentadas en la zona de la Bahía de Tela. En dicho documento, así como en la audiencia, se alerto a la Honorable Comisión de los potenciales prejuicios al procedimiento de ampliación, saneamiento y de reivindicación territorial (uso y explotación de los recursos naturales presentes en el territorio) que la ejecución del PATH entraña. Sin embargo ninguno de los encargados del Proyecto ha evidenciado las mencionadas circunstancias.

Por los motivos mencionados el Banco Mundial ha violado también las disposiciones previstas por el párrafo 5, 16 y 17 de la Política Operacional 4.10

4.3) *VIOLACION DE LA OP 4.01*

A pesar de que en su Manual Operativo de Evaluación Ambiental los expertos del Banco Mundial reconocen las problemáticas que afectan la tenencia de tierra del pueblo garifuna, sobre todo en relación a la circunstancia del traslape entre áreas protegidas y territorios reclamados por las comunidades no se establecen hipótesis de elaboración de contrato de manejo o, por lo menos, de co – manejo que restituirían a los garífunas la potestad sobre su hábitat funcional que ellos mismo han preservado por siglos. La demarcación de los límites acuáticos no se esta efectuando y no hay conocimiento de medidas dirigidas a eliminar o por lo meno menguar las presencias de instituciones gubernamentales en la gestión de las áreas protegidas a favor de la presencia permanente de los miembros de las comunidades. En cambio, la casi totalidad de las Ongs y de las instituciones que el manual del PATH señala como encargadas del manejo de las áreas protegidas, no contemplan la presencia de elementos indígenas y no están en línea con la cosmovisión de dichos pueblos. Reenviamos al párrafo 7 para un análisis del traslape entre territorios reclamados y áreas supuestamente protegidas, citando como ejemplo problemática originada por el área protegida Sierra Rió Tinto

4.4) *VIOLACION DE LA OP 4.04*

Finalmente señalamos que el PATH no ha tenido en cuenta la importancia de los habitats naturales y su interrelación con las comunidades garífunas que ocupan dichos ambientes.

5.) **Prejuicio sufrido por el pueblo Garifuna**

El prejuicio sufrido por el pueblo Garifuna se concreta en el daño actual y potencial que el PATH entraña para el seguimiento del proceso de reivindicación y reconocimiento del territorio del pueblo garifuna, o en otros términos reclamos de sus derechos territoriales. El prejuicio potencial ulterior se concreta en el serio riesgo de la atomización del titulo colectivo de las comunidades a favor del titulo individual, contrariamente a la elección sobre el sistema preferido de tenencia de tierra efectuada por el pueblo garifuna en su totalidad.

Consideramos que la acción y omisión que determina cuanto dicho es responsabilidad del Banco; el nexo de causalidad se sustancia en la circunstancia que si el BM no hubiera implementado dicho plan las comunidades no sufrirían y no se verían expuestas a los mencionados prejuicios y seguirán su proceso de reclamo.

Para poder comprender la entidad y el fundamento del prejuicio que la ejecución del PATH implica, hace falta recurrir, aunque brevemente el historial del pueblo garífuna y su lucha para la defensa y el reconocimiento de sus derechos y de su territorio.

Los antecedentes históricos demostraran la incapacidad del Estado de Honduras para la implementación de un sistema normativo dirigido a la tutela efectiva del pueblo Garifuna.

La sociogénesis del pueblo garifuna se remonta a mediados del siglo XVII cuando náufragos de un barco cargado de africanos arribaron a la isla de San Vicente donde se unieron al pueblo indígena Kalinaku.

Debido a las frecuentes luchas emprendidas en contra de los invasores de turno, los Garífunas, considerados como una amenaza para el sistema colonial, fueron desplazados a la isla de Roatán.

Llegados a Roatán en 1797, el Intendente Español Ramón de Anguiano vio la oportunidad de repoblar la ciudad de Trujillo, la cual había permanecido deshabitada desde 1643 a 1780, después de haber sido saqueada repetidas ocasiones por los piratas ingleses, y destruida finalmente por el puritano William Jackson. Por lo tanto los garífunas se establecieron en la ciudad de Trujillo. Sucesivamente, debido a los vaivenes políticos que se suscitaron como consecuencias de la guerra de independencia que se dieron en América a comienzos del siglo XIX, los garífunas abandonaron la ciudad de Trujillo y poco a poco fundaron aldeas a lo largo de la costa del caribe Centroamericano.

Para aquel entonces la costa se encontraba despoblada, dado que sus habitantes originales, los Pech, habían optado en su gran mayoría por asentarse tierra adentro, debido a las presiones que ejercieron sobre ellos los Miskitos, los cuales practicaban el esclavismo con los pueblos asentados a lo largo de toda la costa caribe de Centroamérica.

Es para 1860 que comienzo el éxodo de los Olanchanos a la costa norte, instalándose en las zonas de la Ceiba, el Porvenir y Armenia. Los garífunas compartieron con ellos sus secretos sobre el comercio, introduciéndolos en el negocio que años después terminara siendo dominado por los inmigrantes Sicilianos, los cuales no tardaron en apoderarse de la compra y venta de bananos para los mercados del sur de los Estados Unidos.
Es para las primeras décadas del siglo XX cuando se comienza un paulatino reconocimiento del territorio garifuna, por parte de la administración de Manuel Bonilla, el cual extendió un titulo de reconocimiento sobre las comunidades de cristales y Río Negro el cual incluía desde Punta Caxinas hasta Silin, otorgándole plenas concesiones de tierra a la Trujillo Railroad Company. De igual manera se les concedieron títulos de ocupación a las comunidades del municipio de Iriona, donde se les reconocía la propiedad a las comunidades garífunas hasta el Rió Sico.

En aquella época se le titularon y registraron, a las comunidades garífunas, terrenos como ejidos. Ya en aquel entonces se le titulo colectivamente el territorio. El primer ejemplo de titulo ejidal colectivo, con los requisitos de inembargabilidad e inalienabilidad, se remonta al 1905 y fue otorgado a la comunidad de Iriona. Cabe remarcar que testimonios orales relatan que el sacerdote José de Subirana, en el siglo VXIII, conseguí un titulo comunitario para los pueblos garífunas que abarcaba la franja costera desde la comunidad de San Juan de Tela hasta Trujillo.

En los años sesenta y setenta, en el pleno auge de las reformas agrarias en Latinoamérica, las leyes agrarias emitida por el Estado reconocieron la particularidad jurídica representadas por los pueblos indígena y garífuna y legitimaron el sistema de tenencia de tierra colectiva, propio de las etnias, según un enfoque proteccionista.

Sin embargo fue en aquel tiempo que se originaron las primeras invasiones del territorio garifuna determinando conflictos, inseguridad y problemas que se han agudizado en la época actual. En las décadas de los 90 se llevó a cabo un programa de titulación el cual, una vez terminado, dejo totalmente insatisfecha las 46 comunidades garífunas de Honduras.

En efecto un análisis sencillo acredita que, los títulos emitidos según el programa, cubrían la misma cantidad de tierra titulada a comienzos de siglos, sin tener en cuenta el considerable incremento demográfico del pueblo. No se le reconoció al pueblo garifuna la propiedad sobre su hábitat funcional.

A partir de aquella ocasión, las comunidades garífunas en su conjunto, comenzaron un proceso dirigido a obtener:
a) el reconocimiento legal del propio hábitat funcional;
b) el saneamiento de su territorio; o sea que el Estado pagara las mejoras a los invasores foráneos para efectuar el desalojo y restituir la tierra.
Esas exigencias del pueblo garifuna se han traducido en lo concreto en la presentación de innumerables solicitudes de ampliación del titulo comunitario. La casi totalidad de las comunidades reclamaron el respeto de sus derechos territoriales. La medida se revelo insuficiente.

Una muestra de las solicitudes de ampliación, presentados por las 16 comunidades asentadas en la zona de Iriona, resalta que ellas pidieron 27.600 hectáreas y se le titularon solo 8,580 hectáreas. El Instituto Nacional Agrario declaro que no se le titulo la tierra ocupada por foráneos - excluyendo así *ab origine* cualquiera hipótesis de saneamiento - y las tierras comprendida en la zona de reserva ambiental indicada con el nombre de Reserva Rió Tinto.

La Área protegida es indicada en el Manual Ambiental del Proyecto de Administración Tierra en Honduras (pagina 25 tabla 7 numero 4) como Reserva Forestal Sierra Rió Tinto; esa zona abarcaría la superficie de 69.487 hectáreas y tendría el apoyo institucional de la ONG ambientalista conocida como MOPAWI, totalmente extraña al pueblo garifuna y alejadas de sus intereses y cosmovisión. Ademas esa área aun no ha sido reconocida legalmente como Zona Protegida, ningún Decreto ha sido emitido al respeto.

Esa circunstancia remarca la violación de sus políticas operacionales cometida por los operativos del Banco; cualquier proyecto de titulación que prevea la entrega de zona bajo reclamo del pueblo garifuna (en cuanto constituyen su hábitat funcional) a ONGs o particulares no indígenas, representa un **grave perjuicio para el pueblo garifuna y una seria violación de sus derechos.** Por lo tanto la implementación del proyecto generaría un deterioro importante en comparación con la que hubiera prevalecido de no realizarse el mismo.
En ese ámbito remarcamos que parte del territorio reclamado por 28 de las 46 comunidades se encuentra dentro de árcas protegidas o en su zona de amortiguamiento.
La Ofraneh ha acompañado las comunidades en todo ese procedimiento y apoyado sus reivindicaciones.

Frente a la mencionada imposibilidad de solución de los conflictos a nivel nacional, a causa de la reconocida dificultad de acceso al sistema judicial y por el hostigamiento sistemático del poder judicial, la Ofraneh, como ya hemos mencionado, tuvo que acudir a las instancias internacionales.

En el 2003 la organización presento ante la Comisión Interamericana de Derechos Humanos, tres casos emblemáticos relacionados con el reconocimiento de los derechos territoriales.
También en este caso las actuaciones del PATH prejuzgan y van a incidir negativamente sobre el proceso de reclamación de las comunidades y sometido a la jurisdicción de un tribunal internacional. Es suficiente subrayar que parte de la reserva Punta Izopo, reclamada por la mencionada comunidad del Triunfo de la Cruz, en el diseño del Banco ya ha sido entregada a una ONG externa a la comunidad.

En síntesis el Banco Mundial perjudica al pueblo garifuna estableciendo de antemano la entrega de su territorio a personas ajenas, ademas se dictan medidas que favorecen la atomización del titulo comunitario. Ademas es fundado el riesgo que la falta de claridad sobre los procedimientos aplicables para la titulación y la legislación relativa, originada por los mecanismos propuestos por el PATH, paralice los avances de los reclamos territoriales.

Dichos prejuicios se arraigan en las violaciones a la Directriz Operacional y demás políticas operacionales, las cuales han sido analizadas en el párrafo 4 de la presente solicitud. Los daños actuales y potenciales mencionados se destacan como consecuencia del incumplimiento por parte del Banco de las políticas y procedimientos operativos relacionados con el diseño, evaluación e implementación del proyecto.

6.) **Gestiones de los solicitantes, anteriores a la presentación de la solicitud**.
Antes de llegar a la decisión de presentar la presente solicitud la Ofraneh y las comunidades afectadas han llevado a cabo una serie de gestiones dirigidas hacia un dialogo constructivo con las instituciones involucradas en el proyecto.
La Ofraneh, después de las reuniones de consulta, en fecha 22 de agosto del 2005, presento una denuncia a la Administración del Banco Mundial exponiendo su queja y señalando las violaciones a la DO 4.20. El Banco recibió la denuncia en fecha 26 de agosto del 2005 y enseguida invito a los representantes de la Ofraneh a una reunión que se llevo a cabo en Tegucigalpa el 21 de septiembre del 2001. A la reunión asistieron exponentes del Banco y de la Ofraneh. La Ofraneh expuso sus resquemores y preocupaciones y entablo sus quejas; el Banco aclaro que existían provisiones específicas para el cumplimiento de la política de salvaguardas sobre Pueblos Indígenas, tales como la cláusula 3.11 al Convenio de Crédito. La cláusula especifica que en las áreas de influencia del proyecto no se demarcaran físicamente o titularan tierras adyacentes a tierras de pueblos indígenas a no ser que se sigan procedimientos que velen por los derechos de estos, debidamente consultados con las partes afectadas de manera satisfactoria para el Banco Mundial e incorporados en el Manual Operativo del Proyecto.

Con telefax del 20 de octubre del 2005 el señor Walter Benjamín resumía lo acontecido en la reunión e identificaba las sugerencias específicas de la Ofraneh: (i) que se profundice el respeto y transparencia del proceso de socialización del mismo (ii) que sean las comunidades mismas las que decidan si participan o no en el PATH a través de su procedimiento de toma de decisión interna (iii) que solicite una reunión tripartita con la participacion del Gobierno, dicha reunión se fijaba para la fecha 04 de noviembre.
Con nota del 25 de octubre del 2005 la Ofraneh contestaba que el proyecto PATH ha venido causando resquemores y fomentando el divisionismo entre el pueblo garifuna y manifestaban en contra del tono de la correspondencia del señor Benjamín McDonald, señalando que la inconformidad del pueblo garifuna no esta dirigida solo hacia la Ley de Propiedad, como se insinuaba en la carta, sino que hacia el PATH el cual violenta la Directriz Operativa 4.20.

Finalmente se expresaba la determinación de elevar una solicitud al Panel de Inspección. El Banco Mundial, en persona del señor Jorge Muñoz, respondía con telefax del 27 octubre, subrayando que tenia la mejor predisposición de comprender en mayor detalle las preocupaciones de las comunidades y señalaba se de, hora y lugar de la reunión tripartita, con la Ofraneh, Banco Mundial y una delegación del Gobierno en La Ceiba el 4 de noviembre del 2005.

La Ofraneh, con telefax del 31 de octubre confirmado por correo electrónico el 3 de noviembre del 2005, comunicaba su participacion a la reunión.

Sin embargo, el día 4 de noviembre del 2005, en el lugar establecido para llevar a cabo la reunión, se presentaron representantes de la Mesa Regional, institución no reconocida por la Ofraneh y el pueblo garifuna y ajena a las instituciones, Gobierno y Banco Mundial, con las cuales la organización estaba dialogando. Por lo tanto ella envió un telefax al Banco con el que remarcaba su perplejidad y desacuerdo para la manera de organizar el dialogo entre instituciones, subrayando la falta de seriedad de las mismas. Ademas la presencia de personas ajenas, debería de entenderse como intento de alteración del procedimiento de solución por parte de los agentes involucrados. Sin embargo la Ofraneh daba su disponibilidad para una ulterior reunión antes de enviar la solicitud de inspección. El Banco, en persona del señor Benjamín, con nota del 18 de noviembre del 2005, contesto remarcando que el dialogo relacionado con el desarrollo del Proyecto debe de llevarse a cabo también con los exponentes de la Mesa Regional. La señora Miriam Miranda, de la junta directiva de la Ofraneh, en una platica sostenida con el señor Muñoz en fecha 4 de noviembre, subrayó la ilegalidad de la formación de la mencionada Mesa, la cual ha sido creada a pesar del desacuerdo de las comunidades, no fue elegida por las comunidades, no es órgano representativo de las mismas y surge de un borrador (la mencionada Metodología) y no de un documento oficial. Cabe remarcar que los miembros de la Mesa Regional no se pueden considerar como *otros representantes Garifuna,* así como les describe el señor Benjamín McDonald en su nota del 18 de noviembre de 2005.

Por lo tanto la Ofraneh y las comunidades garífunas, desconociendo la representatividad de una institución involucrada en el dialogo con el Gobierno y con el Banco, considerando que hicieron lo posible para encontrar una solución a las problemáticas que el Proyecto Administración de Tierra de Honduras conlleva, tomaron la decisión de enviar la presente solicitud.

Considerando cuanto expresado podemos afirmar sin ninguna duda que el contenido del presente acto ha sido puesto en conocimiento del Banco los solicitantes.

7) **Respuestas insatisfactorias del Banco Mundial**

Las soluciones dada por el Banco Mundial son insatisfactoria porque, en consideración de los antecedentes, no ofrecen ninguna medida o solución concreta a corto plazo, para encaminar el proceso de titulación según las preferencias elegidas por los miembros de las comunidades y dando seguimiento al proceso de reivindicación de su territorio que se remonta a una década atrás. La ejecución del PATH peligra la supervivencia del mismo pueblo garifuna que no puede conformarse a soluciones que no sean basadas sobre una concreta voluntad de resolver los conflictos y reconocer los derechos sobre la tierra que ancestralmente les pertenece.

8) Medidas tomadas por los solicitantes

Finalmente ya hemos mencionado las medidas para resolver nuestro problema dirigidas a acudir las instancias nacionales (trabajo de cabildeo y de incidencia política para lograr los enmiendas de la Ley de Propiedad; presentación de casos ligados con la tenencia en los tribunales domésticos) e internacionales (presentación de tres peticiones a la Comisión Interamericana de Derechos Humanos para obtener el reconocimiento de sus derechos territoriales).

Conclusiones

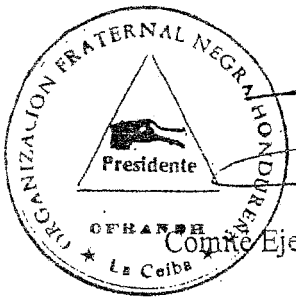
Entonces, consideramos que las acciones y omisiones del Banco Mundial mencionadas anteriormente, las cuales son contrarias a las políticas o normas de procedimiento indicadas, han afectado (con la violación del derecho de consulta y las incongruencias y desacuerdos provocada a través de la emanación de normas operativas sobre la titulación de tierra indígena que no han considerado el marco normativo vigente y la real situación de acceso a la justicia del pueblo garifuna, así contaminando y tornando mas complejo el proceso de reivindicación de su territorio) y afectaran, por medio de los prejuicios potenciales analizados en el párrafo 6, en forma sustancial y negativa los derechos del pueblo garifuna. Por lo tanto solicitamos que el Panel recomiende al Directorio Ejecutivo del Banco que se lleve a cabo una investigación.

Se anexan los siguientes documentos:

1) Comunicado Publico, respecto al PATH
2) Denuncia Ofraneh violaciones DO 4.20 (con anexos) del 22 agosto del 2005
3) Carta Banco Mundial 14 de septiembre del 2005
4) Minuta reunión Ofraneh – Banco Mundial del 21 de septiembre del 2005
5) Carta Banco Mundial del 20 de octubre del 2005
6) Carta Ofraneh del 25 de octubre del 2005
7) Carta Banco Mundial del 27 de octubre del 2005
8) Carta Ofraneh del 31 de octubre del 2005
9) E mail Ofraneh del 3 de noviembre del 2005
10) Carta Ofraneh del 4 de noviembre del 2005
11) Carta Banco Mundial del 18 de noviembre del 2005
12) Certificaciones deposito peticiones a la Comisión Interamericana de Derechos Humanos.
13) Constancias y Puntos de actas de las comunidades Garifunas, presentando su posición respecto al PATH.

Autorizamos que se haga pública esta Solicitud

Firmas.....



Luis Fernandez
Comite Ejecutivo OFRANEH

Gianluca Gaia
Apoderado Legal Ofraneh y Triunfo de la Cruz

Maurizio De Martino
Apoderado Legal Triunfo de la Cruz

Comite Ejecutivo

Comite Ejecutivo

Comite Ejecutivo

Annex 1

ORGANIZACION FRATERNAL NEGRA
HONDUREÑA, OFRANEH
Barrio Independencia, Calle al Cementerio, Frente a Pulpería Vecinos y Amigos,
Apartado Postal 341, Telefax: 00 (504) 443-3580, E-mail:ofraneh@laceiba.com
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PLANTEAMIENTO DE LAS COMUNIDADES GARIFUNAS ANTE EL BANCO MUNDIAL
COMUNICADO PUBLICO

Ante la destrucción de los títulos comunitarios Garífunas, a través de la aplicación de la nueva Ley para la Reducción de la Pobreza mediante la Normalización de la propiedad, alias la Ley de Propiedad; la Organización Fraternal Negra Hondureña, OFRANEH, señala la participación directa del Banco Mundial, por medio del financiamiento del proyecto PATH.

Esta intervención del Banco Mundial (BM) en el destino de nuestro pueblo, contradice su Operativa Direccional 4.20, la cual continua vigente y señala la necesidad de efectuar consultas con los pueblos que puedan ser afectados por los proyectos de ese organismo.

Desafortunadamente el BM hace casi omiso a sus propias políticas de salvaguarda, y procede a la atomización de nuestro territorio colectivo, prestándose a una supuesta normalización del concepto de propiedad, que en el caso de nuestro pueblo Garífuna es nada más que imponer el concepto de propiedad individual en detrimento de los territorios que hemos habitado durante más de dos siglos.

En una consulta con nuestras comunidades realizada en San Juan Tela, el 25 y 26 de octubre del año 2003, los Garífunas llegamos a la conclusión que la Ley de Propiedad impuesta por el BM y el Estado de Honduras era contraproducente para el bienestar y futuro de nuestro pueblo.

El Congreso nacional al aprobar la ley ignoro nuestros resquemores y procedió a dar luz verde para imponer el concepto de propiedad individual, siendo éste para nuestras comunidades el fin de la coherencia territorial y por ende la atomización de nuestros territorios.

El mes pasado a instancias del gobernador político del gobernador político de Colón, el SR. Juan Gómez, se efectuó una reunión en la Ciudad de Trujillo, donde de nuevo las comunidades expresaron sus resquemores a la disolución de los títulos comunitarios.

La Ley de Propiedad quizás puede ser útil para campesinos y personas asentadas en predios urbanos, los cuales carecen de cualquier tipo de reconocimiento jurídico sobre las propiedades que ocupan. Para los pueblos indígenas y negros no es más que la imposición de la individualización de la propiedad, situación ajena a nuestras cosmovisiones.

Hacemos un llamado al Banco Mundial para que reconsidere de inmediato el descalabro que esta cometiendo y respete sus operativas direccionales, ya que de otra forma la

"Normalización de la Propiedad" acarreará a corto plazo un mayor índice de pobreza, pues la asimetría existente en la economía nacional, expondrá a nuestra población a ser víctimas de las aves de rapiña del sistema bancario y los usureros de turno que por medio prestamos a altas tasas de interés, arrebatarán nuestras moradas y hábitat funcional de las comunidades.

La OFRANEH exige un cese inmediato a las actividades del PATH en nuestro territorio, y que una vez por todas se respete el derecho a la consulta previa mente informada, al mismo tiempo que dejen de utilizar payasos Garifunas como aval a sus pretensiones, y de igual manera le hacemos un llamado a la iglesia católica y a la pastoral social Garifuna que dejen de prestarse a los intereses del estado y al de los organismos internacionales de desarrollo en contra de la vida del pueblo Garifuna.

Dado en Tegucigalpa, el 28 de abril de 2005

Sambo Creek

Limón Colón

Wilfredo [illegible]

San [illegible]

Secundino Torres

Triunfo de la Cruz

Gilma Lambert

Travesia Cortes

21

Masca

Juana Chitten

Bajamar

PATRONATO DE BAJAMAR

JULIO 11 2004 AL 2006

Annex 2

BANCO MUNDIAL

OBJETO: DENUNCIA Programa Administración Tierras de Honduras (PATH) POR VIOLACION DO 4.20 Y DO 4.01

La Organización Fraternal Negra Hondureña, organización representante de todo el pueblo garífuna de honduras, presenta la presente denuncia sobre las base de las siguientes:

CONSIDERACIONES:

1) El Banco Mundial publicó en fecha 17 de septiembre de 1991 la Directriz Operativa 4.20 para orientar su personal operativo. La directriz ofrece una orientación de politica para asegurar que los pueblos indígenas se beneficien de los proyectos de desarrollo y evitar o mitigar efectos potenciales adversos en los pueblos indígenas, causados por actividades apoyadas por el Banco.

2) El Programa de Administración de Tierra en Honduras (PATH), financiado por el BM, es un proyecto encaminado a garantizar la estabilidad y seguridad jurídica necesaria sobre el bien tierra para resolver el problema endémico ligado a esa (solamente un 30% de la tierra del país están registrada y de estas apenas un tercio posee referencia catastral); en ese marco, implica actividades dirigidas al reconocimiento jurídico de los derechos sobre tierras y territorios de los Pueblos Indígenas. El Banco Mundial en su informe numero 27604 HO publicado en fecha 20 de enero de 2004, remarca que el proyecto impulsa la OD 4.20 ya que apoyara la demarcación y titulación de tierras ancestrales indígenas y afro – hondureñas en nombre de esos pueblos. En el mismo informe se afirma que para cumplir con la OD 4.20, un Plan de Desarrollo de los Pueblos Indígenas (PDPI) ha sido preparado por el Gobierno. El documento sigue aclarando que basándose en la participacion informada (remarcan los profesionales del BM que necesitan documentos sobre un proceso de consulta el PDPI) intenta asegurar que los Pueblos Indígenas, no se vean adversamente afectados por el proyecto y que reciban beneficios sociales y económicos culturalmente compatible.

3) Sin embargo, a pesar de cuanto previsto por la OD 4.20 y del proceso de consulta llevado a cabo por el Gobierno sea con respecto a la Ley de Propiedad, punta de lanza del marco normativo en el que se mueve el proyecto, que en relación al PATH, ha sido inadecuado y, mas que todo, ninguna de la sugerencias brindada por los pueblos Garífunas de Honduras ha sido tenida en cuenta por el Gobierno en la redacción de las medidas de ejecución del proyecto. Dicha circunstancia azota las expectativas de justicia del pueblo garífuna y por lo tanto las comunidades, viéndose amenazadas en su misma sobreviviencia como pueblo, en consideración del gran y vital apego al territorio ancestral y los recursos naturales de esas áreas, y sin poder excluir el surgimiento de problemas de gobernabilidad ligados con dichos acontecimientos, someten a la atención de los funcionarios del Banco la presente denuncia fundamentada en las siguientes violaciones:

A) VIOLACION DEL PARRAFO 8 DE LA DO 4.10 Y CONTRARIEDAD DE LA LEY DE PROPIEDAD A LOS ESTANDARES DE DERECHO INTERNACIONAL RELACIONADOS CON LOS PUEBLOS INDIGENAS

La política del banco es que la estrategia para tratar los asuntos referidos a pueblos indígenas debe estar basada en la participacion informada de los propios pueblos indígenas. de esta manera, la identificación de las preferencias locales a través de la consulta directa, la incorporación del conocimiento indígena en los enfoques de los proyectos y la utilización de especialistas desde una etapa inicial son actividades centrales para cualquier proyecto que involucre a los pueblos indígenas y sus derechos sobre recursos naturales y económicos

La presente violación se concreta en la circunstancia que no hubo una verdadera consulta directa con los pueblos interesados al proyecto y de ninguna manera se incorporaron los conocimiento y las costumbres de indígena en el enfoque del proyecto.

No se han tenido en cuenta las observaciones del pueblo garífuna expresada en la reunión de consulta sobre la Ley de Propiedad, llevada a cabo en San Juan Tela en fecha 25 de octubre del 2003; eso ha originado la aprobación de un marco normativo no adecuado a las exigencias del

pueblo garífuna y contrastante con la normativa internacional sobre los derechos territoriales indígenas.
En efecto el instrumento dispuesto por el poder legislativo para concretar el marco legal alrededor del proyecto PATH ha sido el Decreto 84 -2004 conteniente la Ley de Propiedad.
Esa Ley ha sido duramente criticada ya en su fase embrional por el pueblo garífuna que entreveia los peligros del cuerpo normativo que se le proporcionaba como panegírico a los problemas de tenencia de tierra que agobian el país. En la única reunión de consulta sobre la nueva ley, llevada a cabo en la comunidad garífuna de San Juan Tela, las fuerzas vivas se opusieron firmemente a las introducciones en el sistema de tenencia de tierra postuladas por la mencionada ley en consideración de que esa por un lado cristalizaría las situaciones de violaciones de derechos territoriales ya existente (legitimando de tal manera las invasiones de foráneos en las tierras titulada en dominio pleno a favor de las comunidades garífunas) y por otro lado empujaría hacia una dinamización del mercado de la tierra a favor exclusivo de las elites dominantes en desprecio del derecho consuetudinario indígena, reconocido a nivel internacional y domestico, y violentando las normas pétricas que tutelan la posesión de la tierra del pueblo hondureño como se ha dado ejemplo en el caso del desarrollo del Proyecto Bahía de Tela, llevado a cabo en abierto desprecio del articulo 107 de la Constitución de la Republica. El aspecto mas preocupante es que la mencionada ley, aprobada a pesar de las duras criticas remarcadas en la fase de consulta, conforma el marco normativo al cual se ajusta la política operacional del Banco Mundial, ente prestatario de los fondos del proyecto PATH, distorsionando de tal manera el enfoque "proteccionista" de la Política Operacional 4.10 del BM, relacionada con los pueblos indígenas. En septiembre de 2004, el Banco y su Junta de Directores reconoció que "los pueblos indígenas pueden ser especialmente vulnerables a proyectos que les afecten debido a sus especiales vínculos colectivos con sus tierras, territorios y recursos naturales"

Por lo tanto, en el caso que nos ataña el Gobierno de Honduras viola las disposiciones dictadas por el BM en cuanto adopta criterios para aplicar una legislación que, si por un lado ofrece una apariencia lexical conforme a los estándares internacionales del derecho indígena en el concreto se trasnmuta en un instrumento de precisión para desbaratar cualesquier reclamo territorial de los pueblos indígenas. El Estado lleva a cabo esa operación de cirugía legislativa realizando un corpus normativo desarticulado, con varios normas que se contradicen entre si, y no apto para la tutela de los derechos de los pueblos indígenas. Al respecto señalamos que si por un lado con el articulo 93 de la mencionada Ley el Gobierno reconoce y sanciona la importancia de los derechos ancestrales de los pueblos indígenas, sin embargo establece normas que afectan directa y duramente los mismos pueblos indígenas. El articulo 97 de la mencionada Ley, el cual dispone que *el tercero que tenga titulo de propiedad en tierras de estos pueblos y que ha tenido y poseído la tierra amparada por ese titulo, tiene derecho de continuar poseyéndola y explotándola,* legitima las invasiones de foráneos en territorio indígena. Ese articulo de la ley violenta directamente los derechos consuetudinarios a las tierras arriba mencionados y asombra que pueda ser una de las regulas jurídica que constituye el marco normativo de un proyecto apoyado por el BM el cual en sus recientes reuniones ha definido los mencionados derechos como *los patrones de uso comunitario prolongado de la tierra y de los recursos de acuerdo con las leyes consuetudinarias, los valores, las costumbres y las tradiciones de los pueblos indígenas, incluido el uso estacional, mas que el titulo jurídico formal sobre la tierra y los recursos expedido por el Estado.*

El articulo 100 de la Ley, *estableciendo que las mismas comunidades podrán poner fin a este régimen comunal, autorizar arrendamientos a favor de terceros o autorizar contratos* de otra naturaleza que permitan la participación de la comunidad en inversiones que contribuyan a su desarrollo, inclusive legitima la atomización del titulo comunitario otorgados a las comunidades, borrando de un solo golpe todos los avances alrededor de los derechos ancestrales colectivos, ultimo baluarte para la salvaguardia y sobrevivencia de una minoría étnica, rematando de tal manera las aspiraciones y esperanza de todo un a una digna en el respecto de su propia cultura y valores. Dicho articulo ha desplegado ya sus nefastos efectos, alentando de manera desmesurada los intentos de compara ilegitima de tierra en todas las comunidades Garífunas de la costa.

B) VIOLACION DEL PARRAFO 14.A DE LA DO 4.10

Los prerrequisitos para un Plan de Desarrollo exitoso de los pueblos indígenas son las siguientes":

a. *La clave en el diseño de proyectos es la preparación de un plan de desarrollo culturalmente apropiado basado en la plena consideración de las opciones preferidas por la población indígena.*
c. *Las instituciones responsables de la interacción del gobierno con los pueblos indígenas deberán poseer la experiencia social, técnica y legal necesaria para llevar a cabo las actividades de desarrollo propuestas. Los arreglos de implementación deberán mantenerse en un nivel simple. Estos normalmente deberán involucrar a las instituciones existentes apropiadas, organizaciones locales y organizaciones no gubernamentales con expertos en asuntos relacionados con los pueblos indígenas.*
d. *Los patrones locales de organización social, las creencias religiosas y el uso de recursos deben ser tomados en consideración en el diseño del plan*

La sobredicha violación se concreta en la circunstancia que el Gobierno no ha considerado ninguna de las observaciones del pueblo garífuna en el diseño del PDI en cuanto dicho Plan ha sido redactado sin ninguna consulta con los pueblos indígenas o con los lideres de las federaciones que les representan. Solo sucesivamente a su redacción, el PDI ha sido entregado a los miembros de las ONGs, como en el caso de la OFRANEH la cual socializo su contenido con representantes de las 46 comunidades que conforman el pueblo garífuna de Honduras, reunidos en asamblea plenaria en Sambo Creek el 17 de diciembre del 2004.

Las observaciones y sugerencias de las fuerzas vivas de las comunidades y de los miembros de la federación, que fueron recogidas en un Informe - Memoria anexado al presente documento, jamás han sido analizadas y utilizadas por los representantes del PATH en Honduras. Por lo tanto, el reglamento de la Ley de Propiedad, recién emanado en el marco del Plan de Desarrollo Indígena del PATH en desprecio de las sugerencias mencionadas, denominado Metodología para determinar y medir las tierras a ser tituladas a las comunidades étnicas – documento y elaborado por la Unidad Coordinadora de Proyecto (UCP) del PATH, presenta las incongruencias normativas que ya fueron objeto de critica por parte de los pueblos indígenas.
Por ejemplo valuamos como inadecuados los mecanismos de resoluciones de los conflictos sobre la tierra instituidos con el mencionado reglamento (mesa interétnica, conciliaciones etc.)
Los expertos de la UCP, en el documento arriba citado, afirman que "*en la generalidad de las comunidades étnicas que poseen un titulo de dominio ancestral, se manifiesta el hecho que la totalidad de las tierras que por tradición reconocen como propias, no concuerda con la cabida indicada en sus títulos, pero tal situación no fue un obstáculo para el reconocimiento de linderos y mediciones efectuadas por el INA a ciertas comunidades étnicas, en especial aquellas donde las áreas denunciadas colindaban con otras tribus o con Terreno Nacional; su pretensión no afectaba sitios privados colindantes o predios legalmente adquiridos por terceros o porque, la extensión del terreno no rebasaba los limites demarcados con anterioridad por el Catastro Nacional.*
Así mismo las compras de terreno que el Estado ha efectuado, para satisfacer los requerimientos de tierra de varias comunidades de determinado grupo étnico, junto al precedente antes referido, ha reforzado la concepción indígena de que al resto de las comunidades tribales, que si tienen problemas de tenencia de tierra, se les tiene que reconocer por igual, su derecho ancestral sobre la totalidad de las tierras en pretensión, aunando a ello la convicción de que el articulo 346 de la Constitución y los preceptos del Convenio 169 de la OIT les dan la potestad de reclamar para si el derecho de posesión sobre todo lo que consideran su territorio.
Tal percepción ha sido uno de los mayores obstáculos a vencer para poderlos disuadir de su pretensión y lograr la aceptación al trazado perimetral de las áreas que legalmente les pertenecen, respetando el derecho que también les asiste a sus vecinos colindantes, acción que de acuerdo a la complejidad existente en cada comunidad indígena o negra, demandara diversas estrategias.

Cuanto expuesto arriba no corresponde de ninguna manera a la verdad con respecto a las presuntas actuaciones llevada a cabo por el Gobierno para solucionar las problemática sobre la tenencia de tierras que agobian los pueblos indígenas y negros así como acredita el largo historial de lucha para la defensa territorial ancestral de los pueblos indígenas. En el documento del PATH por un lado se reconoce el alto nivel problemático de los asuntos relacionados con la tenencia de

tierra ancestral, sin embargo no se propugnan mecanismos de resoluciones de conflictos adecuados a la mencionada consideración. Entonces preocupa que se planteen instancias de resolución de conflictos que no responden a la realidad social y política en la que viven los miembros de las comunidades; no se puede pretender resolver conflictos que se remontan a decenas de años atrás a través de mesas interétnica o procedimiento de conciliación, concertación o mediación donde las disparidades de los intereses representados, elites de poder por un lado y pueblos indígenas por el otro, no pueden sino desembocar en resoluciones totalmente desfavorable para los pueblos indígenas y negros.

Por lo tanto, considerando el impacto real sobre la tierras por parte del proyecto del BM, exigimos un claro reconocimiento y protección de los derechos territoriales ancestrales de los pueblos indígenas que no sean limitados solo a los relacionados con la tierra reconocida por el sistema legal nacional (tierra titulada) sino que abarquen los limites de los territorios ancestralmente de propiedad de esos pueblos (ampliación), en el respeto de cuanto dispuesto por la DO 4.20.

C. VIOLACION DEL PARRAFO 15.a(ii) DE LA DO 4.20

Marco Legal. El Plan deberá contener una evaluación de: la habilidad de dichos grupos (pueblos indígenas) para obtener acceso al sistema legal y usarlo eficazmente para defender sus derechos. Deberá darse atención particular a los derechos de los pueblos indígena a usar y desarrollar las tierras que ellos ocupan, a ser protegidos contra intrusos ilegales y a tener acceso a recursos naturales.

La violación se concreta en la circunstancia que el Gobierno, en el ámbito de la redacción del PDI, no ha remarcado la realidad de la situación de acceso a la justicia y solución jurisdiccional de los conflictos de los pueblos indígenas y, en particular del pueblo garífuna de honduras. Nuestro encontró y sigue encontrando dificultades serias para obtener acceso al sistema legal y se encuentra en la imposibilidad material de aprovecharlo para defender sus derechos territoriales. Acreditamos cuanto dicho subrayando que las comunidades Garífunas de: Triunfo de la Cruz, Cayos Cochinos y Punta Piedra, considerada la ineficacia total de las gestiones a nivel domestico, tuvieron que acudir a la Comisión Interamericana de Derechos Humanos para tratar de solucionar las problemáticas ligadas con la tenencia de tierra ancestral..

Se anexan los siguientes documentos:
Memoria taller consulta San Juan de Tela del 23 del octubre de 2003;
Memoria taller consulta asamblea general Sambo Creek del 17 de diciembre del 2003
Propuesta de proceso de consulta Tegucigalpa del 21 de agosto de 2003

La Ceiba, 22 de Agosto del 2005

OFRANEH
ASESOR LEGAL

OFRANEH
COORDINADORA GENERAL
Gregoria Flores

Attach 2 To Annex 2

ORGANIZACIÓN FRATERNAL NEGRA HONDUREÑA, OFRANEH

SECRETARIA DE GOBERNACIÓN Y JUSTICIA

Proyecto PAPIN

MEMORIA

Consulta sobre el Programa de Administración de Tierras en Honduras, capitulo Plan de Desarrollo Indígena con el Pueblo Garífuna

Y

EL PROGRAMA REPEPIN

Sambo Creek, La Ceiba, Atlántida 18 7 19 de Diciembre del 2003

MEMORIA

Consulta sobre el Programa de Administración de Tierras en Honduras, capitulo Plan de Desarrollo Indígena con el Pueblo Garífuna

Sambo Creek, La Ceiba, Atlántida 18 y 19 de Diciembre del 2003

En el local que ocupa el Centro Comunal de la Comunidad Garífuna de Sambo Creek, Municipio de La Ceiba, departamento de Atlántida, con la participación de 169 representantes Garífunas de las comunidades de:
Plaplaya, Pueblo Nuevo, Batalla, San Isidro Tocamacho, San Pedro Tocamacho, Cocalito, Sangrelaya, San José de la Punta, Iriona Viejo, Ciriboya, Cusuna, Punta Piedra, Vallecito, Limón, Santa Rosa de Aguan, Cristales y Rio Negro, Santa Fe, San Antonio, Guadalupe, Rio Esteban, Chachahuate, Nueva Armenia, Sambo Creek, Corozal, Ceiba Mocha, La Rosita, Salado Barra, Triunfo de la Cruz, San Juan, Sarawaina, Bajamar, Travesia y Masca.

Objetivos de la Consulta

OBJETIVO GENERAL
Desarrollar un proceso de consulta con lideres y dirigentes Garífunas, sobre el Programa de Administración de Tierras en Honduras, capitulo Plan de Desarrollo Indígena y Análisis Ambiental, encaminada a que los participantes conozcan, se apropien y brinden sus observaciones o sugerencias sobre dicho plan; así mismo sobre el Programa de Reducción de la Pobreza enfocada a los Pueblos Indígenas y Negros (REPEPIN).

RESULTADOS ESPERADOS

- 158 lideres y representantes Garífunas conocen y se apropian del Plan de Desarrollo Indígena (administración de Tierras) y del Análisis Ambiental del Programa PATH.
- Se obtiene las observaciones de los representantes sobre los dos documentos.
- Se definen los mecanismos de aplicación del Plan con las comunidades Garífunas.
- Los lideres Garífunas se apropian y definen su posición respecto al Programa REPEPIN.

Desarrollo de la Actividad:
Se inicio la actividad invocando a los ancestros, solicitándoles sabiduría a los y las participantes para brindar sus mejores ideas en el análisis de discusión de los documentos a analizar.

Posteriormente se procedió a revisar los objetivos del evento y a brindar una breve introducción sobre los antecedentes de la Ley de Propiedades así como de los documentos: Análisis Ambiental y el Plan de Desarrollo Indígena (Administración de Tierras), **y su traslape con el proceso de legalización y saneamiento de las tierras garifunas y miskitas mediante la conformación de la comisión interinstitucional y el estudio realizado por el CCRAC**

Después de los actos introductorias, se procedió a integrar los grupos de trabajo, para discutir el primer tema referente a la situación de la tenencia de tierra en las comunidades Garífunas:

Los cuales quedaron integrados de la siguiente manera:

Grupo No. 1	**Grupo No. 2**
1. Maria Celina Centeno 2. Fátima Rodríguez 3. Dolores Álvarez 4. Hermenegildo Soza 5. Catarino Martínez 6. Graciela Dionisio 7. Irma Batiz 8. Hipolita Chávez 9. Amancio Arzu 10. Selvin López 11. Alonso Martínez 12. Anael Guzmán 13. Nestor Javier Ellis 14. Karla Benedit 15. Nixon Adolfo	1. Julián Solís 2. Jeny Sofia 3. Juana Celestina Arzu 4. Julia Barrios 5. Ana Lucia Castillo 6. Nathan Pravia 7. Sergia Arzu 8. Cristina Pérez 9. Kerlyn Herrera 10. Ronald Bennett 11. Elbert Ordoñez 12. Rufino Rigoberto 13. Teodora López 14. Edilberta Cacho
Grupo No. 3	**Grupo No. 4**
1. Juana Guity Chávez 2. Carmen Yorleny Ruiz Gutiérrez 3. José Mariano Miranda 4. Castulo Figueroa Suazo 5. Rosario Bernardez 6. Teodocia Mejia 7. Jorge Espinoza 8. Guillermo Figueroa 9. Zarlin Sarina Lamberth 10. Faustino Ramírez Suazo 11. Vivian Mejia 12. Carlos Barbareno Barcelona 13. José Antonio Bermúdez 14. Antonieta Bonilla Arana 15. Teresa Garcia Oliva 16. Celia Maritza Guity	1. Ana Gloria Flores 2. Alejandra Clother 3. Darío Ávila C. 4. Tito Casildo 5. Perfecto Marín 6. Mathias Thomas 7. Reina Elsie Córdova 8. Rossana Álvarez 9. Michael Colón Vargas 10. Teresa Reyes 11. José Francisco 12. Juan Thomas 13. Jose Vargas 14. Wilmer Alexander 15. Mariano Martínez 16. Evelin Ruiz 17. Leonor Fátima 18. Iris García
Grupo No. 5	**Grupo No. 6**
1. Rosa Lidia Tablada 2. Luis Castro 3. Alix Fuentes 4. Kelvin Herrera Medina Mauricio 5. Gladis Gutiérrez Martínez 6. Maria Eriberta Robledo López 7. Carlos Guevara 8. Melvin Ramírez 9. Joel Francisco Diego 10. Eduardo Ávila	1. Justina Flores 2. Eduarda Ávila 3. Carlos Guevara 4. Fausto Fernández 5. Lilian Green 6. Gladis García 7. Miriam Ayala 8. Luis Castro 9. Justo Reyes

Resumen de la problemática en materia de tenencia de Tierra presentada por los grupos:

1. El proceso de titulación efectuado por el INA no favorece a las comunidades, sino mas bien perjudico nuestra posesión ancestral, porque los títulos emitidos hasta la fecha no responden a las necesidades reales y de crecimiento de las comunidades, existen casos extremos en que únicamente se han dotado de 63 hectáreas de tierra a comunidades de mas de 2000 habitantes (tal es el caso de San Juan, municipio de Tela, departamento de Atlántida).
2. La frontera agrícola creciente hacia la zona de Iriona y Gracias Dios, amenaza la supervivencia y sobrevivencia de todas las comunidades Garifunas, que se ve agravado por la apertura de un tramo carretero entre Iriona Viejo-Sico, el cual ha afectado la fuente de agua de 6 comunidades Garifunas (San José de la Punta, Ciriboya, Sangrelaya, Iriona Viejo, Cocalito e Iriòna Puerto), y en este momento existe el peligro de la construcción de otro tramo carretero entre Cusuna y los Fales que vendrá a afectar a Cusuna y Punta Piedra.
3. La falta de registro de los títulos de propiedad de algunas comunidades como las de los Cayos cochinos, desde 2001 fueron emitidos dichos títulos y hasta la fecha no han sido registrados.
4. Existe un conflicto de intereses entre las Municipalidades y las comunidades Garifunas, ya que las municipalidades se han dedicado a tomar decisiones sin consultar con las autoridades Garifunas y sin tomar en cuenta la Autonomía Comunitaria consignada en el Convenio 169 de la OIT. (Ejm: Expropiación de tierra comunal por parte de la Municipalidad; creación de patronatos paralelos dentro de las comunidades por parte de las Municipalidades; Venta de tierra comunal a foráneos por las municipalidades entre otros)
5. La multiplicidad de propiedad y dominio que existe sobre las tierras y territorios Garifunas mismas que han generado conflictos y violaciones de derechos humanos.
   - Las áreas protegidas y sus limites.
   - Ejidos municipales / cascos urbanos
   - Propiedades privadas / títulos individuales
   - Tierras nacionales
   - Áreas de uso turísticas / tierras vocacionales
   - etc
6. La no existencia de una verdadera política de Estado hacia la resolución de la problemática de tierras de las comunidades Garifunas.
7. Divisionismo generado por los partidos políticos y religiosos.
8. Falta de titulación, saneamiento y ampliación, incluyendo el área marítima
9. El desmantelamiento de la economía de los cafetaleros, ganaderos y los productores de maíz, afecta directamente al pueblo Garifuna porque eso provoca mayor migración de los ladinos hacia nuestras zonas.
10. La exclusión de los habitad de nuestros territorios ha venido a generar graves problemas en nuestra forma de vida.
11. Manipulación de los Patronatos a través de las municipalidades para promover las ventas y catastrar las comunidades Garifunas.
12. La falta de reconocimiento y participación en el manejo de las áreas protegidas.

OBSERVACIONES GENERALES A LA PROPUESTA DE PROYECTO DE DESARROLLO DE LOS PUEBLOS INDIGENAS Y NEGROS EN EL MARCO DEL PROYECTO PATH

- En primer lugar los y las participantes concuerdan que el documento esta planteado desde un punto técnico y practico de cómo se pretende desarrollar el proceso de titulación de las tierras, sin tomar en cuenta la realidad actual de las comunidades; todas o casi todas las comunidades Garifunas enfrentan diversos problemas en la tenencia de tierra.
- Nos preocupa que se planteen instancias de resolución de conflictos que no responden a la realidad de las comunidades, el pueblo Garifuna cuenta con su propio sistema de organización tradicional, los consejos departamentales de desarrollo, son desconocidos por las comunidades, además no se puede pretender resolver nuestros conflictos a través de instancias que han sido infuncionales; en ese sentido no aceptamos la creación de comités comunales que vendrán a sustituir el papel de las organizaciones comunitarias Garifunas.
- Exigimos que nuestras comunidades sean consultadas previo a la creación de la *Unidad de Asuntos Indígenas y Afrohondureños,* citada en la pagina 13 del Plan de Desarrollo Indígena, nos parece atentatorio que se pretenda crear una instancia a la cual se le dará facultades tan delicadas como lo es la resolución extralegal de los conflictos de tenencia de tierra que enfrentan nuestras comunidades.
- Necesitamos que se nos brinde copia del informe de la socialización del Documento Plan de Desarrollo Indígena, realizada en el mes de octubre, la cual proponemos sea entregada para la realización de las consultas comunales.
- En cuanto a la nota enviada por el Ing. Rodolfo Álvarez, director general de Organización y Participación Ciudadana del Ministerio de Gobernación y Justicia, donde manifiesta que se ha creado la Mesa Nacional Indígena, antes conocida como Junta Consultiva Nacional Indígena, este punto en particular no es cierto porque dicha mesa aun no se ha concretado, ya que no es un consenso de los todos los pueblos.

ANALISIS AMBIENTAL DEL PATH

Introducción

Los pueblos indígenas y los conservacionistas con frecuencia nos encontramos enfrentados a diversos conflictos de intereses. En no pocas ocasiones los objetivos de conservación de los ecosistemas y de la biodiversidad aparecen como contradictorios a los objetivos de garantizar el ejercicio pleno de los derechos de los pueblos indígenas.

La preocupación de los conservacionistas por evitar la disminución de la biodiversidad los ha llevado a desplegar sus esfuerzos en la protección de áreas claves sin tener presentes las necesidades de los pueblos indígenas que las habitan. En su afán de proteger ecosistemas estratégicos los conservacionistas se han olvidado de los pueblos y culturas que los hemos preservado por milenios. Estos conflictos de intereses obedecen fundamentalmente a que tanto los pueblos indígenas como los conservacionistas tenemos concepciones diferentes, y a menudo excluyentes, sobre el medio ambiente.

Los conservacionistas hacen una defensa de la naturaleza por sí misma, sin plantearse las relaciones que tiene con los pueblos y sociedades. En ese sentido,

por el otro, por lo que la política implementada ha sido la de conservación sin gente. De ahí que los conservacionistas propugnen como solución al deterioro alarmante de los ecosistemas la delimitación de áreas naturales que deben ser puestas a salvo de las actividades humanas.

También hay que mencionar que los conservacionistas consideran en sus análisis los efectos del deterioro ambiental pero se han despreocupado bastante sobre el estudio de sus causas reales. No sobra acotar que, paradójicamente, en los últimos años han sido las grandes empresas transnacionales, principales agentes de contaminación y deterioro ambiental, las que han apoyado el conservacionismo a la espera que a través de la biorevolución se obtengan grandes dividendos.

Los pueblos indígenas proponemos una concepción más amplia de la naturaleza y de la relación entre los ecosistemas y los pueblos y sociedades que viven allí. En esa dirección aportamos no sólo una crítica a la separación artificial entre seres humanos y naturaleza, sino que afirmamos la urgencia de subsanarla radical y creativamente. Según nuestras lógicas, puesto que la naturaleza incluye también a los seres humanos, se debe analizar y reflexionar acerca del papel de la humanidad dentro del mundo natural, específicamente el carácter, la forma y la estructura de las relaciones humanas respecto de las demás especies y de los sustratos inorgánicos del entorno biológico. Para los pueblos indígenas es importante apuntar a la identificación de los problemas ambientales, su origen, sus causas y sus posibles soluciones, desde la premisa que la crisis del medio ambiente se deriva de problemas sociales que tienen que ver fundamentalmente con una mentalidad y un sistema de relaciones basados en la dominación y las jerarquías.

El reconocimiento de los derechos de los pueblos indígenas por parte de algunas organizaciones conservacionistas está dando paso al surgimiento de un nuevo modelo de conservación que involucra las necesidades de los pueblos indígenas y la sostenibilidad de nuestras culturas y formas de vida tradicionales. El desafío que hay por delante, entonces, es el de consolidar este nuevo modelo de conservación para evitar que se quede sólo en retórica y en declaraciones de principios. La crisis ecológica tan profunda que se está viviendo nos obliga a hacer reales las alianzas estratégicas entre pueblos indígenas y organizaciones conservacionistas.

Los conservacionistas que están comprometidos con la construcción de alianzas sólidas y solidarias con los pueblos indígenas han dado pasos significativos en la elaboración de una nueva perspectiva de conservación. Es así como, después de un diálogo de cerca de tres años entre el Fondo Mundial para la Naturaleza, WWF Internacional, y la Alianza Mundial de los Pueblos Indígenas y Tribales de los Bosques Tropicales, en mayo de 1993 la WWF Internacional aprobó una política referente a la conservación y los pueblos indígenas que recoge los principios y postulados del actual Proyecto de Declaración de las Naciones Unidas Sobre los Derechos de los Pueblos Indígenas y, consecuentemente con ello, reconoce los derechos territoriales de los pueblos indígenas y destaca el principio de consentimiento previo, libre e informado para todas las relaciones entre pueblos indígenas y organizaciones conservacionistas.

De la misma manera, la Unión Internacional para la Conservación de la Naturaleza, UICN, en el Congreso Mundial de Conservación celebrado en Montreal (Canadá), entre el 12 y el 24 de octubre de 1996, aprobó varias Resoluciones referentes a los pueblos indígenas, en donde se compromete firmemente a que las políticas de conservación se realicen siempre en concordancia con el Proyecto de Declaración de las Naciones Unidas Sobre los Derechos de los Pueblos Indígenas, así como a respetar los derechos territoriales y colectivos de los pueblos indígenas en todas las áreas protegidas.

Y este compromiso se reafirma en el Quinto Congreso Mundial de Parques realizado en Durban (Sudáfrica) durante el mes de Junio del 2003, donde se acuerda entre otras cosas que para el próximo decenio impulsar:

- Una mayor participación local y un mayor poder de decisión local en la gobernanza y la gestión de las áreas protegidas.
- Un mayor aprovechamiento de los conocimientos tradicionales y otros conocimientos para mejorar la gestión.

La OFRANEH, ha venido participando e impulsando la realización de actividades de acercamiento y concertación entre las comunidades Garífunas, ONGs, ambientalistas y los entes gubernamentales, con el propósito de fortalecer la comprensión y las alianzas en la conservación del medio ambiente.

Sin embargo es sumamente preocupante el deterioro de las relaciones entre las comunidades y las organizaciones involucradas o encargadas de administrar las áreas protegidas en las zonas Garífunas. De todos es sabido la situación de zozobra que se vive en los cayos Cochinos, la falta de relacionamiento entre las comunidades y la fundación de Capiro y Calentura; a lo que se suma la situación que se vive en las comunidades Garífunas de la zona de Tela, donde se acusa a PROLANSATE de designar delegados o enlaces sin el consentimiento de la comunidad, así como algo mucho mas grave de haber promovido la muerte de un joven de la comunidad de Miami-Tornabe.

Análisis del Programa REPEPIN

ASPECTOS SOCIOECONOMICOS

El pueblo Garífuna ha sido garante de una de las áreas de mayor biodiversidad del país, siendo parte de nuestra cosmovisión una relación íntima con la naturaleza, al igual que los otros pueblos indígenas con los que compartimos el litoral caribeño, hemos cultivado la conservación como la fuente de nuestra subsistencia.

En las últimas décadas la costa norte se ha visto sujeta a un "desarrollo" el cual ha afectado directamente el bienestar de nuestras comunidades, siendo las transnacionales bananeras y palmeras las encargadas de afectar directamente la riqueza biológica y cultural de la zona.

La ausencia de una verdadera política agraria nacional ha dado lugar a frentes de colonización que vienen devorando los recursos forestales de las áreas protegidas existentes en la costa norte. La apertura del frente de colonización del río Sico y Paulaya ha conllevado a la destrucción de la zona Iriona, sin que el Estado haya tomado las medidas pertinentes para la protección ambiental.

En el contexto económico regional existe un desmantelamiento de las economías tradicionales (café, ganadería, y un futuro cercano el maíz), acciones que están incrementando la pobreza a nivel nacional, a pesar de la retórica oficial y de los organismos internacionales de la supuesta reducción de la pobreza. La globalización corporativa y los subsidios por parte de los países industrializados a su agricultura, impiden un verdadero desarrollo sostenible.

Los niveles de pobreza de los pueblos indígenas esta ligado de forma intima a los procesos de colonialismo interno que se vienen dando desde hace más de 500 años y prosiguen por medio de políticas ambiguas de supuesta incorporación a los ejes productivos.

En los últimos años ha surgido un interés inusitado de parte de los organismos internacionales sobre los pueblos indígenas, dado que la mayoría de las zonas de reserva se encuentran dentro de nuestros territorios ancestrales, los que desgraciadamente carecen de un reconocimiento jurídico; (los títulos que se han otorgado han sido una estafa jurídica ya que se les excluyo el hábitat funcional de las comunidades) lo que significa, que exclusivamente se titulo el casco urbano de las comunidades Garífunas.

La OFRANEH ha venido cabildeando una rectificación de la política estatal de titulación de las comunidades Garífunas, con un sólo caso parcial de saneamiento, dado en la comunidad de Sambo Creek, la que después de dos años de reclamos y de sufrir una violenta represión y acoso, logró que se le retornaran 10.3 manzanas de tierra, que apenas cubren las necesidades habitacionales de 170 familias, sin que se logre recuperar la mayoría del casco de la comunidad reconocida por el título expedido por el Estado a través del instituto nacional Agrario y que se encuentra en manos de terratenientes foráneos.

La reducción de la pobreza como se pretende, entra en contraste con los Tratados de libre comercio y planes de megadesarrollo planteados por el PPP, TCL, y el ALCA, los que persisten en mirar las soluciones desde un punto de vista macroeconómico, desalentando las opciones locales e implementado conceptos de desarrollo que no caben dentro de nuestras cosmovisiones basadas en una economía de subsistencia que nos faculta la conservación de la naturaleza.

POBLACION BENEFICIARIA

Los Garifunas en Honduras sobrepasamos los 200.000 habitantes, localizados en 48 comunidades a lo largo del litoral, además de asentamientos en los barrios de San Pedro y Tegucigalpa. Desde mediados del siglo pasado se ha dado lugar a una fuerte migración hacia a los Estados Unidos, sin que se pierda el sentido de las raíces Hondureñas y el apego al lugar de origen.

El fuerte flujo migratorio es parte de la diáspora a la que nos hemos visto expuesto, ante las presiones colonialistas. El desarraigo de Africa, la expulsión de San Vicente, y las actuales presiones territoriales en donde las comunidades han perdido la mayoría de su hábitat funcional, ha dado lugar a un constante flujo migratorio.

DESARROLLO ORGANIZACIONAL E INSTITUCIONAL

La característica de ser un pueblo matrifocal y de poseer estructuras de poder interno invisibles para la mayoría de los occidentales, afecta nuestra capacidad

optan por sus recetas de desarrollo de manera inflexible, siempre tratando de ejercer un control político-económico sin tener resultados concretos.

La OFRANEH en sus casi tres décadas de existencia ha sido testigo de las incongruencias de las políticas de Estado hacia los pueblos indígenas y negros. La asimilación sigue siendo el eje rector de las relaciones estado- pueblos indígenas y negros, conllevando a una permanente crisis en las relaciones interinstitucionales.

El proceso de descentralización se ha convertido en una trampa, dado que las municipalidades carecen de cualquier indicio de sensibilidad hacia los pueblos indígenas y negros, y han procedido- incluso en municipalidades manejadas por nuestros propios herman@s - ha menoscabar la integridad territorial de nuestras comunidades.

Si existe un proceso de autonomía municipal, igualmente debería existir la autonomía de los pueblos indígenas, como una forma de protección a la diversidad cultural la cual se encuentra ligada de forma intima con la biodiversidad. Es manifiesto que cuando los pueblos indígenas y negros hablan de autonomía se considera el tópico como un acto de socavamiento del Estado, visión que entra en contradicción con la publicitada autonomía municipal.

DESARROLLO ECONOMICO

Las relaciones interinstitucionales se ven enfrascadas en un conflicto de visiones, ya que el concepto de desarrollo promovido desde el centro siempre ha implicado un sometimiento de la periferia. En el caso Garifuna ha sido desmantelada en un buen sector de nuestro territorio la economía informal de subsistencia sin que se hayan tejido respuestas adecuadas. El concepto de desarrollo estimulado hasta la fecha, implica una participación marginal en los esquemas económicos existentes.

La muerte del coco ha sido una de los más graves acontecimientos de las últimas décadas para nuestro pueblo. El coco proveía de fuentes de ingresos para la mayoría de la población, al mismo tiempo que era parte integral de la dieta tradicional. Los procesos de replantación han carecido de una respuesta adecuada por parte del estado, incluso podemos asegurar que hasta la fecha no existe una respuesta a la problemática de la replantación de las 6.000 hectáreas de plantaciones de coco que existían en Honduras. Las playas pasaron de ser un supuesto atractivo turístico a paisajes yermos, con el agravante del incremento de la erosión costera, al no existir una cobertura vegetal que proteja la franja costera de la acción del viento y el mar.

En las últimas 5 décadas se ha venido utilizando el discurso del desarrollo como parte esencial de la política de Estado, auspiciada por los organismos internacionales y diseñados bajo la óptica e intereses de los países desarrollados. Desafortunadamente los resultados han sido más que pobres, con un vertiginosos descenso del nivel de vida, en especial con la aplicación de los ajustes estructurales, los que han destruido el tejido social y deteriorado los servicios de salud y educación, que paulatinamente serán privatizados con terribles consecuencias para los sectores más desfavorecidos.

El desmantelamiento del aparato productivo que ha sufrido Honduras está ligado entre otros a la ausencia de acceso al crédito. Es obvio que las tasas de interés prevalecientes imposibilitan la obtención del mismo y en caso de que se logre son préstamos de alto riesgo, dada las tasas de interés que colindan con la usura. Es demagogía crear la ilusión de una eventual solución a los problemas de acceso a los capitales por medio de hipotecar nuestras tierras, ya que la pérdida del patrimonio ancestral bajo la férula de las entidades bancarias no es más que una pesadilla concreta que exacerbará a medida de la individualización de la propiedad.

Las experiencia de las cajas rurales en el mundo Garífuna han tenido serias limitaciones, ya que no se contempló bajo ninguna circunstancia la utilización de sistemas tradicionales de apoyo mutuo como el Vagasu, sistema que fue desdeñado por los agentes del Banco Mundial y el Fondo Hondureño de Inversión Social, prescindiendo del conocimiento comunitario tradicional. El sistema de capitalización en base al apoyo mutuo es utilizado entre los Garífunas, sin ninguna vinculación con las tasas de interés que frecuentemente restan toda credibilidad de las cajas rurales.

DESARROLLO DEL CAPITAL HUMANO.

El proceso de la "educación formal" del pueblo Garífuna se ha visto vinculado más a la visión occidental que a las necesidades concretas de nuestro pueblo. La profesionalización se ubica en su mayoría en los campos de la educación y salud. Existen numerosos maestros y enfermeras, muchos de ellos no logran incorporarse al mercado laboral.

Las comunidades poseen en su gran mayoría acceso a la educación básica, siendo necesario recurrir a la migración a las ciudades para obtener una escolarización más allá de la primaria.

En el aspecto técnico el INFOP proporciona capacitación técnica en las ciudades, a donde tiene que emigrar los potenciales estudiantes, los que no poseen los medios económicos se encuentran excluidos de recibir la educación formal, lo que se ha convertido en un requisito fundamental para la incorporación en el mercado laboral en su mayoría localizado en los centro urbanos.

EL PROGRAMA REPEPIN

Los objetivos específicos del programa señalan (I) el fortalecimiento de las instituciones comunales, locales y regionales, así como de las instituciones del gobierno. Es de esperar que dicho fortalecimiento tenga objetivos claros e independientes de cualquier actividad divisionista y de sometimiento como se ha fraguado con programas anteriores, que han venido a fomentar el paralelismo como vía de control.

Los tres puntos mencionados como base del programa se señala que se "hará bajo un modalidad participativo que asegure el desarrollo de estas comunidades con identidad propia". Enfatizamos que es necesario el respeto a esta modalidad, que en la mayoría de los casos no trasciende el papel.

COMPONENTE I. DESARROLLO ORGANIZACIONAL/INSTITUCIONAL

EL PUNTO 2.4 NO HACE MENCION ALGUNA DE LAS FEDERACIONES, omisión que pone en duda las intenciones de "revivir el diálogo y lograr la concertación de los pueblos autóctonos y el gobierno central y local".

COMPONENTE II. DESARROLLO ECONOMICO

Las actividades a seguir deben ser determinadas por los pueblos, no en base a las expectativas de reorientar nuestras economías a la dependencia de mercados foráneos que se encuentran determinados por una economía global. Ante todo se debe fomentar la seguridad alimenticia.

COMPONENTE III. DESARROLLO HUMANO

La salud preventiva ha sido deteriorada ante la pérdida de la seguridad alimenticia y la introducción de una medicina occidental sin haber afianzado la medicina tradicional. Ante el desmantelamiento del sistema de medicina occidental como parte de los ajustes estructurales, no contemplamos que existan las respuestas adecuadas, tal como ha sucedido con el VIH, batalla en la que se perdió una década clave (años 90), y actualmente se mantiene un trabajo superficial sin por ejemplo haber asumido la tarea de evitar la transmisión vertical de la enfermedad, debido a la ausencia de campañas efectivas dirigidas a las mujeres jóvenes.

El caso del SIDA es un flagelo de consecuencias incalculables para los Garífunas, los que vemos como se derrochan los dineros del fondo global, comprando antiretrovirales de marca, mientras los genéricos de CIPLA no son abordados como una solución inmediata y económica (ejemplo que viene dando Médicos sin Fronteras).

EJECUCION

La evaluación inmediata del proyecto PAPIN es una seria necesidad, ya que los resultados hasta la fecha no se visibilizan. La UEP debe explicar en consultas comunitarias los logros de sus propósitos.

CONCLUSIONES GENERALES A TODOS LOS PUNTOS

- Proponemos que el mecanismo de resolución de conflictos sea definido por nuestras comunidades, para lo cual se deberán realizar jornadas de consulta y definición de estrategias; acordes con la realidad de las comunidades. No hay que perder de vista que las comunidades presentan diferentes niveles de problemática, algunos problemas son con individuos, otros con campesinos, empresarios, políticos, empresas multinacionales y hasta con el mismo Estado.
- Rechazamos categóricamente la instalación de mesas de negociación de conflictos donde se mezclen los pueblos indígenas y negros, campesinos y patronatos; muchos de los problemas en nuestras comunidades se debe a que los campesinos se han trasladado a nuestros territorios, se apoderan de nuestras tierras, para posteriormente venderlas al mejor postor.
- Exigimos que todas las comunidades Garifuna sean previamente informadas y consultadas sobre el PPP, Tratado de Libre Comercio, Corredor Biológico Mesoamericano y el PATH, sentimos que la implementación de estos programas generara la exterminación de todas las comunidades Garifunas e indígenas de Honduras.
- Rectificar cada titulo de la comunidad y establecer un plan de saneamiento de todas las comunidades Garifunas.
- Promover la adopción de medidas cautelares para la resolución de todos los conflictos que en materia de tenencia de tierra enfrentan las comunidades Garifunas en general.
- Anulación del Casco Urbano municipal de las comunidades Garifunas afectadas por el mismo.

- Promover la titulación de la tierra comunal, así como el saneamiento y ampliación del territorio comunitario Garifuna, en el marco del Convenio 169 de la OIT y la Convención Americana de los Derechos Humanos y la Constitución de la Republica.
- Manifestar la preocupación de la Asamblea, sobre el Propósito del Gobierno al generar una titulación masiva, lo que afectara directamente nuestro territorio.
- La necesidad de crear planes de comanejo donde los pueblos indígenas y negros puedan poner en practica sus conocimientos tradicionales.
- Definir los mecanismos de relacionamiento entre las comunidades y las Ongs ambientalistas.
- Es necesario que los pueblos indígenas y negros efectuemos una evaluación del proyecto PAPIN para ver si su inclusión en la nueva fase cumplirá con las verdaderas necesidades de los pueblos indígenas y negros, y así evitar que las buenas intenciones engrosen el manual de proyectos sin base real.
- Ya se han ejecutado diversos proyectos y/o programas en Honduras con los pueblos indígenas y negros, muchos de los cuales sirven como ejemplo para visualizar los buenos y malos resultados, valdría la pena hacer un balance de los mismos antes de iniciar el REPEPIN.
- Los delegados de las 33 comunidades Garifunas presentes en el evento, reafirmamos que la OFRANEH será la ejecutora del programa REPEPIN.
- En el marco del proyecto REPEPIN debe ser efectivo el apoyo al fortalecimiento institucional de las organizaciones indígenas y negras.

Anexo No. 1

ANÁLISIS JURÍDICO DEL ANÁLISIS AMBIENTAL DEL PATH

Elaborado por Asesor Jurídico de la OFRANEH
Diciembre del 2003

EL resumen ejecutivo del análisis ambiental con respecto al Programa de Administración de Tierras en Honduras se propone solventar el problema de la demarcación territorial con respecto de los derechos de los pueblos y se instaura en el marco institucional del Proyecto - Facilitación del comercio e incremento de la competitividad promocionado por el Banco Mundial- y sigue las directivas de política operacional definida por el Banco Mundial en el ámbito de la normativa internacional vigente sobre los derechos ambientales y los derechos de los pueblos indígenas.

Esa sistematización de los títulos de propiedad a nivel nacional se ejecuta como antecedente necesario para sentar la base y asegurar el desarrollo de un proyecto de amplio radio que involucrará todos los órganos institucionales y la fuerza empresarial del país y extranjera en el nuevo contexto económico internacional que se desplegara con la definitiva aprobación de los TLC y la globalización de los mercados en Centroamérica.

Consecuentemente, antes de analizar el núcleo del resumen ejecutivo y del PDI anexo hace falta aclarar el contexto en el que ese se despliega.

PROYECTO FACILITACION DEL COMERCIO E INCREMENTO DE LA COMPETITIVIDAD

El objetivo general de este proyecto del Banco Mundial es propiciar un crecimiento en la productividad del sector privado en Honduras, contribuyendo a una elevación en el nivel de competitividad y de la economía del país, "lo que a la vez trae consigo un aumento del empleo y una reducción de la pobreza". Plantea como objetivo mejorar el clima de inversión y capacitar a los exportadores para prepararlos ante los Tratados de Libre Comercio que están por venir y permitir que Honduras desarrolle su potencial de turismo sostenible, expanda el sector agro-exportador, explote sus recursos forestales de manera sostenible, desarrolle la minería, aumente la inversión extranjera, aumente la participación privada en la infraestructura y logre que el sector maquila pase a una producción de un mayor valor agregado, generando así el crecimiento deseado. En ese marco el Banco Mundial "se propone brindar una atención y salvaguarda particular a los pueblos indígenas y negros de Honduras a los cuales se aplicaran estrategias diferenciadas de intervención para respetar sus diferencias y particularidades".

El Banco Mundial se compromete entonces en la aplicación de un desarrollo exitoso de las poblaciones indígenas que: tome base en el respeto de sus estructuras tradicionales de toma de decisiones de acuerdo a sus valores culturales, apoye actividades de formación de capacidades locales a todo los niveles, transfiera recursos financieros directamente a las comunidades instalando sistemas de amplia participación, amplie la cobertura de la educación, mejore las condiciones de las infraestructura de servicios básicos, disemine información a los sectores del gobierno que trabajan con los Pueblos Indígenas y

Negros para abrir nuevos espacios de comunicación y dialogo con el propósito de incluir una verdadera plataforma institucional de negociación y concertación, (en ese marco se instaura la creación de la Mesa Nacional de Convergencia Gobierno - Etnia).

El Banco se propone finalmente establecer con respecto a los pueblos indígenas un equilibrio que permita, por un lado, mantener la cultura y por otro lado, crear y desarrollar sus capacidades a fin de lograr su integración a la economía nacional.

Aclarado el fin que se proponen los organismos involucrados en el megaproyecto se puede entender la importancia, para el Gobierno y para el Banco Mundial, de definir la tenencia de la tierra como una condición imprescindible para promover el desarrollo de inversiones de los varios sectores productivos del país. El arreglo de la tenencia implica una revisión sustantiva de los compromisos del gobierno con las comunidades étnicas en respuesta a las demandas y reclamos de la titulación de tierras que hacen, en este caso, los Garifunas.

El mismo banco Mundial en su análisis subraya que:
El Gobierno a través del INA ha iniciado desde los años 90 un proceso sistemático de titulación de tierra. Aunque el Gobierno cumplió uno de sus compromisos en términos de reconocimiento a los derechos de tierra en estas comunidades, la respuesta comparada con la demanda es muy desproporcional tal como lo demuestra el reciente diagnostico sobre uso y tenencia de tierra en comunidades Garífunas y Misquita realizado por el Consejo de Investigación para centro América y el caribe (CACRC) recién producido como instrumento de prueba, entre los demás, en una petición presentada por OFRANEH ante la Comisión Interamericana de Derechos Humanos de la OEA con respecto a las violaciones cumplida por el Gobierno de honduras en contra del derecho a la tenencia de tierra de todas las comunidades Garífuna y registrada bajo el numero p - 906 - 03.

El Banco remarca lo que OFRANEH sostiene en la mencionada denuncia o sea que en Honduras pese a que se reconoce la existencia jurídica y social de las comunidades indígenas, no se han adoptado ordenamientos que concreten y hagan posible este reconocimiento en la practica. El ordenamiento jurídico interno es donde hay mayor carencia de normas constitucionales y los convenios internacionales, que regulan de manera general, las relaciones con los Pueblos Indígenas.

Los preceptos legales y aplicables están dispersos en varios ordenamientos sectoriales, entre los que se pueden destacar los instrumentos legales agrícolas, forestales y ambientales. La toma de conciencia de la mencionada problemática induce entonces a los expertos del Banco hacia una evaluación de los instrumentos dispuestos por el PATH (Programa de administración de Tierras en Honduras) que regularan los conflictos intersectoriales con respecto a la titulación de los predios que tenga en cuenta pleitos que se remontan a siglos atrás y que hasta la fecha no han sido solucionados generando un clima de hostigamiento hacia los pueblos indígenas y que deben de ser abarcados con medidas adecuadas a las exigencias de las etnias para evitar que lo antedicho se traduzca en concreto problemas de gobernabilidad.

En esta dirección el Banco, junto con el gobierno, se compromete en la adopción de medidas proporcionadas según las directivas operacionales a la vanguardia en el sector de la tutela de los derechos de las etnias, entre los cuales se encuentra el derecho a la evaluación ambiental que ha generado el resumen ejecutivo del PATH analizado en este documento.

DIRECTIVAS OPERACIONALES DEL BANCO MUNDIAL

El derecho al medio ambiente ha adquirido un rol de primer plan en los proyectos de desarrollo impulsados en la ultima década. El punto central esta ahora encaminado hacia el logro de un desarrollo ambientalmente sano y sostenible, con énfasis en el bienestar humano y la participación, antes que en indicadores exclusivamente económicos. El logro mas importante ha sido la traslación de los asuntos del medio ambiente al de los derechos humanos. El reconocimiento de que ambas están relacionados y son interdependientes cambia las regulaciones sobre el medio ambiente en el campo exclusivo de las relaciones internacionales y de las jurisdicciones locales y pone énfasis en el costo humano de la degradación ambiental. Teniendo en cuenta que los pueblos indígenas, sus culturas y sus medios de subsistencia están íntimamente ligados a sus tierras y sus territorios, la degradación del medio ambiente puede ser especialmente devastadores. En consecuencia los pueblos indígenas requieren medidas y garantías especiales para aliviar los impactos ambientales negativos.

Además, en ese contexto, se afirma que muchos derechos se han derivado u originado en el derecho al medio ambiente o tienen conexión con otras normas establecidas de derechos humanos. Estos derechos incluyen:

Evaluación Ambiental - este derecho forma parte del derecho internacional, el cual requiere que la evaluación ambiental se lleve a cabo, para evaluar el impacto potencialmente adverso para la salud y el bienestar publico, antes de comprometer o aprobar actividades que signifiquen una amenaza para estos. El Banco Mundial ha reconocido la importancia de llevar a cabo estudios, adoptando en 1991 la Directiva Operacional 4.01 - Evaluación Ambiental. Esta directiva estipula que la evaluación ambiental se debe contemplar en todos los proyectos del Banco que tengan un impacto significativo sobre el medio ambiente. Dicha directiva reconoce también la necesidad de consultar con las comunidades locales, incluyendo a los pueblos indígenas cuando la evaluación ambiental sea realizada en proyectos que afecten o puedan afectar sus tierras y territorios.

Derecho a la Información Este derecho requiere que toda la información importante sobre el impacto potencial de las medidas y decisiones que afecten el medio ambiente estén a disposición del publico o al menos de aquellas personas que puedan ser directa o indirectamente afectadas.

Derecho a la Participación Publica Este derecho requiere que las comunidades afectadas por los proyectos tengan una participación efectiva en todos los niveles del diseño mismo, así como en su aplicación y evaluación en aquellos aspectos que los afecten.

El Banco Mundial emitió la directiva operacional 4.20 sobre los pueblos indígenas (DO 4.20) en 1991. La Do 4.20 es una directiva que los funcionarios del Banco Mundial deben cumplir cuando trabajan en proyectos que involucren a pueblos indígenas.

La DO 4.20 incorpora definiciones de amplio criterio, así como un reconocimiento de los estándares internacionales sobre derechos de pueblos indígenas con énfasis en las estrategias culturales y participativos para un desarrollo apropiado. Su objetivo es asegurarse que el proceso de desarrollo promueva el respecto hacia su dignidad, derechos humanos y singularidad cultural. Específicamente, el objetivo central de esta directriz es asegurarse que las poblaciones indígenas no sufran efectos adversos durante el proceso de desarrollo... y que reciban beneficios sociales y económicos que sean culturalmente compatibles (párrafo 6)

También la política del Banco es que la estrategia, para tratar los asuntos referidos a poblaciones indígenas, debe estar basada en la participación informada de las propias poblaciones indígenas. De esta manera, la identificación de las preferencias locales a través de la consulta directa, así como la incorporación del conocimiento indígena en los enfoques de los proyectos y la utilización de especialistas desde el inicio, son actividades centrales para cualquier proyecto que involucre a las poblaciones indígenas y sus derechos sobre recursos naturales y económicos (párrafo 8)

La Do 4.20 también exige que los Estados preparen Planes Detallados de Desarrollo para los pueblos indígenas, para cada uno de los proyectos financiados por el Banco que afecten las tierras, recursos, culturas implícitamente, los derechos humanos de estos pueblos. El Plan de Desarrollo Indígena PDI debe preparase conjuntamente con las propuestas de proyectos básicos sometidas al Banco antes de la aprobación de los fondos y debe basarse en" la plena consideración de las opciones preferidas por las poblaciones indígenas involucradas en el proyecto_"(párrafo 14a), El Banco entonces determinara si" los componentes especiales al proyecto que podrán estar al margen de los objetivos primarios del mismo "son requeridos para la protección adecuada de los proyectos de los pueblos indígenas (párrafo 15). Dentro de estos "componentes especiales al proyecto" están las medidas de asesoría y asistencia para asegurar el reconocimiento legal del sistema de tenencia de tierra tradicional de las poblaciones indigenas" (párrafo 15c) y los mecanismos para la participación de las poblaciones indígenas, incluyendo la colaboración de los líderes tradicionales durante todo el planteamiento y ejecución del proyecto (párrafo 15d).

Se presume entonces que en el ámbito de la formulación del PDI debe haber una participación activa de los pueblos interesados en el mismo PDI.

El párrafo 12 de la DO 4.20 establece que el Banco puede proporcionar asistencia técnica para fortalecer las instituciones gubernamentales relacionadas con los pueblos indígenas o "apoyar las iniciativas de desarrollo de las propias poblaciones indígenas". La asistencia técnica debe incluir el asesoramiento legal, científico o de ingeniería, como también la ayuda para la obtención de los recursos necesarios. Finalmente el Banco identifica a través del PDI los posibles problemas y las necesidades de los pueblos involucrados o afectados por el proyecto con énfasis sobre la demarcación y regularización de las tierras. Otras dos Directivas Operacionales emitidas por el Banco deben ser mencionadas: la DO 4.01 - Evaluación Ambiental y la DO 4.30 reasentamiento Involuntario.

La DO 4.01 mencionada anteriormente dispone que debe haber consultas con los pueblos indígenas sobre asuntos relacionados con estudios sobre el impacto ambiental hechos para proyectos que afecten directa e indirectamente sus tierras y territorios.
Presumiblemente cuando se lee conjuntamente con los requisitos de la DO 4.20 con relación a que los pueblos indígenas participaran en todas las fases del diseño del proyecto, la DO.4.01 debe incorporar algo más que una simple consulta.

ANALISIS DE LA EVAULACION Y DEL PDI

Aclarados los antecedentes necesarios se puede pasar al análisis del resumen.

El Programa de Administración de Tierras en Honduras (PATH) se ha concebido como un programa orientado a crear las condiciones para dinamizar los mercados de capital de Honduras a través de la creación de un sistema nacional integrado y descentralizado de derechos de propiedad solventando el problema de la extralegalidad en la tenencia de la propiedad inmueble en Honduras enfocando los múltiples problemas existentes incluyendo el uso social de la tierra, áreas protegidas, tierras boscosas, zona agropecuaria, tierras indígenas y negras.

El programa se ejecutara según la política de Evaluación Ambiental OP 4.01 del Banco Mundial analizada anteriormente.
Entonces veamos el enfoque del resumen con respecto a las áreas que nos interesan.

En el mencionado marco de la OP 4.01 del Banco el programa, con respecto a LAS AREAS PROTEGIDAS se ejecutara en la primera fase en 12 áreas protegidas, las cuales presentan una problemática social compleja que se refleja en altos niveles de pobreza, analfabetismo e inadecuada infraestructura básica.

Al respecto el resumen del PATH se evidencia que los procesos de planificación relativos a las zonas protegidas se formulan sin consideración de la realidad social cultural y ambiental de las comunidades, esta situación, según los expertos, hace imperativo que los gobiernos (nacional y local, formulen sus políticas en forma integrada con las comunidades no solo en la gestión de áreas protegidas sino en la implementación de acciones concretas para la reducción de la vulnerabilidad social y ambiental del país).

Además se subraya que a pesar de existir un decreto de ley de creación de las áreas protegidas, estas no están claramente definidas en el campo y si lo están, sus límites no han sido conciliados con los pobladores, por lo que existe una creciente invasión de sus áreas de amortiguamiento. El proyecto asegurara la formulación y actualización de los planes de manejo en sus áreas de intervención.

Con respecto a LAS TIERRAS INDIGENAS Y AFRO-HONDUREÑAS se evidencia que el área del programa se encuentra ubicado físicamente entre comunidades predominantemente Misquitos y Garífunas y que la tenencia de tierra de los pueblos indígenas presenta problemas generados como consecuencia de la falta de reconocimiento formal de los derechos que les confiere la Constitución de la Republica y el Convenio 169 de la OIT.

Esta situación ha generado la ocupación por parte de ladinos de espacios que tradicionalmente habían sido poseídos por grupos étnicos y la sobre posición de áreas protegidas, bosques y tierras comunales, lo cual ha resultado en detrimento de las culturas de los grupos étnicos y de la conservación ambiental.

El estudio en análisis subraya que el Estado de Honduras debe regularizar los derechos de propiedad de los distintos grupos étnicos del país, principalmente mediante el reconocimiento de la propiedad comunal de conformidad con el Convenio 169 de la OIT. Así el Estado no debe seguir con la designación de mas áreas protegidas en zonas donde haya comunidades autóctonas, mientras no estén claramente definidos los derechos de propiedad de las mismas, salvaguardando de esta manera, los intereses de estas comunidades. En este sentido, debe existir una coordinación interinstitucional e intersectorial para asegurar una resolución satisfactoria de los conflictos que resultan de la controversia que puedan existir entre los límites de las áreas protegidas y las áreas que son y deben reconocerse como propiedad de las comunidades Garífunas.

En este marco se involucra la optima propuesta del congelamiento de transacciones registrales en las áreas reclamadas con derechos ancestrales.

Entre los impactos negativos potencial se ha señalado: la posibilidad que hayan demandas sobre los mismos territorios por otros reclamantes (superposición, traslapes entre distintos pueblos o con el Estado etc.); la posibilidad que ocupantes de tierras no pertenecientes a comunidades indígenas traten de legalizar su posesión de las mismas por medio de manipulación legal de registros de propiedad, el posible conflicto en el manejo común del territorio en los pueblos indígenas, Garifuna y ladinos.
El excelente análisis de la problemática que afectan las comunidades étnicas de Honduras con respecto a la tenencia de la tierra y a la regularización de los predios ancestrales y las optimas directivas operacionales que rigen la redacción del estudio de evaluación ambiental y del PATH en general alimentan la esperanza en las comunidades indígenas y Garífunas de Honduras que eso se traduzca en una aplicación concreta del diseño del Gobierno y del Banco Mundial, con respecto al problema del ordenamiento territorial que representa un requisito esencial para la sobrevivencia de los pueblos étnicos.

Sin embargo dicha esperanza se ve frustrada por un análisis detallado del plan en el que se destaca lo siguiente:

1) Los modelos legales de competencia en los que se mueve el PATH abarcan leyes y disposiciones normativas (Ley de Municipalidad etc.) que originaron, más que una vez, perjuicios a los pueblos étnicos. La Ley de Ordenamiento Territorial que representara la normativa base para solventar los conflictos sobre la tenencia de la tierra ha sido ásperamente criticada por las comunidades interesadas en la fase de consulta anterior al estudio.

2) En ningún lugar del Plan se hace referencia al deber del Estado de Honduras de reconocer a nivel normativo los derechos colectivos de los pueblos étnicos, en falta del cual nunca se podrá obtener una tutela decente de los pueblos indígenas y garífunas de honduras.

Anex 4

Minutas de la Reunión entre
Representantes de OFRANEH y Funcionarios del Banco Mundial
Tegucigalpa, 21 de septiembre, 2005

Objetivo de reunión. En respuesta a una invitación del Banco Mundial , representantes de la OFRANEH se reunieron con funcionarios del Banco Mundial para clarificar el alcance del contenido de su carta al Banco Mundial recibida el 26 de agosto, 2005 sobre las políticas de salvaguarda en el contexto del Proyecto de Administración de Tierras de Honduras (PATH)

A la reunión asistieron:

Por parte de OFRANEH: Miriam Miranda (Coordinadora de proyectos, Santa fe), Santos Benito Bernardez (Coordinador de Turismo, Punta Piedra), Lilian Carol Rivas (Coordinador de Comunicación, Limón) y Luís Fernández (Coordinador de Tierra Territorio y Medio Ambiente, Sambo Creek).

Por parte del Banco Mundial: Adrián Fozzard (Representante Residente en Honduras), Jorge Muñoz (Gerente del Proyecto PATH por el Banco Mundial), Fernando Galeana (Asistente de Operaciones) y Josefina Stubbs (Especialista Asuntos Indígenas, por audio desde Washington),

Los representantes de OFRANEH en la reunión clarificaron que sus denuncias se refieren a la OD 4.20 solamente.

Los representantes de OFRANEH confirmaron que su principal preocupación es la implementación de la Ley de Propiedad en las comunidades Garifunas. Están en desacuerdo con varias provisiones de la Ley de Propiedad, en particular, la legalización de tierras de terceros al interior de las comunidades (Art. 97) y otras provisiones que las consideran contradictorias, tales como la no separación entre el ámbito urbano y rural. En este sentido, el 11 de julio del 2005 entregaron propuestas de modificación a la ley (Capitulo III de la Regularización de Tierras) al Congreso de la Republica. Sin embargo, el mismo está fuera de sesión.

Los representantes de OFRANEH también explicaron su participacion en el proceso de socialización de la Propuesta de la Ley de propiedad organizado por PAAR, incluyendo un taller que se llevo a cabo en San Juan Tela en Octubre del 2003. Los resultados de la consulta de San Juan Tela fueron entregados al Congreso. Ademas, OFRANEH organizo a través de la secretaria de Gobernación y Justicia y el programa PAPIN una consulta para el Plan de desarrollo Indígena en diciembre del 2003.

Asimismo, los representantes de OFRANEH explicaron que desconocen si el documento Metodología para Determinar y Medir las Tierras a ser Tituladas a las comunidades Étnicas elaborado por la UCP es el reglamento oficial del Proyecto o no (el cual se menciona en la carta al Banco del 25 de agosto,2005). Los representantes de OFRANEH manifestaron que están en desacuerdo con el método de resolución de conflictos expresados en dicho documento. Los funcionarios del Banco aclararon

que el referido documento es un borrador de trabajo que no ha sido aprobado oficialmente ni por el Gobierno ni por el Banco.

los representantes de OFRANEH expresaron que están en desacuerdo con la forma de implementación del PATH, tales como el proceso de conformación de las mesas de regularización, la composición de estas mesas de regularización y la selección de las comunidades ha ser regularizadas.

Los representantes del Banco Mundial aclararon que el Programa de Administración de Tierras es un proyecto del Gobierno de honduras, ejecutado a través de la Secretaria de Gobernación y Justicia, descrito en el Convenio de Crédito entre el Gobierno de Honduras y el Banco Mundial, el documento de evaluación y el Manual Operativo del Proyecto. Asimismo, se aclaro que existen provisiones especificas para el cumplimiento de las políticas de salvaguardas sobre pueblos Indígenas, tales como la cláusula 3.11 al Convenio de Crédito que especifica que en las áreas de influencia del proyecto no se demarcaran físicamente o titularan tierras étnicas a no ser que se sigan procedimientos que velen por los derechos de los pueblos indígenas, debidamente consultados con las partes afectadas de manera satisfactoria para el Banco Mundial, e incorporados en el Manual Operativo del Proyecto.

Los funcionarios del Banco Mundial solicitaron a los representantes de la OFRANEH sugerencias especificas de cómo mejorar la implementación del proyecto en las comunidades Garifuna.

OFRANEH sugirió que para mejorar la implementación del Proyecto se profundice el respeto y transparencia del proceso de socialización del mismo, así mismo que las comunidades deben decidir si participan o no, a través de su procedimiento de toma de decisión interna.

Para dar seguimiento a la reunión, los representantes de OFRANEH solicitaron que el banco Mundial solicite al gobierno de Honduras una reunión tripartita (Gobierno, representantes de OFRANEH y otras entidades representativas de comunidades Garifunas, y funcionarios del Banco Mundial) para revisar las modalidades de ejecución del proyecto, por, los mecanismos de participacion en la mesa regional o la selección de comunidades

Por OFRANEH

Miriam Miranda

Santos Benito Bernardez

Lilian Carol Rivas

Luis Fernández

Por el Banco Mundial

Jorge A. Muñoz

Adrián Fozzard

Fernando Galeana

Tegucigalpa, 21 septiembre 2005

Annex 6

ORGANIZACION FRATERNAL NEGRA HONDUREÑA, OFRANEH

**Barrio El Centro, Avenida La República, 2ª Planta de Librería El Trébol,
Contiguo a CELTEL, La Ceiba, Atlántida, Honduras, C. A. Apartado Postal 341.
Telefax: 00(504) 443-24-92, e-mail: ofraneh@laceiba.com**

25 de Octubre del 2005.

Estimado **Sr. McDonald Benjamín**
Gerente Desarrollo Social
América Latina y el Caribe.
Washington, D.C
USA.

Estimado señor:

En respuesta a su carta del 20 de octubre relacionada con la denuncia que presentamos en su despacho del Banco Mundial en el mes de Agosto, relacionada con la Violación de Nuestros Derechos Colectivos y la D.O. 4.20 del Banco Mundial, para los Pueblos Indígenas, y la reunión realizada como respuesta a la misma con fecha del 21 de septiembre.

Como debe ser de su conocimiento el desarrollo social de los pueblos indígenas debe estar comprometido con el respeto a las formas ancestrales de tenencia de la tierra, y no a los compromisos adquiridos con los estados nación y su peculiar lógica de disolución de la propiedad comunitaria. El proyecto PATH ha venido causando resquemores y financiando el divisionismo entre nuestro pueblo, lo cual no es garantía de mantener el equilibrio necesario para la preservación de la cosmovisión Garífuna.

Ante esta situación nos manifestamos en contra del tono de su correspondencia ya que la misma insinúa que nuestra inconformidad, es únicamente con el articulo 97 de la ley de propiedad situación que no es real, porque si bien es cierto que no estamos de acuerdo con varios artículos del capítulo III de la mencionada ley, también es cierto que el proyecto PATH si violenta lá Directriz Operativa 4.20, por lo que ante esta situación hemos tomado la determinación de elevar nuestra inconformidad ante el panel del Banco Mundial.

POR EL COMITÉ EJECUTIVO

Luis Fernández

Miriam Miranda

ORGANIZACION FRATERNAL NEGRA HONDUREÑA
Presidente
OFRANEH
La Ceiba

Selvin López

Lilian Rivas

cc. Arq. Henry Merrian, Coordinador Nacional, Proyecto PATH, Unidad Coordinadora de Proyecto
cc. Sr. Adrián Fozzard, Representante del Banco Mundial, Honduras

Annex 8

ORGANIZACION FRATERNAL NEGRA HONDUREÑA, OFRANEH

Barrio El Centro, Avenida La República, 2ª Planta de Librería El Trébol,
Contiguo a CELTEL, La Ceiba, Atlántida, Honduras, C. A. Apartado Postal 341.
Telefax: 00(504) 443-24-92, e-mail: ofraneh@laceiba.com

La Ceiba, 31 de octubre del 2005

Sr. McDonald Benjamín
Gerente Desarrollo Social
América Latina y el Caribe
Washington D.C.
USA

OBJETO: Proyecto de Administración de Tierra en Honduras

Estimado Sr. McDonald

En respuesta a la nota del 27 de octubre del 2005, enviada por el Sr. Jorge A. Muñoz en su nombre, le comunicamos que aceptamos reunirnos con ustedes, en calidad de representantes de la Administración del Banco Mundial, y con la delegación del Gobierno de Honduras, para presentar nuestra posición sobre el proyecto en objeto.

Esperamos noticias relativas a la sede del encuentro quedando firme la hora, la fecha y el lugar establecida por ustedes.

Atentamente.

POR EL COMITÉ EJECUTIVO

Selvin López

ORGANIZACION FRATERNAL NEGRA HONDUREÑA
Presidente
OFRANEH
La Ceiba

Lilian Rivas

Annex 9

ORGANIZACION FRATERNAL NEGRA HONDUREÑA, OFRANEH

Barrio El Centro, Avenida La República, 2ª Planta de Librería El Trébol,
Contiguo a CELTEL, La Ceiba, Atlántida, Honduras, C. A. Apartado Postal 341.
Telefax: 00(504) 443-24-92, e-mail: ofraneh@laceiba.com

La Ceiba, 3 de noviembre del 2005

Sr. **Mc Donald Benjamín**
Gerente Desarrollo Social
América Latina y el Caribe
Washington D.C.
USA

OBJETO: Reunión del 4 de noviembre sobre Proyecto de Administración de Tierra en Honduras

Estimado Sr. Mc Donald

Con la presente nota le remito copia de la nota que le hemos enviado por fax en fecha 31 de octubre del 2005 con la que ratificábamos nuestra disponibilidad para la reunión en objeto, esperando su confirmación.

En el caso en que usted no recibió el mencionado documento la invitamos a señalarnos una fecha para otra reunión, supuestamente a breve término, siempre y cuando usted siga interesado en el desarrollo del procedimiento.

Muy atentamente,

Miriam Miranda
OFRANEH
Junta Directiva

Annex 10

ORGANIZACION FRATERNAL NEGRA HONDUREÑA, OFRANEH

**Barrio El Centro, Avenida La República, 2ª Planta de Librería El Trébol,
Contiguo a CELTEL, La Ceiba, Atlántida, Honduras, C. A. Apartado Postal 341.
Telefax: 00(504) 443-24-92, e-mail: ofraneh@laceiba.com**

4 de Noviembre del 2005.

Estimado Sr. **McDonald Benjamín**
Gerente Desarrollo Social
América Latina y el Caribe
Washington, D.C.
USA

OBJETO: Reunión del 4 de noviembre Proyecto de Administración de Tierra en Honduras

Estimado señor

Reciba de nuestra organización un cordial y respetuoso saludo, al mismo tiempo que les deseamos lo mejor en el desarrollo de sus actividades.

Con la presente nota queremos remarcar que la reunión fijada para hoy, debía llevarse a cabo en el ámbito de un dialogo constructivo entre las partes involucradas con el fin de darle respuesta a la denuncia presentada por OFRANEH, ante el B.M. Por lo tanto no entendemos la presencia de personas o instituciones ajenas a estas dos instancias.

Como habíamos acordado la reunión involucraba a personeros del gobierno, el B.M y representantes de la OFRANEH.

Por lo cual fue una gran sorpresa encontrarnos en presencia de personas miembros de la Mesa Regional (que no se pueden entender como delegados del gobierno ni del B.M.), desgraciadamente rompiendo con los acuerdos a que habíamos llegado en la reunión sostenida por nuestra organización con representantes del B.M. en la ciudad de Tegucigalpa, el día 21 de septiembre.

A pesar de lo acontecido estamos interesados en sostener una reunión con los representantes del Banco Mundial, Gobierno y OFRANEH, subrayando que al reiterarse la presencia de personas ajenas seria entendida como intento de alteración del procedimiento de solución por parte de los agentes involucrados y consecuentemente estaríamos en la situación de alertar el mecanismo de control del B. M., enviando una solicitud de inspección al Panel.

Atentamente,

POR LA JUNTA DIRECTIVA

Jessica García

ORGANIZACION FRATERNAL NEGRA HONDUREÑA
OFRANEH
La Ceiba

Selvin López

ORGANIZACION FRATERNAL NEGRA HONDUREÑA
Presidente
OFRANEH
La Ceiba

Miriam Miranda

Domingo Alvarez

Luis Fernandez

Annex 12

COMISION INTERAMERICANA DE DERECHOS HUMANOS
PETICION NUMERO 906 - 03 TRIUNFO DE LA CRUZ – ESTADO DE HONDURAS

PETICIÓN EX ARTÍCULO 25 DEL REGLAMENTO DE LA COMISIÓN INTERAMERICANA DE DERECHOS HUMANOS

La **OFRANEH** con sede en La Ceiba Departamento de Atlántida Apartado Postal 341 Honduras correo electrónico ofraneh@laceiba.com teléfono (504)443-2492, en persona de la señora Gregoria Flores en la calidad de representante legal con domicilio en la sede de la Organización, con los señores abogados Gianluca Gaia y Maurizio De Martino del colegio de los abogados de Nápoles en calidad de asesores legales con carta poder anexa

En representación de las comunidades Garifunas de **TRIUNFO DE LA CRUZ, SAN JUAN DE TELA. TORNABE Y MIAMI.**

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CONSIDERANDO

1) <u>El peligro inminente</u> por la sobrevivencia cultural y física de las comunidades garifunas que se ven amenazada con respecto a su territorio por:

A) **La falta de intervención por parte del Estado.**
A pesar de las innumerables denuncias, quejas, denuncias internacionales y planteamientos promovidos por la comunidad, el Estado y sus órganos destacados nunca han atendido las exigencias de la comunidad relacionadas con el reconocimiento de sus derechos territoriales

B) **La entrada en vigor de la Ley de Propiedad – Decreto 84 -2004 que regula el régimen de propiedad colectiva ancestral en detrimento de los derechos territoriales de la comunidad y del pueblo Garifuna.**
El Estado de Honduras, así como lo demás países del istmo centroamericano, esta ejecutando, en el marco de la próxima entrada en vigor del CAFTA, de los tratados de libre comercio y de la ejecución del Plan Puebla Panamá, un proyecto (PATH) encaminado a garantizar la estabilidad y seguridad jurídica necesaria sobre el bien tierra para resolver el problema ligado al mismo (solamente un 30% de la tierra del país están registradas y de estas apenas un tercio posee referencia catastral).
El propósito esta relacionado con el potenciamiento de la economía de mercado, no solamente en la óptica de la dinamización del mercado de tierras, crédito e hipotecas, el consecuente apuntalamiento al sistema financiero y el perfeccionamiento del mercado de bienes sino de que la seguridad jurídica sobre

la propiedad de la tierra es condición imprescindible para que los inversionistas nacionales y extranjeros confíen en un país.
Remarcamos que el PATH es un Proyecto previo al Proyecto Facilitación del Comercio e Incremento de la Competitividad, financiado por el Banco Mundial, dirigido a propiciar un crecimiento de la productividad del sector privado en Honduras en acuerdo con la visión económica neoliberal de las elites dominantes, en la víspera de la aprobación de los TLC.
El instrumento dispuesto por el poder legislativo para concretar esa visión ha sido el Decreto 84 -2004 conteniente la Ley de Propiedad.
Esa Ley ha sido duramente criticada ya en su fase embrional por el pueblo Garífuna que entreveía los peligros del cuerpo normativo que se le proporcionaba como panegírico a los problemas de tenencia de tierra que agobian el país. En reuniones de consulta sobre la nueva ley, llevadas a cabo en las comunidades Garífunas y cuyas memorias se anexan al presente acto (anexo 1), las fuerzas vivas se opusieron firmemente a las innovaciones en el sistema de tenencia de tierra postuladas por la mencionada ley. Ellos consideraron de que dicha ley por un lado cristalizaría las situaciones de violaciones de derechos territoriales ya existentes (legitimando de tal manera las invasiones de foráneos en las tierras titulada en dominio pleno a favor de las comunidades Garífunas) y por otro lado empujaría hacia una dinamización del mercado de la tierra a favor exclusivo de las elites dominantes asociadas con el capital inversionista extranjero en desprecio del derecho consuetudinario indígena, reconocido a nivel internacional y domestico, violentando las normas pétricas que tutelan la posesión de la tierra del pueblo hondureño como se ha dado ejemplo clamoroso en el caso del desarrollo del Proyecto Bahía de Tela, llevado a cabo en abierto desprecio del articulo 107 de la Constitución de la Republica. El copeticionario señor Jose Castro invitado como representante del Triunfo de la Cruz en fecha 16 de marzo del 2005 (anexo 2) a una reunión sobre el PATH y la aplicación de la Ley de Propiedad se rehusó a firmar un documento, llevado a cabo en aquel ámbito, con el que los funcionarios gubernamentales buscan consenso sobre la aplicación de los mencionados planes dentro de las comunidades Garifunas. El presidente del Patronato de Triunfo de la Cruz remarcando la amenaza que dichos instrumentos legislativos conllevan para la sobrevivencia de su pueblo, se alejo de la reunión y no quiso mas acudir a ulteriores encuentros sobre el mismo tema, apoyado en su decisión por la totalidad de los miembros de la comunidad que representa
En el caso que nos ataña el Gobierno de Honduras adopta una amalgama de criterios para aplicar una legislación que, si por un lado ofrece una apariencia lexical conforme a los estándares internacionales del derecho indígena en lo concreto se transmuta en un instrumento de precisión para desbaratar cualesquiera reclamación territorial de los pueblos indígenas, favoreciendo solo las elites de poder interesadas al proceso de movilización de capitales introducido por la globalización de la economía. El articulo 97, el cual dispone que *el tercero que tenga titulo de propiedad en tierras de estos pueblos y que ha tenido y poseído la tierra amparada por ese titulo, tiene derecho de continuar poseyéndola y explotándola* legitima las invasiones de foráneos en territorio Indígena y por lo tanto violenta directamente los derechos consuetudinarios a los territorios arriba

mencionados y asombra que pueda ser una de las regulas jurídica que constituye el marco normativo de un proyecto apoyado por el Banco Mundial el cual en su PO 4.20 ha definido los mencionados derechos como *los patrones de uso comunitario prolongado de los territorios y de los recursos de acuerdo con las leyes consuetudinarias, los valores, las costumbres y las tradiciones de los pueblos indígenas, incluido el uso estacional, mas que el titulo jurídico formal sobre la tierra y los recursos expedido por el Estado.*

El articulo 100 de la Ley incluso legitima la atomización del titulo comunitario de las comunidades borrando de un solo golpe todos los avances alrededor de los derechos colectivos, ultimo baluarte para la salvaguardia y sobrevivencia de una minoría étnica, rematando de tal manera las aspiraciones y esperanza de un pueblo a una vida digna enmarcado en el respeto de la propia cultura y valores. En efecto dicho articulo ha alentado de manera desmesurada los intentos de compra ilegitima de tierra en el área del titulo de Triunfo de la Cruz, como se averiguara en la audiencia a través de las pruebas testificales.

Además la aplicación del Reglamento del PATH, llamado metodología para determinar y medir las tierras a ser tituladas a las comunidades étnicas, rendirá mucho mas complejo el procedimiento para que las comunidades logren la ampliación del titulo y por lo tanto el reconocimiento de sus reclamos territoriales y elimina la participación efectiva de miembros de las comunidades en la determinación de los limites del territorio.

La Ley en objeto, basada en la teoría económica del peruano Alvaro Soto, presenta siniestra analogía con la Ley No. 26845, aprobada el 9 de julio de 1997 por el Congreso Peruano. La Confederación General de los Trabajadores del Perú presento a la Organización Internacional del Trabajo una reclamación denunciando que la ley violaba las disposiciones del Convenio 169 de la OIT y por lo tanto la institución internacional recomendó que el Gobierno de Perú enmendara unos artículos de la ley. (véase Informe del Comité conformado para examinar la reclamación que alegaba el incumplimiento del Peru del Convenio 169 realizada al amparo del articulo 24 de la constitución de la OIT, por la Confederación General de los Trabajadores del Peru Doc.GB 270/16/4, GB 273/14/4, 1998)

Los pueblos indígenas de Honduras, reunidos en ocasión de un taller de discusión sobre la Ley de Propiedad financiado por la OIT en la ciudad de Tegucigalpa en los días 7 y 8 de julio emitieron una declaración en contra de la Ley. (anexo 3)

C) La implementación del mega proyecto turístico Bahía de Tela y la amenaza que dicho proyecto entraña por las comunidades de la zona.

En fecha 5 de enero de 2004 el diario La Tribuna informó que el Congreso Nacional había aprobado un Decreto con el cual entregaba a un grupo empresarial afín al Gobierno, a través de un supuesto estratagema jurídico que prevé la venta de 312 manzanas de tierra ubicada entre la aldea Garífuna de Tornabé y la Laguna Quemada en la Bahía de Tela, supuestamente de propiedad del Instituto Hondureño del Turismo, a una sociedad mixta (figura introducida por el Congreso Nacional de la Republica con el Decreto numero 360 del 2002) denominada Desarrollo Turístico Bahía de Tela S.A. de C.V.(DTBT) cuyo socio mayoritario sea el mismo Instituto Hondureño del Turismo que se abrirá al capital privado en

la fase de ejecución del Proyecto Turístico ya presupuestado (se planea construir, sobre 217 hectáreas de la mencionada, siete lotes de complejo hotelero de cuatro y cinco estrellas además seis conjuntos residenciales con capacidad para 168 villas y 1920 habitaciones para una inversión global de 130 millones de dólares) a través de la creación de sociedades subsidiarias o vendiendo parte de las parcelas del predio a sociedades compradoras. La enorme extensión de tierra en objeto se apodera en su totalidad del hábitat funcional reivindicado por las comunidades garifuna de la zona de Tela. Al respecto remarcamos que la Ofraneh, en el mes de abril del 2004, presento una petición por medida cautelar (anexo 4) en defensa del territorio de las comunidades garifunas de Miami, Tornabe y San Juan de Tela y, sucesivamente, pidió a la Honorable Comisión Internacional de Derechos Humanos que otorgara el congelamiento de la decisión sobre la medida cautelar en cuanto la Corte Suprema de Justicia de Honduras admitió un recurso de inconstitucionalidad, presentado por el Ministerio Publico, contra el decreto legislativo 90 -90 que contiene la ley para la adquisición de bienes urbanos en las áreas limitadas por el artículo 107 de la Constitución). La acción fue presentada por el ex fiscal general Roy Edmundo Medina, argumentando que se violenta la Carta Magna y la soberanía social. La Corte Suprema de Justicia, sucesivamente, declaro sin lugar el recurso de inconstitucionalidad presentado. De tal manera frustro definitivamente las aspiraciones de las comunidades garifunas de ver reconocidos sus derechos territoriales y de obtener amparo por la legislación domestica. Las preocupaciones de los miembros de las comunidades se han transformado en pánico cuando **ha sido editado el CD Rom (anexo 5) que describe minuciosamente la magnitud del proyecto y sus efectos dañinos para el medio ambiente**, como remarcado por la ofraneh en su comunicado publico del 07 de octubre del 2005 (anexo 6). Cabe agregar que en el abril del 2005 el Poder Ejecutivo de Honduras ha decretado la creación del Área Bajo Régimen Especial Bahía de Tela, la cual completa el marco normativo del proyecto Bahia de Tela y prevé hipótesis de desalojo y reubicación de los pueblos asentados en la zona (anexo 7).

La actitud del Estado, los efectos negativos del proyecto y todas las amenazas a la sobrevivencia cultural y física de los pueblos garifunas de la zona quedan documentados a través del documento

CONSULTORIA LEGAL A FIN DE DETERMINAR LOS EFECTOS O IMPACTOS JURIDICOS QUE CAUSA LA EMISION Y VIGENCIA DEL DEECRETO 90-90 EMITIDO POR EL SOBERANO CONGRESO NACIONAL DE LA REPUBLICA DE HONDURAS EN RELACION A LOS DERECHOS GARANTIZADOS POR EL CONVENIO 169 SOBRE PUEBLOS INDIGENAS Y TRIBALES SUSCRITO POR EL GOBIERNO DE HONDURAS (anexo 8)

C) La actitud hostil del poder judicial nacional en contra de la comunidad

El Juzgado de Letra Seccional de Tela con sentencia definitiva dictada en fecha 29 de marzo de 2005, (anexo 9) violando todas las normas de la legislación domestica relacionadas con los derechos colectivos indígenas, declaraba la nulidad relativa del titulo de propiedad de la comunidad de Tornabe. Dicho fallo ha sido objeto de apelación frente de la Corte de Apelación competente de y queda pendiente de decisión.

En el ámbito de la mencionada sentencia el juez, con una pronuncia manifiestamente extra petitum, remarcaba que los títulos de las comunidades de San Juan y Triunfo de la Cruz habían sido otorgados de manera ilegitima por el Instituto Nacional Agrario. El juez de primera instancia, a pesar de que incurriera en vicio de incongruencia, en cuanto se refiere a situaciones nunca mencionadas en los hechos de la demanda ni alegados por las partes en juicio, no pierde ocasión para atacar las demás comunidades extrañas al juicio.
El cuestionamiento arbitrario de la legitimidad del titulo de dominio colectivo de la comunidad de Triunfo de la Cruz, demuestra que sigue y mas bien se ha encrudecida la actitud hostil del Poder Judicial contra las comunidades garifunas de la zona el que permite entender porque la problemática evidenciada en el presente acto puede ser solucionadas solo gracias al intervención de una instancia internacional.

D) **El Agudizarse del clima de zozobra en toda la zona de la Bahía de Tela a causa de la falta de solución a la problemática del reconocimiento efectivo de los derechos territoriales de las comunidades asentadas en el área**
La falta de seguridad de la tenencia de tierra de la comunidad Garifuna, ha provocado un clima tenso, caracterizado por zozobra y durísimas amenazas a la integridad física de los lideres comunitarios, no solo en Triunfo de la Cruz también en las comunidades aledañas de la Bahía de Tela, acorraladas por poderosos empresarios locales y megaproyectos turístico con capital extranjero.
La OFRANEH expuso en la petición para medida cautelar enviada a la Honorable Comisión, la problemática que enfrenta Tornabe, provocada por la aplicación del Decreto 90 –90 el cual autoriza la venta a extranjeros de las playas nacionales en violación del articulo 107 de la Constitución de la Republica.
La situación de San Juan de Tela es análoga (véase petición numero 906 y anexo 10)
Evidenciamos que en la investigación llevada a cabo por el señor Doudou Diene, Relator Especial sobre las formas **contemporánea de racismo, discriminación racial, xenofobia y formas conexas de intolerancia** publicada en el marzo de 2005 en su informe relativo a la misión en Honduras (anexo 11) se remarca que las comunidades de la Bahía de Tela todavía no han solucionado su problemáticas territoriales.
Repartidas en 46 localidades de la costa del Caribe, las comunidades Garifuna no tienen infraestructura para la enseñanza secundaria y universitaria. Igualmente, son víctima de aculturación porque no existe una educación multicultural bilingüe o trilingüe (españoGgarifuna-inglés). El acceso a la propiedad de sus tierras ancestrales es para ellos un motivo de ***preocupación fundamental y urgente****. Se han alcanzado adelantos gracias al reconocimiento de los derechos de algunas comunidades, pero varias otras como las de Cayos Cochinos (islas de la Bahía), Tornabé y Miami (bahía de Tela), Triunfo de la Cruz y San Juan (municipalidad de Tela) y Punta Piedra (municipalidad de Colón) han expresado el serio temor de verse despojados de sus tierras que poderosos empresarios agrícolas y hoteleros anhelan poseer. Las comunidades garifuna han presentado a los tribunales del país y a la Comisión Interamericana de Derechos Humanos 25 denuncias por la ocupación de sus terrenos. Se ha aducido que en razón de sus reivindicaciones los dirigentes garifuna son perseguidos y hasta asesinados por políticos o militares, o por empresarios agrícolas u hoteleros que andan en pos de la tierra de las comunidades.(Informe señor Doudou Diene paginas8 y 9)*

Añadimos que las dos peticiones presentadas a la Comisión Interamericana por la Ofraneh, relativas a los reclamos de las comunidades de Punta Piedra y Cayos Cochinos, se encuentran pendientes todavía.
Años antes de la investigación del Relator Especial señor Diede, el CACRC ya había lanzado un monito a través del ya mencionado diagnostico (anexo 12) sobre las amenazas a la integridad territorial y a la identidad étnica de la comunidad por parte de agentes exógenos de su cultura.

E) **La Persistencia de las amenazas y de los atentados contra la incolumidad física de los lideres comunitarios y de los defensores de la tierra**
Solo en el ultimo año se han incrementado y encrudecidos las amenazas y las persecuciones en contra de los reconocidos lideres comunitarios entre los cuales se destacan: los problemas judiciales en las cuales se ha encontrado la señora Teresa Reyes, (esposa del líder comunitario Alfredo López cuyo caso esta tramitado en la Corte Interamericana) condenada al delito de usurpación para defender un predio perteneciente a la comunidad; las amenazas de muerte en contra del señor Secundino Torres, presidente del CODETT; la bala que ha milagrosamente solo herido la presidenta de OFRANEH Gregoria Flores (anexos 13, 14, 15 y 16)

2) **El dano irreparable**
El daño debe ser considerado irreparable en cuanto el concepto de tierra y territorio debe de ligarse a la cosmovisión de los pueblos Garifunas y no a la concepción occidental de propiedad privada según la cual el daño seria reparable con una indemnización económica. Para los pueblos indígenas cualquier pérdida de su tierra no podría ser reparada económicamente y representaría el fin de su estilo de vida, de su cultura y de su misma vida. Dicha circunstancia se acredita con los documentos anexados a la presente petición.
Además, como ya relatado, hubo serias amenazas a la vida de los defensores de la tierra de las varias comunidades.

Por lo tanto; vista las observaciones presentadas, la Ofraneh con los abogados Gianluca Gaia y Maurizio De Martino

PIDE

que la Honorable Comisión Internacional de Derechos Humanos otorgue **medida cautelar** la cual se concrete en la prohibición de celebrar actos y contratos (medida imitada por el derecho interno hondureño véase Código Procesal Civil de Honduras artículos 277 y siguientes) sobre los bienes inmuebles en examen o sea de las tierras comunales ancestrales de la comunidad Garífuna de Triunfo de la Cruz delimitada por los siguientes limites ancestrales: al Este con Punta Izopo, al Oeste con el cerro Triunfo de la Cruz, al Sur con el cerro El Tigre, al Norte con el Mar Caribe y de las tierras comunales ancestrales de las comunidades Garifunas de Tornabe y San Juan de Tela así como descrita en los mapas que se anexan a la presente petición.

La Ceiba 1 de agosto de 2005

Angel Castro Martinez
Presidente Patronato Triunfo de la Cruz

Luis Fernandez
Comite Ejecutivo OFRANEH

Gianluca Gaia
Apoderado Legal Ofraneh y Triunfo de la Cruz

Maurizio De Martino
Apoderado Legal Triunfo de la Cruz

Comite Ejecutivo

Comite Ejecutivo

Comite Ejecutivo

San Antonio 7-10-05

Agenda

Comprobación de Quorum
) Apertura de la Sesión
) Informe Sobre el PatH
) Ampliación y Saneamiento
) Asuntos Varios.
) Cierre de Sesión

Siendo las 3:15 P.m.
Reunidos los habitantes de san Antonio and local go
Cupa el Salón Comunal por la falta de Presentia del
residente del Patronato el Secretario de Candido flores
lio por habierta la Sesión dando la bienvenida a los hal
antes y Comisión de la organización fraternal negra de
Honduras Ofranelt Zacarias Bernardez, Emiliano arriole
Tito Casildo, Rosario Bernardez.

) Compañero Zacarias trata el punto no 1 de la agenda
Le expresa a los presentes de la llegada de la comisión el
bjetivo de la visita queces a darles un preavisa a las
omunidades involucradas en el procedimiento que va a
esarrollar el patH. Pregunta ¿Quien de ustedes Sabe
lgo? nosotros no Sabemos nada del patH. Pero Se Sup
e queces una organización que desfavorece a nosotros
os garifunas Por que ya estamos acostumbrados a vivir
omo estamos la tierra es nuestro patrimonio y no la
enderemos, ~~ni~~ ipotecar, ni prestar ni alquilar.
a Compañera Rosario hace una aclaración sobre la
visita Por que queremos lograr nuestro objetivo que
nuestros Compañeros entiendan lo que se les explica

que sientan por su carne propia si algun dia llegamos a
aseptar la propuesta del patH que supuestamente es una
amenazada para nuestro futuro estariamos perdidos
aclara que ofraneH les hace una alerta para que no se
sientan en la mesa del patH y aseptar sus propuestas
Cristina flores opina por supuesto que tienen ponerse vivo
alertarse, abrirlos ojos y opinar no aceptamos el patH
Alejandra Clother toma la palabra que ella siempre se
informa y avisa pero que cuando hay algunas compañeros
que no creen estoy muy agradecida que la ofraneH haya
mandado una comision especial para aclararles el menzaj
a mi me gustaria que cada uno de nosotros dieran su gran
de arena que dieran su opinión si estan alertos o no si acep
el patH o no. pero yo creo que el desinteres los tienes ordos y
ciegos ante la cituación.
Don tito Casildo dice que patH es una trampa de govier
para nosotros los Garifunas como siempre cree que nos atra
a con dinero pero es hora de habrir los ojos y no engañar
nos ni vendernos que ofresca los L.2,000,000 de dolares r
tenemos que devilitarnos ofraneH esta con nosotros nos
apollara siempre y cuando tengamos problemas.
Por eso tenemos que agarrarnos de las manos y decir no al
patH. El compañero candido secunda la moción de don tito
doña Tonda también, señores alerta no teman unidos venceremos
no al patH que aremos cuando los terremos sean delimita
porque patH es administración de tierras de Honduras su fun
ción es demancar, delimitar y titular y esto lo hara indivi
dualmente y que cada quien decida sobre su propio terren
tendra opción de vender o reacer a la hora que le antoje

***

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1) Denuncia Banco Mundial y anexos del agosto del 2005.
2) Invitación señor Ángel Castro de Triunfo de la Cruz del 16 de marzo del 2005.
3) Declaración de unidad de los pueblos indígenas del 8 de julio del 2005.
4) Petición Comisión Interamericana medida cautelar comunidades Tornabe y Miami.
5) CD Rom Proyecto Laguna de Micos e Golf Resort (Proyecto Bahía de Tela)
6) Comunicado publico Ofraneh Proyecto Laguna de Micos e Golf Resort. (Proyecto Bahía de Tela) del 7 de octubre de 2005.
7) Decreto Área Bajo Régimen Especial Bahía de Tela.
8) CONSULTORIA LEGAL A FIN DE DETERMINAR LOS EFECTOS O IMPACTOS JURIDICOS QUE CAUSA LA EMISION Y VIGENCIA DEL DEECRETO 90-90 EMITIDO POR EL SOBERANO CONGRESO NACIONAL DE LA REPUBLICA DE HONDURAS EN RELACION A LOS DERECHOS GARANTIZADOS POR EL CONVENIO 169 SOBRE PUEBLOS INDIGENAS Y TRIBALES SUSCRITO POR EL GOBIERNO DE HONDURAS.
9) Sentencia definitiva Juzgado de Letra Seccional de Tela con dictada en fecha 29 de marzo de 2005.
10) Extracto petición 906-03 comunidad San Juan de Tela.
11) Informe Doudou Diene, Relator Especial sobre las formas **contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia.**
12) Diagnostico CCARC tenencia tierra pueblos garifunas y misquitos de honduras.
13) Denuncia CCARC
14) Denuncia Codett Triunfo
15) Dictamen medico Secundino Torres
16) Acta de citación Secundino Torres
17) Estudio de evaluación de impacto ambiental Proyecto Laguna de Micos e Golf Resort
18) Fotos invasiones Triunfo de la Cruz
19) Mapas reclamos territoriales comunidades Tornabe y San Juan Tela.

En efecto en referencia a propiedades y posesiones respaldadas por títulos o certificaciones el PDI, prevé que estas se agruparan dentro de la categoría de la propiedad privada el que es un contrasentido en términos legales.

3) La falta de consideración con respecto a las sugerencias brindadas por las comunidades indígenas sobre la ejecución del PATH no han sido minimamente tenida en cuenta lo que lastimosamente hace pensar que igualmente ninguna consideración tendrán, por los funcionarios del Banco y por las instituciones gubernamentales involucradas en el proyecto, las eventuales sugerencias de los pueblos indígenas. De tal manera la política de apertura promocionada se traducirá en mera retórica.

4) Los proyectos utilizados como muestras en la interacción Gobierno - Pueblos Indígenas son proyectos que no solo no benefician sino afectan directamente las comunidades étnicas (PRONOT, Proyecto desarrollo turístico sostenible de la costa norte Honduras, RERUAL).

5) El manejo de las áreas protegidas es totalmente entregado en las manos de ONGs (PROLANZATE, PROBAL) que hostigan ásperamente los pueblos indígenas asentados en las áreas de amortiguamiento, generando de tal manera duros conflictos en un clima de zozobra permanente.

6) En ningún lugar del Plan se prevé la posibilidad del co - manejo con las comunidades indígenas de las áreas protegidas.

El pesimismo manifestado aumenta en consideración con los instrumentos legales para la regularización del ordenamiento territorial dispuesto por el Estado en el Plan de Desarrollo Indígena redactado según la mencionada OP4.20

PLAN DE DESARROLLO INDIGENA

El presente Plan postula la creación, con la participacion conjunta y directa de las comunidades étnica del proceso de legalización, de un sistema descentralizado de gestión de la propiedad inmueble (regularización, titulación, catastro, registro en folio real) integrado por entidades publica y privada.

En el marco normativo, el Plan contempla la emisión de reglamentos para desarrollar el marco jurídico de protección de grupos indígenas y afro - hondureños.

En ese sentido se afecta cualquiera reivindicación indígena de ingreso en una plena tutela normativa en cuanto eventuales reglamentos emitidos (fuentes normativas secundarias) se ubicarían en la parte mas baja de la escalera de las fuentes del derecho bien lejos de la fuerza y de las garantías que podría brindar una ley territorial indígena, el proyecto de la cual fue presentado hace años al Gobierno que lo dejo en el olvido.

Ademas se prevé que para determinar y dar a conocer la normativa aplicable se desarrollaran campañas de consulta y capacitación en las que se tomara en consideración la práctica y experiencia del PAAR con este tipo de comunidades.

Al respecto evidenciamos que el PAAR, como sostenido anteriormente, nunca ha tenido en consideración las sugerencias y las modificas a los planes de ordenamiento territorial propuestas por las comunidades (ejemplo reunión de San Juan de Tela del 25 octubre del 2003).

En realidad la dirección normativa principal se encuentra cristalizada en la Ley de Ordenamiento Territorial ásperamente criticada por los pueblos étnicos. (Vease documentos anexos).

Todo eso a pesar de que en el mismo Plan se hace referencia a la normativa en vigor hasta la fecha (Legislación agraria y ambiental en particular) como ejemplo de normativa totalmente inadecuada a solventar las problemáticas indígenas: la criticadísima Ley de Ordenamiento no se destaca desde el mismo enfoque de las leyes territoriales que la precedieron.

No aparece claro Ademas cual seria el rol y la participacion de las comunidades indígenas en las fases preliminares (Actividades preparatoria, delimitación de Municipios, investigación y validación, legalización y titulación)

Por otro lado, dando por supuesto que en la participación comunitaria del PDI en las actividades de mapeo y toponomastica con manejo de SIG, previo a la demarcación debe utilizarse también personal indígena capacitado, no aparece claro cual será la composición y el funcionamiento de las instituciones encargadas de la resolución de los conflictos durante el proceso de regularización o sea la Mesa nacional de Resolución de Conflictos, la figura del Consejo departamental de Desarrollo y la utilidad y el poder de los comités locales considerando que aparece mas que manifiesta la imposibilidad de resolución amistosa de conflictos que se remontan a muchos años atrás y que ven encausados parte con un sensible desequilibrio en termino de poder político y consiguiente inseguridad en términos de garantías procesuales.

Estos mecanismos alternativos de solución de conflictos acordes con la Ley de Conciliación y Arbitraje necesitaran de una disciplina rígida con respecto al ámbito de aplicación y deberían ser obligatorios y preferibles a la justicia ordinaria, sea porque agilizarían el despacho de los juicios sea porque en el curso de los años la justicia ordinaria se ha mostrado incapaz de solucionar imparcialmente las controversias que involucran los pueblos indígenas con respecto a la tenencia de la tierra.

La hipotizada resolución no jurisdiccional de conflictos es la solución preferible para lograr el objetivo de una administración de la justicia en termino de acceso, equidad e imparcialidad siempre que dicho diseño jurídico sea planeado detalladamente en cuanto al ámbito de aplicación y definición y delimitación normativa y garantía de asegurar fondos para el desarrollo de las federaciones indígenas dirigidos al mantenimiento de un bufete de asesoria legal, capacitado con moderna herramientas, el cual proporcionaría asistencia en planta estable a los pueblos indígenas y negros del país.

Una eventual Ley sobre la Resolución Alterna de Conflictos y promoción de la paz Social que defina y abarque toda la materia en objeto seria oportuna para garantizar certeza del derecho y uniformidad a nivel procesual.

Ademas se subraya que hace falta una participacion activa de los miembros de las comunidades en la etapa de investigación y validación de la información y no simplemente una actividad de consulta respecto a resultados ya adquiridos.

EN CONCLUSION SE EVIDENCIA QUE ESTE ENSAYO REPRESENTA SOLO UN RESUMEN DEL PROYECTO PATH Y POLITICAS CONEXAS Y UN BORRADOR DE LAS TEMATICAS, DE LAS OPINIONES Y DE LAS SUGERENCIAS QUE, EN EL MARCO DE LA POLITICA DE PARTICIPACION EFECTIVA Y ACTIVA DE LOS PUEBLOS INDIGENAS EN LA DEFINICION DE PROGRAMAS QUE LES AFECTEN EN MANERA DIRECTA Y EN EL RESPETO DE LA NORMATIVA INTERNACIONAL EN MATERIA, SEAN DESARROLLADAS EN ETAPAS SUCESIVAS.

Anexo No. 2

PROPUESTA

PROGRAMA DE AGENDA

Comunidad Garifuna Sambo Creek, Municipio de La Ceiba 17-19 de diciembre del 2003

No.	ACTIVIDAD/TEMA	TIEMPO	METODOLOGÍA	RESPONSABLE
1.	Llegada de Delegados	Día antes		
2.	Inscripción de Delegados Entrega de paquetes	Una Hora	Cada uno de llenara la hoja de inscripción.	Facilitadores
3.	Inauguración del taller	10 Minutos	Plenaria	Gregoria Flores Wilfredo Guerrero
4.	Introducción y presentación del Programa y Objetivos del taller.	Una hora	Plenaria Preguntas	Miriam Miranda
5.	**Introducción sobre la Ley de Propiedad Predial mas Segura**	15 Minutos	Exposición en plenaria	Teresa Reyes
6.	**Análisis de la problemática en materia de tenencia de tierra del pueblo Garífuna**	4 horas	Grupos de trabajo	Delegados
7.	Exposición de los grupos de trabajo	Una hora	Relatores	Delegados
8.	**Discusión del Análisis Ambiental.**	Cuatro Horas	Grupos de trabajo	Delegados
9.	Exposición de los grupos de trabajo	Una Hora	Relatores	Delegados
11.	**Análisis del Plan de Desarrollo Indígena**	Cuatro Horas	Grupos de trabajo	Delegados
12.	Exposición de los grupos de trabajo	Una Hora	Relatores	Delegados
14.	***Puntos Varios***	Dos Horas	Lluvia de Ideas	Miriam Miranda
15.	**Acuerdos y Resoluciones**	Una Hora	Lluvia de Ideas	Miriam Miranda
14.	Clausura de la jornada			Gregoria Flores

ANNEX II

MANAGEMENT RESPONSE

THE WORLD BANK/IFC/M.I.G.A.

OFFICE MEMORANDUM

DATE: February 9, 2006

TO: Ms. Edith Brown Weiss, Chairperson, IBRD/IDA Inspection Panel

FROM: Graeme Paul Wheeler, Acting Managing Director, MDS

EXTENSION: 85920

SUBJECT: **Request for Inspection Panel Review of the Honduras Land Administration Project – Management Response**

Management has reviewed the Request for Inspection of the subject project (RQ06/01). The attached response has been prepared by Management to the claims raised in this Request.

Attachment

cl/cc: Messrs./Mmes: D. Freestone (LEGVP); A. Peuker (MDS); G. Grandolini (BCFBD); J. Underwood (OPCS); S. Lintner (ESDQC); D. Milverton (EXTCC); P. Cox (LCRVP); M. Cackler (LCSES); J. Armitage (LCC2C); J. Muñoz (LCSER).

cc: Messrs./Mmes: P. Wolfowitz, L. Obeng (EXC); E. Abbott (IPN)

REQUEST FOR INSPECTION PANEL REVIEW OF THE HONDURAS LAND ADMINISTRATION PROJECT (CREDIT NO. 3858-HO)

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BANK MANAGEMENT RESPONSE TO REQUEST FOR INSPECTION PANEL REVIEW OF THE HONDURAS LAND ADMINISTRATION PROJECT (CREDIT NO. 3858-HO)

Management has reviewed the Request for Inspection of the Honduras Land Administration Project (Credit No. 3858-HO), received by the Inspection Panel on January 3, 2006, and registered on January 10, 2006 (RQ06/1). Management has prepared the following response.

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ABBREVIATIONS AND ACRONYMS

APL	Adaptable Program Loan
BP	Bank Procedures
EA	Environmental Assessment
EMP	Environmental Management Plan
Ha	Hectare
IACHR	Inter-American Commission on Human Rights
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
ILO	International Labor Organization
INA	National Agrarian Institute (*Instituto Nacional Agrario)*
IPDP	Indigenous Peoples Development Plan
IPN	Inspection Panel
OD	Operational Directive
OMS	Operational Manual Statement
OP	Operational Policy
PAAR	Rural Land Management Project (Proyecto de Administración de Áreas Rurales)
PAD	Project Appraisal Document
PATH	Honduras Land Administration Program (*Programa de Administración de Tierras de Honduras*)
PCD	Project Concept Document
PCN	Project Concept Note
PDO	Project Development Objective
SINAP	National Property Administration System (*Sistema Nacional de Administración de la Propiedad*)
SINAPH	Honduran National System of Protected Areas (*Sistema nacional de Áreas Protegidas de Honduras*)
UCP	Project Coordination Unit (*Unidad Coordinadora de Proyectos*), under the Secretariat of Governance and Justice

TERMS

Ethnic Lands	For the purposes of the Project, the term Ethnic Lands is defined in the Credit Agreement to mean "those lands that have ancestrally and historically been settled by Amerindian groups and/or Afro-Honduran communities for their use and that constitute their habitat on which they undertake their traditional productive and cultural practices."
Folio Real	The parcel-based registration technique of land rights, as opposed to the deed-based technique.
Process Framework	Per OP 4.12, paragraphs 7 and 31, a "Process Framework" is prepared by Government when Bank-supported projects may cause restrictions in access to natural resources in legally-designated parks and protected areas. The purpose of the Process Framework is to establish a process by which members of potentially affected communities participate in the design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities.

I. INTRODUCTION

1. On January 10, 2006, the Inspection Panel registered a Request for Inspection, IPN Request RQ06/1 (hereafter referred to as "the Request"), concerning the Honduras Land Administration Project (known in Honduras as *Programa de Administración de Tierras de Honduras*, or PATH) (Credit No. 3858-HO) partially financed by the International Development Association (IDA). Throughout this document, the Honduras Land Administration Project is referred to as PATH or the Project.

2. This Management Response to the Request for Inspection contains the following sections: Section II briefly presents the Request and Section III provides the Project background. Section IV concerns issues of special relevance to the Request, including a brief description of the Garífuna people, the participatory nature of the Project, the Honduran legal framework on land issues, the issue of collective versus individual titling, and the overlap of protected areas with Garífuna territorial claims. Section V summarizes Management's response. Annex 1 presents the Requesters' claims, together with Management's detailed responses, in table format. Annexes 2 to 7 contain supporting documentation referred to in the Response, including a chronology of key Project preparation and implementation events, and the correspondence between the Requesters and Bank Management. A map of the region follows the Annexes (Map 1, IBRD No. 34485).

II. THE REQUEST

3. The Request for Inspection was submitted by Organización Fraternal Negra Hondureña (Ofraneh) on behalf of the Garífuna population of Honduras (hereafter referred to as the "Requesters").

4. The Request concerns three principal issues: (i) the risk of atomization of Garífuna collective titles and delivering Garífuna land claims to non-indigenous organizations in the form of protected areas; (ii) the consultations and participatory nature of the Project; and (iii) the interplay between the Project and Honduras Property Law as it relates to the recognition of the Requesters' territorial claims. The Request also addresses the responses from the Bank to matters raised by the Requesters related to the Project.

5. Attached to the Request are 13 annexes:

(i) Public communication regarding the PATH;

(ii) Ofraneh's complaint regarding violations of OD 4.20 (with attachments) of August 22, 2005;

(iii) World Bank letter of September 14, 2005;

(iv) Minutes of Ofraneh – World Bank meeting of September 21, 2005;

(v) World Bank letter of October 20, 2005;

(vi) Ofraneh letter of October 25, 2005;

(vii) World Bank letter of October 27, 2005;

(viii) Ofraneh letter of October 31, 2005;

(ix) Ofraneh e-mail of November 3, 2005;

(x) Ofraneh letter of November 4, 2005;

(xi) World Bank letter of November 18, 2005;

(xii) Certificates of submittal of petitions to the Inter-American Commission on Human Rights (IACHR); and

(xiii) Certificates and points in minutes of the Garífuna communities, stating their position regarding the PATH.

No other materials were received by Management in support of the Request.

6. The Requesters claim that the Bank has failed to comply with provisions of the following Operational Policies and Procedures:

- OP/BP 4.01, Environmental Assessment, January 1999;
- OP/BP 4.04, Natural Habitats, June 200l;
- OMS 2.34, Tribal People in Bank Financed Projects, February, 1982;
  OD 4.20, Indigenous Peoples, September 1991;
  OP/BP 4.10, Indigenous Peoples, July 2005; and
- World Bank Policy on Disclosure of Information, September 2002.

7. In connection with Indigenous Peoples,[1] Management notes that the Requesters claim violation of OMS 2.34 (1982), OD 4.20 (1991) and OP/BP 4.10 (2005). Management's response, however, is framed under the applicable policy on Indigenous Peoples (OD 4.20 issued in 1991), rather than OMS 2.34 or OP/BP 4.10. The Project had its Pro-

[1] The Afro-descendant Garífuna people, of whom the Requesters are members, are covered by the IPDP prepared for PATH pursuant to OD 4.20, as are members of Amerindian peoples (Miskito, etc.) living in Honduras. This treatment of the Garífuna reflects Management's judgment, taking into consideration the defining characteristics set forth in paragraph 5 of OD 4.20, about the nature of the Garífuna. Given that other Afro-descendant groups in other countries and settings exhibit different case-specific characteristics, this Management judgment can quite appropriately vary from case to case.

ject Concept Document (PCD) Review Meeting on April 9, 2003 and the Project Appraisal Document (PAD) Decision Meeting on December 8, 2003. OMS 2.34 (February 1982) was replaced by OD 4.20 in September 17, 1991. OP/BP 4.10 applies to projects for which a Project Concept Note (PCN) Review takes place on or after July 2005, thus it does not apply to this project.

III. PROJECT BACKGROUND

THE HONDURAS LAND ADMINISTRATION PROGRAM

8. **The Honduras Land Administration Program [2] (PATH) builds on successful pilot experiences developed under a previous Bank-financed project.** The genesis of PATH dates back to the Bank-financed Rural Land Management Project (PAAR), implemented between 1997 and 2003 (IDA Credit 29400; Supplemental Credit 29401). A Land Administration Modernization component under PAAR supported the development of technological platforms (e.g., software design, databases, web-based applications, hardware, data migration, training) and land administration procedures and manuals in order to establish a parcel-based registration system (*Folio Real*). These were piloted successfully in the Department of Comayagua. Under PAAR, 27,500 hectares (ha) of indigenous lands in 13 Tolupán communities were demarcated and titled. This experience was commended as a best practice example in participatory demarcation in the Bank's review, "Indigenous Peoples Development Plans – Thematic Review" (2002).

9. **PATH is the first phase of a three-phase program**. Building on the successful experiences of PAAR, the Government of Honduras requested Bank support to expand its land administration reform efforts, to be channeled through an Adaptable Program Loan (APL). APLs provide phased support for long-term development programs. They involve a series of loans that build on the lessons learned from the previous loan(s) in the series. An APL involves agreement on: (i) the phased, long-term development program supported by the loan; (ii) sector policies relevant to the phase being supported; and (iii) priorities for sector investments and recurrent expenditures. Triggers define when to move to the next phase. Subsequent loans in the series are phased based on satisfactory progress in meeting the defined milestones, benchmarks or triggers.

10. **An APL is the appropriate instrument to support the long-term reform and investment program being carried out in Honduras.** The Government expressed its intention to embark on a long-term and far-reaching legal, institutional, and technological reform to formalize property rights for the vast majority of Hondurans, resolve land conflicts, facilitate access to land by the poor, reduce land transaction costs, increase the transparency of land administration services (cadastre, registry, certifications), and

[2] Note that the "Project" refers to the first phase of the three-phase Land Administration "Program," and this is how it is described in the PAD. Since each phase is considered a separate IDA Credit, the Credit Agreement refers to the Land Administration "Project." Other Project documents often use both terms interchangeably.

strengthen municipal capacities for their decentralized implementation. The ensuing PATH serves as one of the Government's instruments to accelerate growth and increase sustainability while reducing rural and urban poverty. Secure land rights feed into the broad goal of poverty reduction and sustainable development supported under the Government's Poverty Reduction Strategy Paper, and improved governance in the country. The agreed triggers for Phase II of the Land Administration Program are: (i) creation of a new institutional framework for the National Property Administration System (SINAP), (ii) achievement of 80 percent or better results of the Project Development Objective indicators, (iii) adoption of legal / regulatory framework for Indigenous Peoples' lands, and (iv) completion of baseline data gathering for Phase II.

PROJECT OBJECTIVES

11. **The Project Development Objective is to establish and operate an integrated and decentralized land administration system (comprising public and private entities) to provide users with accurate information on urban and rural parcels, and effective land administration services in a timely and cost-effective manner.** The system will help increase land tenure security for private and communal lands, reduce transaction costs, develop national and municipal territorial plans, and develop management plans for protected areas (including co-management plans in indigenous lands). The main beneficiaries of the Project are urban and rural poor who lack tenure security over their lands, including selected indigenous and Afro-Honduran communities.

PROJECT MILESTONES

12. The PCD and PAD Decision Meetings were held on April 17 and December 9, 2003 respectively. Negotiations followed on January 8-9, 2004, and the Board approved the Project on February 26, 2004. The Project became effective on December 2, 2004. The closing date is April 30, 2008. The amount of the credit is SDR 16.9 million (USD 25.0 million equivalent).

PROJECT COMPONENTS

Component 1: Policy Framework and Institutional Strengthening (USD 10.9 million; 28.1 percent of total cost)

13. This component supports increased transparency and improved governance of the country's main land administration institutions. The component's main outputs include the establishment of the National Property Administration System (SINAP), through strengthened legal, regulatory, and institutional frameworks. SINAP will include a National Territorial Information System (SINIT), a Registry of Norms (RENOT), and the Unified Registries System (SURE), to be operated by public and private entities.

Component 2: Area-based Systematic Land Regularization, Titling and Registration (USD 22.7 million; 58.2 percent of total cost)

14. This component is directly benefiting local populations through regularization and registration of their land assets. The Project aims to cover different types of rural and ur-

ban land and a broad cross-section of Honduran society. The component's main output is the incorporation of land parcels within the project area into SINAP, with the Project financing pre-field work, including aerial photography, field surveying of macro boundaries such as inter-municipal boundaries, parcel-level surveying and validation, and support for conflict resolution, titling, and mass registration into SINAP.

Component 3: Project Management, Monitoring and Evaluation (USD 5.3 million; 13.7 percent of total cost)

15. This component covers the administrative costs of the Project Coordination Unit (UCP), specifically to implement monitoring and evaluation activities.

PROJECT STATUS

16. **Progress towards achieving the project development objectives is satisfactory.** Since the project became effective in December 2004, the Bank has conducted four supervision missions. The Project's implementation progress is considered highly satisfactory. To date, the Project has disbursed USD 17 million, 69 percent of the total credit amount. The SINAP and its subcomponents have been established. Five out of the eight property registries targeted in the project are operating the system under *folio real,* reducing considerably the time and cost of transactions. Twenty-one municipalities, 140 percent of the target, are already operating SINAP's subsystems, resulting in an improvement in the provision of services to the public. Surveyed parcels stand at 23 percent of target, as planned. More than 50 percent of municipal boundaries have been demarcated.

17. The regularization of Indigenous and Afro-Honduran lands is expected to account for approximately 5 percent of the Project's total cost. This component of the Project is proceeding at a slower pace than the rest of the Project, as field activities are preceded by extensive consultation with communities.

SUMMARY OF MANAGEMENT'S RESPONSE

18. **Management's response to the Request makes four main points:** First, no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have yet taken place under the Project and therefore, no claims have been affected. Furthermore, safeguards included in the Project provide appropriate protection to Indigenous Peoples' land rights if and when these activities occur. Second, community participation in the Project is voluntary and broad participatory mechanisms are operational. Third, the Project is consistent with Honduran legislation, including the 2004 Property Law, and applicable Bank safeguard policies. Lastly, Management has been responsive to the Requesters' concerns and remains committed to ongoing meaningful consultations that include all interested Garífuna stakeholders.

19. **Management notes that the Project has caused no harm given that no activities related to physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have yet taken place under the Project.**

The only activities carried out with Garífuna communities to date relate to dissemination of information and consultations and these activities have been in full compliance with Bank policies.[3] In compliance with OD 4.20, OP 4.01, and OP 4.04, the Project incorporates appropriate safeguards to prevent harm during implementation.

20. **Management affirms that community participation in the Project is voluntary**, and individual communities are free to choose whether or not to participate in the Project. Appropriate consultations have taken place during Project preparation and implementation. Moreover, Project design and implementation take into account proposals made during the consultation process. Management does note that consultation has given opportunities to present diverging views about the Project among different Garífuna stakeholders.

21. **Management's view is that the Project incorporates appropriate safeguards** to fill potential gaps in Honduran legislation to safeguard the rights of Indigenous Peoples. Management has addressed all the Project-specific concerns raised by the Requesters. To the extent they disagree with the 2004 Property Law, and not with the Project per se, Management notes that the content of national laws and regulations is the responsibility of the Government of Honduras, and that the Government has put in place mechanisms, such as the Project's consultation framework, for civil society to raise their concerns on such matters.

22. **Finally, Management reaffirms its commitment to meaningful consultations, broad participation and open dialogue that allows all interested parties to express their views about the Project, and to ensure compliance with all Bank policies.**

IV. SPECIAL ISSUES

THE GARÍFUNA PEOPLE

23. The Garífuna in Honduras live along the northern coast of the country, in an area commonly known as "the Coast." The Coast covers a geographical area of about 600 kilometers along the Caribbean Sea and facing the Caribbean Antilles. The Garífuna are descendants from a mix of Indigenous Peoples, known as the Carib, and African former run-away slaves brought from San Vicente Island to Roatán Island by the British during the eighteenth century. The Spanish authorities almost immediately relocated the Garífuna population to the Honduran mainland. Different sources estimate the Garífuna population in Honduras to be between 49,000 and 98,000 persons; the 2001 national census reported 49,952 individuals who self-identify as Garífuna. The 2002-2003

[3] As a related point, the Requesters also claim that the Bank's action under the Project have harmed their claims before the IACHR. This claim would appear to be outside the scope of Bank competence, and wholly within that of the Commission. However, even if this issue were considered in the context of Bank compliance with OD 4.20, OP 4.01, and OP 4.04, the Project incorporates appropriate safeguards to prevent harm during implementation.

household surveys reported that the Departments of Atlántida, Cortés and Colón hold 84 percent of the total Garífuna population of Honduras, while the remainder are in the Departments of Gracias a Dios (3 percent) and Francisco Morazán (5 percent), and scattered across other Departments (7 percent). The exact number of Garífuna communities is imprecise, but estimates indicate the existence of between 36 and 48 Garífuna communities located along the Coast (see Map 1).

24. In socioeconomic terms, 52 percent of the Garífuna live in urban areas, 68 percent have attended primary school, and infant mortality stands at 12 percent, considerably lower than the national average. Likewise, 55 percent of the Garífuna population have their basic needs met as reflected by the National Index of Unmet Needs (NBI). There is a marked difference between rural and urban areas, the former being poorer and with fewer opportunities than the latter. In recent years, remittances have played an increasing role in household incomes, a result of an intense process of migration of Garífuna community members – particularly men – to the United States. As a result, Garífuna household have higher than average living standards compared to national averages, and particularly in relation to other ethnic minority groups in Honduras.

25. **A variety of civil organizations represent the Garífuna.** The community association of Cristales and Rio Negro was the first Garífuna organization recognized by the Government of Honduras. Chronologically, other important organizations include Ofraneh (Organización Fraternal Negra Hondureña) created in 1977 and legally recognized in 1982. The Organización de Desarrollo Étnico Comunitario (Odeco) was formed in 1992 and legally recognized in 1994. The Centro Independiente para el Desarrollo de Honduras (CIDH), Centro para el Desarrollo Comunal (CEDEC), Enlace de Mujeres Negras, la Mancomunidad de Municipios Garífunas de Honduras (MAMUGAH), la Comisión Diocesana de Pastoral Católica Garífuna, Asociación Hondureña de Mujeres Negras (ASOHMUN), Asociación de Mujeres Lanigui Wanichigu, and Gemelos de Honduras are other organizations concerned with the Garífuna. Some of these organizations are considered traditional grassroots organizations (community or *Patronato* level); others are non-government organizations (NGOs) created around family, gender, professional alliances, development-specific purposes, or are affiliated with a church; while others are second-tier national federations or confederations. These organizations reflect the multiplicity of interests and concerns that affect the Garífuna people.

26. **Garífuna communities currently face multiple and long-standing unresolved land conflicts which Government entities have sought to resolve.** The titling programs carried out by the National Agrarian Institute (INA) over the past three decades have not met the expectations of Garífuna communities. Some communities were not titled at all; others were issued collective titles for smaller amounts than claimed. Some Garífuna families received individual titles. Some lands claimed by Garífuna communities were titled to non-Garífuna people. The 2003 participatory Social Assessment carried out as part of Project preparation noted that the coexistence of different types of ownership and use of the land in the region have generated confusion and conflict among and between community members, between communities and third parties, and between communities and local and national authorities. More important, regarding one of the key issues of this Request, the Social Assessment observed; "Leaders and community members have

different viewpoints with regards to land tenure issues. Some Garífuna families ... would prefer an individual fee-simple title (*dominio pleno*). However, they argue, their leaders do not allow this. [...] Among the indigenous populations [*that is, Garífuna and Miskito*] this is so because some Confederations maintain that if land is titled individually, indigenous culture is at risk.[...] This has created an informal land market based on informal arrangements that increase tenure insecurity" (see page 32 of the Social Assessment).

27. **Over the past few years, the Bank has supported research on land issues of indigenous and Afro-Honduran peoples in Honduras.** The Biodiversity in Priority Areas Project (PROBAP, Grant No. 28367), implemented between 1998 and 2005 with support from the Global Environment Facility (GEF) and the Bank, supported one of the most comprehensive land tenure studies among Garífuna and Miskito populations in Honduras (Central American and Caribbean Research Council, 2002). This study used a participatory methodology to map the territorial claims of 25 Garífuna and Miskito communities along the Coast. Today, many Garífuna communities and organizations use the results of this study as one of the empirical sources for their land claims. The Bank and the Regional Unit for Technical Assistance (RUTA) sponsored a profile of indigenous and Afro-Honduran peoples in Honduras, "*Perfil de los Pueblos Indígenas y Negros de Honduras*" (2002). The Bank has also supported institutional building of Afro-descendant groups in Latin America that included Garífuna communities, with two workshops held in Honduras (February and June 2004). In addition, with the support of the Central American Commission of Environment and Development (CCAD), the Bank is financing an Institutional Development Fund (IDF) grant to strengthen the capacities of Central American black organizations, including Garífuna groups in Honduras.

CONSULTATIONS AND THE PARTICIPATORY NATURE OF THE PROJECT

28. The Requesters claim that

(i) Bank experts did not carry out consultation programs in advance of the drafting of the Project's Indigenous Peoples Development Plan (IPDP);

(ii) The Requesters received the draft IPDP (and the Environmental Assessment, or EA) shortly before the only consultation meeting;

(iii) In December 2003 representatives of all the Garífuna communities rejected everything that was established in the IPDP, while the Bank did not take into account alternative proposals made by the Garífuna; and

(iv) The Project does not consider the local social organization patterns and the preference of a communal land tenure system.

29. **Management wishes to clarify the respective roles of Government and the Bank under Bank-financed projects.** Governments are responsible for preparing projects, which includes preparation of background documents (e.g., Social Assessment, EA), policy and operational manuals (e.g., IPDP, Process Framework, Project Operational Manual), and consultations. The Bank's role is to appraise these documents and

processes and, if they are in accordance with Bank policies, including safeguard policies, endorse them as the basis for Bank financing. After Project Effectiveness, the role of the Government is to implement the project whereas the Bank supervises project implementation.

30. **Ofraneh has participated in ten consultation events to date, including during Project preparation and implementation.** Between January 2003 and February 27, 2004 (the Project's Board Approval date), representatives of Ofraneh participated in seven events sponsored by Government[4] related to the Property Law, preparation of the Project, and the IPDP (see Annexes 2.1 to 2.8). Since Project Effectiveness (December 2, 2004), as part of project implementation, the Requesters were invited to seven additional events, including consultations, workshops, and other decision-making sessions, but participated in only three of these events (see Annexes 2.9 to 2.12).

31. **A wide range of Garífuna stakeholders was consulted as part of the participatory Social Assessment and preparation of the IPDP in July-August 2003.** Three focal groups, approximately 15 structured interviews with key stakeholders, and 30 household questionnaires (as part of a survey of over 300 people throughout the country) were conducted in three Garífuna communities in the Departments of Atlántida (Sambo Creek and Tornabé) and Gracias a Dios (Batalla). The Social Assessment included the participation of municipal authorities, *Patronato* leaders (described in more detail in paragraph 40 below), community leaders, individuals, and civil society organizations, representing the broad spectrum of Garífuna stakeholders.

32. **The Bank-financed PAAR project supported Ofraneh in reviewing the draft Property Law.** In August 2003, Ofraneh and other Indigenous Peoples leaders requested Government to support (through the Bank-financed PAAR project, the precursor of the PATH) a consultation process to review the draft Property Law. On August 26, PAAR staff met with Indigenous Peoples leaders, including one Ofraneh representative, and established an *ad hoc* working group to review the draft Property Law (see Annex 2.3). The recommendations of this working group were discussed on October 8, 2003, with the participation of seven Ofraneh representatives, under the auspices of the PAAR project (see Annex 2.4).

33. **Project design took into account recommendations made at consultation events carried out during Project preparation.** A two-day workshop organized by Ofraneh, and financed by the Bank-funded PAAR project, took place in San Juan, Tela, Atlántida on October 25-26, 2003 with the participation of 109 Garífuna representatives (see Annex 2 to the Request). Seven working groups elaborated their proposals concerning Indigenous Peoples' lands, protected areas, natural resources management, water and

[4] As a follow-on operation to PAAR, PATH preparation was carried out by staff working on PAAR at the time (2003 and 2004), and thus many documents annexed to this Response refer to PAAR as the Government's entity in charge of preparing PATH. Also note that in early 2003, Government had not decided yet on a name for the PATH, so some documents refer to the Project as, *inter alia*, second phase PAAR, the Project for the Integration of the National Cadastral and Registry System (SINREC), Land Administration, and the Land Regularization and Administration Project (PRATH).

soil management, cultural patrimony and participation. The recommendations made at that workshop largely related to the contents of the draft Law (which eventually became the Property Law, No. 82-2004) under discussion in Honduras at the time. Management was supportive of the Government's efforts to enable Garífuna representatives to make their concerns about the draft Property Law known to the appropriate authorities (see Annex 2.6). The event's seven working groups also made more specific recommendations. Project design considered all these proposals and incorporated many. For example, (i) the IPDP assigns resources for ongoing consultations on land tenure issues with Garífuna communities; (ii) the Project considers co-management of protected areas by Garífuna communities; (iii) the IPDP assigns resources for legal advice and training of Indigenous Peoples; and (iv) community participation in the Project is voluntary. Other proposals, such as those related to forestry issues, underground natural resources, or the appointment of Garífunas to high level public office, fell outside the scope of the Project (see Annex 2 to the Request, pages 2 to 4, Minutes of San Juan, Tela, Atlántida workshop, October 25-26, 2003).

34. **The Project's IPDP includes a broad and participatory consultation framework for indigenous communities.** The IPDP allocates government resources for consultations with Indigenous Peoples (including the Garífuna) related to land issues. Thus, the IPDP includes a budget with designated funds for consultations, dissemination of materials and legal advice to indigenous communities. Moreover, the IPDP includes the establishment of a consultation framework through which indigenous communities participate in the process of defining land regularization procedures. During Project preparation, Ofraneh participated in the two rounds of IPDP consultations (November 26 and December 2, 2003). At the November 26, 2003 event, participants (representing several Indigenous Peoples groups and organizations) requested additional time to review the draft IPDP submitted by Government for their consideration (see Annex 2.7). Government granted this request and it was agreed that a follow-up consultation event would take place on December 2, 2003. The minutes of this second IPDP consultation event state that "the participatory methodology, and the political willingness to discuss the project and its specialized documents (the IPDP and environmental assessment) were well received by the participants." Also, "the participants agreed to consult with their constituents to appoint representatives to a [national consultation board], the *Mesa Nacional Indígena*" (see Annex 2.8). Finally, in the course of Project implementation, Government decided that instead of having one national consultation board, two ethnic-based regional boards were more appropriate. Thus, under the Project there is one Garífuna *Mesa Regional* for the Departments of Atlántida and Colón and one Miskito *Mesa Regional* operating in the Department of Gracias a Dios.

35. **Participants at the two IPDP consultation events did not raise major objections to the Project or its design.** As the Project draft documents submitted by Government were well received by the major civil society stakeholders, and no major objections had been raised at the November 26 and December 2, 2003 events, Management decided that these project documents were acceptable for disclosure, Project Appraisal and Board Approval of the Project.

36. **Management notes that Project design and implementation considered all the relevant issues contained in the December 18-19, 2003 Sambo Creek document, and incorporated many of its proposals (see paragraph 39 below).** This contrasts with the Requesters' claim that "all the Garífuna communities in Honduras ... presented a firm rejection of everything that was established in the IPDP, while proposing several alternatives. However, the Bank did not take into account any of those proposals" (page 4, paragraph 1 of the Request). Management notes that although the Sambo Creek document expresses some concerns about the IPDP, it does not reject the Project or the IPDP. In fact, the objective of the Sambo Creek meeting was to "become familiar, appropriate the documents, and provide suggestions" to the Project's IPDP and EA.

37. **The Requesters misrepresent the contents of the December 2003 Sambo Creek document, which praises the diagnosis of Garífuna land tenure issues presented in the IPDP.** The document notes:

> "The excellent analysis of the issues that affect ethnic communities in Honduras with regards to land tenure and the regularization of ancestral lands and the optimal operational directives that guided the drafting of the environmental assessment and the PATH in general give hope to the indigenous and Garífuna communities of Honduras that these will be translated into a concrete application of the design by Government and the World Bank, with regards to the territorial planning issue that represents an essential prerequisite for the survival of ethnic peoples" (Annex 2 of the Request, sixth attachment, "Aide Memoire, Consultation on the PATH, chapter on IPDP, and REPEPIN Program,"[5] page 18).

38. **Likewise, most of the 12 land tenure issues raised in the Sambo Creek document (Annex 2 of the Request, sixth attachment, page 4) are explicitly addressed by the Project,** including: (i) lack of titling of Garífuna lands; (ii) lack of registration of existing Garífuna titles; (iii) overlapping claims between Garífuna territorial claims and others (e.g., municipalities, protected areas, private landholdings, national lands); (iv) lack of Government policy to resolve Garífuna land issues; and (v) lack of Garífuna participation in the management of protected areas. Other issues, such as the expansion of the agricultural frontier, the coffee crisis, or the impact of roads, fall outside the scope of the Project.

39. **Many of the proposals mentioned in the December 2003 Sambo Creek document were incorporated in Project design and are currently under implementation.** The document lists 14 conclusions, 10 of which are relevant to the Project[6] (Annex 2 of the Request, sixth attachment, pages 11 and 12). The Project addresses all these issues and incorporates most of these proposals. For example, (i) the Project includes safeguard measures to protect the rights of Indigenous Peoples in the resolution of land tenure conflicts (see paragraphs 55 and 77 below); (ii) community participation in the Project is

[5] The REPEPIN (and PAPIN) projects analyzed in that document refer to another non-Bank-funded project.
[6] The other four conclusions refer to the PAPIN and REPEPIN projects.

strictly voluntary; (iii) prior informed consultation with Garífuna communities is a pre-requisite before land regularization methodologies are issued and before field activities begin; (iv) the consultation framework does not mix different ethnic groups (see paragraph 34); (v) the Project calls for the issuance of communal titles to Garífuna communities (see paragraphs 73 and 74 below); and (vi) the Project considers co-management plans (between Garífuna communities, NGOs, and/or other entities) for protected areas (see paragraph 78 below).

40. **Broad participatory mechanisms are an integral element of Project design.** The findings of the above-mentioned land tenure studies, the participatory Social Assessment carried out during Project preparation, the consultation events, and other sources resulted in the Project's adoption of broad participatory mechanisms for Indigenous Peoples at the grassroots level. In particular, the Social Assessment concluded, "*Patronatos* are the organizational structure which has the most contact with the population and understands their interests best." *Patronatos* are important grassroots organizations, because they are located within communities and their governing boards are selected by community members directly. The close proximity of *Patronatos* to communities increases their social accountability, and brings communities closer to municipalities. Moreover, *Patronatos* have legal personality, allowing them to implement publicly financed projects. *Patronatos* are represented in the *Mesa Regional de Regularización y Resolución de Conflictos "Wadabula"* (henceforth *Mesa Regional*) and *Mesas Locales* as explained below.[7]

41. **Management would like to emphasize the voluntary nature of community participation in the Project.** Only those communities willing to participate will have their lands demarcated and titled. Therefore, individual communities can avoid the potential harm alleged by the Requesters by choosing not to participate in the Project.

HISTORY OF THE GARÍFUNA *MESA REGIONAL*

42. **The *Mesa Regional* includes a broad range of Garífuna stakeholders.** Shortly after Project Effectiveness (December 2004), under the auspices of the Project, Government invited representatives of a wide range of Garífuna communities and organizations, including Ofraneh, to participate in a meeting to establish an inter-institutional commission to organize the *Mesa Regional*, as agreed at the December 2, 2003 consultation meeting (see Annex 2.11). On March 15-17, 2005, 112 Garífuna persons, including representatives from 25 Garífuna communities, and municipal and *Patronato* authorities, including representatives from the Association of Municipalities of Honduras (AMHON), the principal Garífuna Catholic Church Organization (*Pastoral Garífuna*), Ofraneh[8] and Odeco, gathered in Trujillo, Colón to create the *Mesa Regional*

[7] Bank staff have met three times with the Garífuna *Mesa Regional* (April, September, November 2005), once with the Santa Fé and San Antonio *Mesa Locales* (September 2005), and once with the Miskito *Mesa Regional* (April 2005).

[8] The person representing Ofraneh at the March 2005 *Mesa Regional* meeting is not one of the Requesters. The leadership of Ofraneh is under dispute; see paragraph 45 below and Annex 3.

de Regularización y Resolución de Conflictos. The *Mesa Regional* established a guiding principle of non-exclusion to guarantee that all interested parties have the right to participate and express opinions and views about the Project (see Annex 2.12). Management endorses this principle.

43. **In contrast with other Garífuna groups, the Requesters declined the invitation to participate in the establishment of the Garífuna *Mesa Regional.*** Invitations to the March 2005 meeting of the *Mesa Regional* were circulated widely among Garífuna organizations and communities, and this same approach has been used for subsequent meetings. Ofraneh declined to participate. It was at this meeting that the eight communities and twelve protected areas were selected by participants as candidates for participation in demarcation and titling activities under the Project.

44. **To complement the *Mesa Regional, Mesas Locales* promote grassroots-level participation by Garífuna communities.** Since the creation of the *Mesa Regional*, its members have met on various occasions to disseminate Project information to selected communities and discuss the structure and functioning of the *Mesa Regional* (see Annexes 2.14, 2.15, 2.16, 2.17, 2.19, 2.20, and 2.21). To complement the *Mesa Regional, Mesas Locales* were created as community-based mechanisms to address operational aspects of the Project at the local level. The *Mesas Locales* are specific to each community and work within the framework of community assemblies to ensure the participation of all community members. *Mesas Locales* have the closest ties to the communities and the responsibility to report to the *Mesa Regional* if the community chooses to participate in Project activities. In May 2005, *Mesas Locales* were created in the Garífuna communities of Santa Fé and San Antonio, and in June in the communities of Sangrelaya, Guadalupe, and Cocalito.[9] Also in June 2005, three *Mesa Regional* working commissions were created for dissemination, training, and monitoring (see Annex 2.16).

45. **Management takes no position regarding an institutional dispute within Ofraneh.** In May 2005, Management learned of an internal dispute within Ofraneh. In December 2003, there was an ordinary assembly in Sambo Creek where a new General Coordinator and Board of Ofraneh were elected. In March 2005, an extra-ordinary assembly was held in Punta Piedra to replace authorities elected in December 2003. This extra-ordinary session was not recognized by the Coordinador General of Ofraneh elected in December 2003. Since then, the legitimacy of the leadership of Ofraneh has been in dispute (see Annex 3). Currently, the Coordinator General of Ofraneh elected in December 2003 is a member of *Mesa Regional*, while the Requesters, who dispute his leadership, are not. **Management has kept open channels of communication to any Garífuna individual or organization with an interest or concern in connection with the PATH.**

46. **There is a diversity of opinions among the various Garífuna stakeholders regarding the role of the Project in addressing their land claims.** Government and the

[9] Cocalito was not one of the eight communities selected in March 2005, but the President of this *Patronato* requested its inclusion in the Project on April 29, 2005.

Mesa Regional have extended open invitations to all Garífuna communities and organizations to participate in the consultation framework sponsored by the Project. Some Garífuna groups are actively participating in the Project, others have participated sporadically, while still others have chosen not to be involved.

47. **Management notes that there is broad support for the Project among various Garífuna stakeholders,** as shown by the numerous minutes of meetings and statements made by the *Mesa Regional* (see Annexes 2.14 to 2.17 and 2.19 to 2.21). Community representatives at the *Mesa Regional*, not Government, selected the eight communities as well as the alternates.

48. Management has been informed by Government that the next steps in this consultation process include: (i) disseminating Project information with the new Honduran authorities;[10] (ii) finalizing the hiring of a lawyer to support the *Mesas*; and (iii) convening another plenary event for the entire *Mesa Regional* to review the work of the three working commissions mentioned in paragraph 44 above, including the review of the land regularization and conflict resolution procedures.

THE HONDURAN LEGAL FRAMEWORK

Legal Framework At the Time of IPDP Preparation

49. The Requesters claim that:

(i) Indigenous community representatives expressed their opposition to the draft Law and manifested their dissatisfaction during a consultation workshop (October 2003) that took place before the Property Law was approved (June 2004);

(ii) The Bank, despite knowing that the draft Law would soon be passed, made no mention of it in Project documents;

(iii) Indigenous communities are confused because they find themselves faced with two different arrangements for conflict resolution and titling: on the one hand, the IPDP and the PATH Operational Manual; and on the other, the 2004 Property Law; and

(iv) Garífuna people oppose both arrangements since they consider them more restrictive and less generous than the International Labor Organization's Convention No. 169.[11]

[10] Honduras held general elections on November 27, 2005, and the new Government, including municipal authorities, was inaugurated on January 27, 2006.

[11] Garífuna people claim that the Project is not consistent with the ILO Convention 169. While this issue may be appropriate to raise within the jurisdictional context of other fora, such as Inter-American Human Rights tribunals, the World Bank's obligation in this project is to ensure compliance with the World Bank's applicable policies, including the Operational Directive on Indigenous Peoples. As noted elsewhere, it is Management's view that the Project has fully complied with this policy.

50. Being aware of concerns by some Garífuna groups about the draft Law, the Bank welcomed Government's efforts – through activities financed under the PAAR project – to enable these groups to make their concerns known to the appropriate authorities (see Annex 2.6).

51. **Management wishes to clarify the relationship between the IPDP – prepared under the legal framework in place in 2003 – and the Property Law** approved in June 2004. A brief chronology of key events is as follows:

(i) The Project's IPDP, EA, and Process Framework were disclosed on December 8, 2003;

(ii) The Project was approved by the Bank's Board on February 26, 2004, and the PAD – dated January 22, 2004 – became publicly available at the Bank's InfoShop and the Government's UCP in Tegucigalpa;

(iii) The Property Law (*Ley de Propiedad, Decreto No. 82/2004*) became effective on June 29, 2004; and

(iv) The Project was declared effective on December 2, 2004.

52. **Project design anticipated the possibility of a new law by providing mechanisms (see paragraphs 55 and 56 below) for the continuous flexible adaptation of the Project to the new law.** The Property Law is not explicitly discussed in Project documents because its approval and contents were uncertain at the time of Project Appraisal and Board Approval; the draft Law had been under discussion for more than two years and it was not certain to be approved.

53. **Project preparation identified potential gaps in the Honduran legal framework.** Throughout 2003, Management reviewed the existing legal framework (see Annex 12 of PAD, which includes the legal analysis as part of the documents available in Project files, and introductory paragraphs in the IPDP). In particular, three gaps that needed to be filled were critical for the Project's success: (i) lack of a legally established parcel-based property registry (*Folio Real*); (ii) lack of legislation specifically addressing indigenous and Afro-Honduran land rights, including appropriate consultation frameworks; and (iii) lack of operational procedures to deal with demarcation of protected areas and their surroundings.

54. **Throughout Project preparation, Management carefully considered and evaluated options for addressing identified potential gaps in the Honduran legal framework.** At the PCD [12] Review Meeting of April 17, 2003, the existing legal framework was discussed; it was agreed after careful consideration that Project preparation should proceed. At the PAD Decision Meeting on December 9, 2003, the question of whether to wait for passage of a new law was discussed again. Following careful consideration of options, Management decided that it was most appropriate to continue Project preparation of the first phase of the three-phase APL under the existing

[12] PCD is the equivalent of the current PCN.

legal and institutional framework, while building into the design specific safeguards (see next paragraph) addressing the above-mentioned gaps. As the Project under preparation was the continuation of successful pilot activities under the Bank-financed PAAR (e.g., development of participatory demarcation methodologies for Indigenous Peoples' lands, development of technological platforms for parcel-based registration, land regularization field manuals), an interruption would have caused significant damage in terms of sustainability of investments already made.

55. **The Project includes specific safeguards to address the identified potential gaps in the legal framework.** Government and Management agreed on the following safeguard measures to address the identified potential gaps, anticipate the possibility of a new law, and comply with applicable Bank policies. First, before Project Effectiveness, the Supreme Court of Honduras would issue a Regulatory Decree (*Auto Acordado*) authorizing a parcel-based property registry in Project areas.[13] Second, specific safeguards were incorporated into the Credit Agreement and other relevant Project documents to ensure that the rights of indigenous and Afro-Honduran peoples were protected. These include, among others:

(i) Section 3.08(b) of the Credit Agreement obliges the Borrower to carry out an IPDP acceptable to the Bank, which would *inter alia* ensure: (a) that Indigenous Peoples have adequate access to legal advice and training before decisions are made regarding lands which are in conflict; and (b) that the decision-making mechanisms for conflict resolution on these lands are transparent and include genuine representation of indigenous and Afro-Honduran groups;

(ii) Section 3.11 of the Credit Agreement established that "no titling or physical demarcation of lands adjacent to Ethnic Lands will take place unless procedures that adequately protect the rights of indigenous and Afro-Honduran peoples, duly consulted with affected parties in a manner satisfactory to the Association [Bank], and set forth in the Operational Manual, have been followed;" and

(iii) A trigger for Phase II of the APL was established, requiring "adoption of a legal / regulatory framework for Indigenous Peoples lands."

And third, specific safeguards related to protected areas and natural habitats were included (see paragraphs 76 to 84 below).

56. **Considering the Project Development Objective, Management found the new Property Law acceptable, taking into account the above-mentioned safeguards.** In the period between passage of the Property Law by the Honduran Congress (June 2004) and Project Effectiveness (December 2004), Management assessed the Property Law and concluded that the Project's safeguard provisions were not in conflict with the new law

[13] Since the Property Law approved in 2004 (before Project Effectiveness) establishes a parcel-based property registry for the whole country, Management decided that issuance of the Regulatory Decree by the Supreme Court was no longer necessary and the Effectiveness Condition was deemed fulfilled.

and the two could be harmonized. The process of harmonization will take time, considering the need for broad and participatory consultations with Project stakeholders. The Project aims to accomplish this harmonization through participatory mechanisms, such as the *Mesa Regional* and the community-level *Mesas Locales*, established precisely for that purpose.

57. **Management notes that the IPDP (and the Project Operational Manual) have not been updated because the Project's safeguards require comprehensive consultations before land regularization methodologies are adopted.** That is, the Project's safeguards prevent Government from launching field activities until the Bank issues its no-objection to the land regularization and conflict resolution procedures, and the revised procedures will not be submitted to the Bank until broad and meaningful consultations have been carried out.

Regulations on Land Regularization

58. The Requesters raised concerns regarding the process of land regularization for Indigenous Peoples. They claim specifically that:

(i) The IPDP does not take into account the existing legislation on Indigenous Peoples and the legal procedure for collective titling;

(ii) No rules have been developed since the issuance of the IPDP in connection with the demarcation and delimitation of indigenous communities' lands and that therefore, Indigenous Peoples should follow the procedure contemplated in the existing *Afectación* Rules[14] addressing their expansion requests and their claims to INA;

(iii) There is confusion regarding coordination between INA and the Indigenous Affairs Unit contemplated in the IPDP; and

(iv) In any case, issuance of regulations would only contribute to confusion regarding applicable rules.

59. **Government has not issued regulations to the Property Law related to Indigenous Peoples' lands to date, as the regulations are currently under consultation with stakeholders.** Thus, they have not been incorporated into the IPDP or the Project Operational Manual. The relationship between the IPDP and the existing legal framework is addressed in paragraphs 51 to 57 above.

60. **A draft document on the procedures for regularization of indigenous communities' lands has been circulated to indigenous communities for consultation.**[15] Bank staff clarified the purpose of this draft document to the Requesters at the September 21, 2005 meeting in Tegucigalpa (see Annexes 4.3 and 4.4). One of the

[14] These rules refer to the procedures used by the Agrarian Reform Institute to distribute and title lands for agrarian reform purposes.

[15] The draft document "*Metodología para Determinar y Medir las Tierras a Ser Tituladas a las Comunidades Étnicas*" is likewise mentioned in the Request.

tasks for the *Mesa Regional* is precisely to discuss the document and make specific recommendations to Government. The Project is currently contracting a lawyer, agreeable to the *Mesa Regional*, to assist the *Mesa* in reviewing the Property Law and the draft regulations document, in response to specific recommendations made during Project preparation consultation events.

61. Regarding the relationship between the Indigenous Affairs Unit and INA, see Section 3.2 in Annex 1 below.

62. **Management notes a contradiction in the Request:** on the one hand, the Requesters complain about the lack of regulations to the Property Law and, on the other, they argue that issuance of such regulations would contribute to confusion. Management notes that the content of national laws and regulations is the responsibility of the Government of Honduras, and that the Government has put in place mechanisms, such as the Project's consultation framework, for civil society to raise concerns on such regulations.

63. **Management affirms that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have taken place under the Project to date.** The only activities carried out by the Project with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20. Management understands that the ongoing consultations will result in land regularization procedures that Government would subsequently approve as regulations to the Property Law. If the proposed procedures are also consistent with the relevant Credit Agreement provisions and Bank safeguard policies, then Management will endorse the incorporation of said procedures into the IPDP and Project Operational Manual. These measures can only occur before land regularization activities on the ground affecting Indigenous Peoples commence (see paragraph 57 above).

Arbitration versus Judicial Process

64. **The Requesters question the inclusion of arbitration in the IPDP as a conflict resolution mechanism and the constitutionality of arbitration itself.** In their view, the inclusion of arbitration in the IPDP conflicts with Articles 110 and 111 of the 2004 Property Law, which allow for a judicial process; in short, the Requesters claim that the inclusion of arbitration generates confusion among Project stakeholders.

65. **The arbitration procedures in the IPDP were consistent with national law at the time of Project preparation.**[16] Arbitration is a non-judicial process by which two or more parties agree to allow an impartial third party to decide on the issue under dispute; the decision (award) becomes binding on the disputing parties and is final. On the other hand, under the 2004 Property Law, disputes may be resolved through a judicial process with the right to appeal to the Supreme Court (Article 111) (see Annex 7). Management

[16] Regarding the constitutionality of arbitration in Honduras, Management notes that this would be an issue for Honduran courts to decide if and when a pertinent case were brought before them.

wishes to clarify that the IPDP was prepared at a time when only the Conciliation and Arbitration Law (No. 161-2000) was in effect, and not the Property Law.

66. **In Management's assessment the conciliation and arbitration methods of conflict resolution included in the IPDP are consistent with OD 4.20.** These methods provide affected groups with "the effective use of the legal system to defend their rights," following a global trend of incorporating new methods of conflict resolution that are considered "efficient, effective and reliable" (Section 1 of the Conciliation and Arbitration Law) into national legal systems. These methods of conflict resolution are widely used in Latin America, including under other Bank-financed land administration projects, some of which include components addressing Indigenous Peoples' land rights.

67. **Government has established a participatory consultation framework (the above-mentioned *Mesa Regional*) to discuss and provide inputs into the development of land regularization procedures and conflict resolution mechanisms under the Project.** Since changes to the IPDP and the Project Operational Manual are subject to the Bank's no-objection, Management expects that these participatory consultations would result in proposals to harmonize some of the Project's features with the new Property Law. Management also expects that the land regularization activities on the ground affecting Indigenous Peoples would commence only after the Bank issues its no-objection, as required by Sections 3.04 (b) (ii), 3.08 (b), and 3.11 of the Credit Agreement.

Legal Status and Access to Legal System by Garífuna Communities

68. The Requesters contend that the preparation of the IPDP violated Bank policy, as it did not take into account the "real ability of the indigenous and black peoples to obtain access to the legal system and use it effectively to defend their rights". They argue that no consideration was given to the circumstance that the impossibility for the Garífuna to obtain justice in connection with their territorial claims through the Honduran legal system has forced them to resort to international courts to address their concerns. As such, Ofraneh presented a petition to the IACHR in October 2003, denouncing the violation of their territorial rights by the Government of Honduras and asking for the recognition of their territorial claims.

69. **Finding Garífuna access to the Honduran legal system to be limited, Project design incorporated appropriate safeguard measures.** In compliance with OD 4.20, Management required that the Project's IPDP include specific provisions – including budgetary allocations within the Project – for: (i) capacity building and training for local community leaders on national laws and regulations pertinent to the Project; and (ii) a program of training and certification of conciliators and arbitrators (see IPDP, pages 13 to 17).

70. Two of the three communities indicated in the Request as subject to claims before the IACHR[17] (Cayos Cochinos and Triunfo de la Cruz) have never been considered for

[17] See footnote 3 above.

physical demarcation and titling under the Project. The third, the Punta Piedra community, was initially on a list of potential communities – prepared by the *Mesa Regional* – to be included in the Project; but given that some of its members may be opposed to the Project, in September 2005, Management informed the previous Honduran Administration that its inclusion should be reconsidered after public discussion meetings at the *Mesa Regional* and community level (see Map 1). On February 6, 2006, Management made the same recommendation to the new Honduran Administration.

71. **Management takes no position with respect to the ongoing cases before the IACHR.** Management respects the rights of all Garífuna communities to pursue appropriate recourses at their disposal. Management would like to point out again that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have taken place under the Project to date. The only activities carried out with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20.

COLLECTIVE VERSUS INDIVIDUAL TITLING

72. Management has considered carefully the issue of individual versus collective titling. The Social Assessment addressed this issue (see paragraph 26 above and pages 32 to 38 of the Social Assessment) and Management analyzed the legal framework concerning this issue in particular. The 2004 Property Law devotes an entire chapter to the regularization of property for indigenous and Afro-Honduran peoples (see Annex 7). In particular, Article 93 states, "the Property Institute shall follow the procedures established in the Law to guarantee indigenous and Afro-Honduran peoples the full recognition of their communal property rights...through communal [*emphasis added*] fee-simple titling (*titulación en dominio pleno*)."

73. **Neither the Property Law nor the Project favors or encourages individual titling in Garífuna communities.** On the contrary, as a result of the legal analyses carried out during Project preparation, Management concluded that – given the importance of this issue and the fact that Garífuna communities may be subject to influences from outsiders encouraging individual titling – a special safeguard provision was necessary for the Project. Specifically, Sections 3.08(b) and 3.11 of the Credit Agreement provide for the establishment of procedures that adequately protect the rights of Garífuna communities, including their right to choose a tenure regime. Provided communities make this choice in the context of a participatory and informed consultation framework, the Project's safeguard provisions are adequate to comply with OD 4.20.

74. **Management endorses the Government's position to respect the decisions made by the *Mesa Regional* and individual communities regarding their preferred land tenure regime.** The minutes of the March 2005 meeting establishing the *Mesa Regional* explicitly state as one of its objectives "to demarcate the areas titled to Garífuna communities and proceed with its communal [*emphasis added*] regularization respecting the title as a private communal whole without fragmentation in individual parcels, since Garífuna lands are its patrimony. There will not be any cadastral surveying of [*individual parcels, it is understood*] for at least 15 to 20 years in the Garífuna community" (see

Annex 2.12). Under the Project, community-level consultation boards (*Mesas Locales*) are also being established and Management understands that ultimately individual communities will decide whether to participate in Project activities and on their land tenure preferences.

PROTECTED AREAS AND GARÍFUNA TERRITORIAL CLAIMS

75. Regarding the potential overlap of protected areas with Garífuna land claims, the Requesters claim that the Project:

(i) Does not contemplate the co-management by communities of protected areas;

(ii) Has already given away protected areas to NGOs which do not share the Garífuna "*cosmovisión*;"

(iii) Is not demarcating water limits;

(iv) Lacks mitigating measures to offset the presence of Government institutions in protected areas management in favor of the permanent presence of community members. In addition, the Requesters mention two specific examples: the proposed Sierra Rio Tinto Forest Reserve, and the Punta Izopo National Park (see Map 1); and

(v) Has not taken into account the importance of natural habitats to Garífuna communities.

76. The Project was designated as a category "B" Project for the purposes of OP 4.01 (Environmental Assessment). Therefore, Management required the Government to prepare an EA as part of project preparation. The EA identified the Project's potential "risks and impacts regarding the natural environment ... and specific social impacts (involuntary resettlement, Indigenous Peoples, and cultural property)." Based on the EA, Management concluded that additional safeguard policies were triggered, namely, OP 4.12 (Involuntary Resettlement), OP 4.04 (Natural Habitats), and OPN 11.03 (Cultural Property) and additional compliance measures were needed to mitigate the identified potential impacts.

77. **The Project's Process Framework ensures that protected area demarcation will proceed only if and when local communities agree** (see page 6, first paragraph of Process Framework). Among the potential impacts identified in the EA was the possible overlap between existing communities (both indigenous and non-indigenous) and protected areas. As Project demarcation of protected areas could lead to the restriction of access to resources within those areas for neighboring communities, Government prepared and disclosed a Process Framework in accordance with OP 4.12.

78. **The Process Framework and Environmental Management Plan (EMP) include provisions for co-management of protected areas by agencies, NGOs, and local communities** (see page 7, last paragraph of Process Framework). Likewise, the Process Framework has strict provisions for the recognition and demarcation of land areas in favor of indigenous communities where overlaps exist between territorial claims

and protected areas. Moreover, to ensure the implementation of the Process Framework, Management and Government incorporated legal covenants into the Credit Agreement to this effect (see Sections 3.04 (a) (iii) and 3.08 (d) of the Credit Agreement).

79. **Management notes that the Project has not "delivered" protected areas to NGOs.** To clarify, tables 6 through 11 of the EA include a comprehensive inventory of existing and proposed protected areas in six departments of Honduras, in compliance with OP 4.04, as well as factual information regarding the organizations involved in the management of those areas. This in no way constitutes an act of "establishing in advance the delivery of territory to outsiders," as the Request claims. Existing protected areas are those created by Government prior to the Project. Proposed protected areas are those under consideration by Government and/or other organizations for inclusion in the Honduran National Protected Areas System (SINAPH). These latter areas are not being proposed nor created by the Project. The listing of organizations involved in the management of those areas in Project documents should not be interpreted as a Project proposal or endorsement of those organizations; rather, the list reflects a relationship between Government and those organizations working in a given protected area.

80. Management understands that the need and procedures for demarcation of water limits of protected areas will be assessed on a case-by-case basis, depending on the specific circumstances of the area in question.

81. **Management insisted on the inclusion of specific measures to address potential conflicts between the OD 4.20 and OP 4.04.** In order to ensure compliance with both OP 4.04, which protects natural habitats, and OD 4.20, which protects Indigenous Peoples, the Project includes the following measures: (i) the restriction that only legally established protected areas (with a Decree) would be eligible for demarcation under the Project; (ii) no project field activities would take place in or near proposed protected areas (Section 3.10 of the Credit Agreement); (iii) no titling or physical demarcation on lands adjacent to Ethnic Lands would take place unless procedures that adequately protect the interests of Indigenous Peoples…have been followed (Section 3.11 of the Credit Agreement).

82. **In Management's view, co-management and participatory demarcation of protected areas enhance the involvement of indigenous communities vis-à-vis government agencies (or other entities) in the management of protected areas.** Management recognized the Project's potential impact on communities living in or near protected areas stemming from the loss of access to resources. For this reason, the Project includes a Process Framework setting forth the mechanisms for mitigating this potential impact, in compliance with OP 4.12.

83. Regarding the specific areas mentioned by the Requesters, **Management wishes to clarify that under the Project, no activities will take place within or near Sierra Río Tinto Forest Reserve,** as it is a proposed protected area and therefore excluded from the Project per Section 3.10 of the Credit Agreement. Regarding the overlap between the Triunfo de la Cruz community land claims and the Punta Izopo National Park, Management understands that Punta Izopo National Park has been included in the

preliminary list of protected areas to be included in the Project (see Annex 2.12). Management notes that Section 3.11 of the Credit Agreement affords protection to affected communities, such as Triunfo de la Cruz, indicating that "no titling or physical demarcation of lands adjacent to Ethnic Lands will take place unless procedures that adequately protect the rights of indigenous and Afro-Honduran peoples, duly consulted with affected parties in a manner satisfactory to the Association [Bank],... have been followed."

84. Finally, regarding the importance of natural habitats to Garífuna communities, **Management recognized that potentially the Project could negatively affect important natural habitats, including areas recognized as protected by traditional local communities, if said areas were titled erroneously. Consequently, Management decided that OP 4.04 and OPN 11.03 were triggered and the Project EMP and Process Framework include specific activities to mitigate these impacts.** These include: (i) the exclusion of all proposed protected areas from demarcation activities as described in paragraph 81 above (per Section 3.10 of the Credit Agreement); and (ii) the inclusion of chance find procedures in the Process Framework (per Section 3.09 of the Credit Agreement).

MANAGEMENT RESPONSIVENESS TO REQUESTERS' CONCERNS: AUGUST 2005 TO PRESENT

85. **The detailed complaint submitted to the Bank by the Requesters in August 2005 (see Requesters' Annex 2) focused largely on specific provisions of the Property Law.** For instance, the Requesters claim that "the Property Law 82-2004 goes against international law standards and violates the Bank's OP 4.10" (page 1, Annex 2 of Request). Given that the contents of national laws are the responsibility of the Government of Honduras, Management sought clarifications from the Requesters in order to ascertain which Project-specific concerns required Management attention. Management invited the Requesters to a meeting in Tegucigalpa on September 21, 2005, where the Requesters confirmed that their main concern was the implementation of the Property Law (see Annex 4.1). The Project-specific concerns which the Requesters raised for Management's consideration were: (i) more respect and transparency in the Project's consultation process; (ii) allowing communities themselves to decide whether to participate in the Project; and (iii) requesting a meeting with Government to review the procedures of the Project's consultative framework (the *Mesa Regional*).

86. **In Management's view, broad and open dialogue with all Garífuna stakeholders is entirely appropriate and indeed essential to address complex land issues effectively.** The signed minutes of the September 2005 meeting in Tegucigalpa indicate an agreement for the Bank to sponsor a follow-up meeting with Government as well as [*emphasis added*] other Garífuna representatives (see Annex 4.3). Management confirmed this agreement in a letter sent to Ofraneh on October 20, 2005 (see Annex 4.4). Management disagrees with the Requesters' assertion that the presence of other Garífuna representatives constitutes an attempt to disrupt the dialogue aimed at addressing their concerns. On the contrary, given that one of the Project-specific concerns expressed by the Requesters in the September 2005 meeting with Bank staff was the need to "review

the participation mechanisms of the *Mesa Regional* and the procedures for selecting beneficiary communities," broad and open dialogue is appropriate. Government has also expressed its preference for supporting the ongoing consultation framework (the *Mesa Regional*) that includes all interested Garífuna stakeholders; the *Mesa Regional* has also manifested its right to be included in all discussions related to its operational modalities (see Annex 2.21). Management disagrees with the Requesters' characterization of other Garífuna stakeholders, including community leaders, *Patronato* leaders, church leaders, and representatives of other Garífuna grassroots organizations participating in the *Mesa Regional*, as "outsiders" (page 12, paragraph 3 of Request) or as "Garífuna clowns" (Annex 1 to Request, page 2, paragraph 2). In contrast, showing an attitude towards honest dialogue, the *Mesa Regional* continues to invite the Requesters to participate in meaningful dialogue about the Project; Management and Government support this approach.

87. **Management took action to address the Project-specific concerns expressed by the Requesters and notified Ofraneh of these promptly.** These include: (i) informing Government of their concerns, and Government (as implementer of the Project) expressed its willingness to meet with Ofraneh to discuss participation mechanisms at the *Mesa Regional*; (ii) Management and Government agreed with the proposal that communities themselves decide whether to participate in the Project; and (iii) Management clarified to the Requesters that no surveying activities financed under the PATH in Garífuna communities had occurred to date. In particular, Management clarified to Ofraneh that the incident mentioned to Bank staff on September 21, 2005 regarding the Punta Piedra community was not related to the Project (see Annex 4.4).

88. **Management once more emphasizes the voluntary nature of community participation in the Project.** Only those communities willing to participate will have their lands demarcated and titled under the Project. Therefore, individual communities can avoid the potential harm alleged by the Requesters by choosing not to participate in the Project.

89. Following the September 2005 meeting, Bank staff traveled to Honduras in November 2005 to meet with Government officials, the *Mesa Regional* and representatives of Ofraneh. On November 4, 2005, Ofraneh representatives refused to meet Bank staff and Government officials in the presence of the *Mesa Regional;* this contradicted the agreement made in the September 2005 meeting and reflected in the minutes of that meeting. In a statement issued by the *Mesa Regional* on November 4, 2005, its members reiterated their invitation to the Requesters to join the *Mesa Regional* and thus fulfill a commitment the Requesters had made with the *Mesa* on June 9, 2005 (see Annexes 2.20 and 2.21).

90. **Management has consistently maintained its commitment to meaningful consultations, broad participation and open dialogue with all Garífuna stakeholders.** After the November 2005 mission, Management met internally to consider the implications of multiple Garífuna stakeholders with diverging views of the Project, and the position of the Government of Honduras with respect to the role of the *Mesa Regional* as the appropriate consultation framework for the Project (see Annex 5). Consequently, on No-

vember 18, 2005, Management sent a letter to the Requesters offering once again to sponsor a meeting between the Requesters, Government, other Garífuna representatives, and the Bank. The letter reiterated that it is Bank policy to keep open channels of communication with civil society, both in our offices in Tegucigalpa and Washington, to which the Requesters have access to address their concerns about the consultation mechanisms established for the Project or other matters (see Annex 4.9). To date, the Requesters have not replied to this invitation.

V. MANAGEMENT'S RESPONSE

91. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1.

92. **Management maintains that the Project has caused no harm given that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have taken place under the Project.** The only activities carried out with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20. Further, Management affirms that the safeguards included in the Project (e.g., Sections 3.08(b) and 3.11 of the Credit Agreement, the consultation framework, land regularization and titling procedures that comply with OD 4.20) are currently working and provide more protection against potential atomization than the existing legal and institutional framework. Management supports the principle that individual communities should decide which type of tenure regime they prefer. If communities make this decision as a result of a participatory and informed consultation framework, as in the case of PATH, the Project's safeguard provisions are adequate to comply with OD 4.20.

93. **Management notes that community participation in the Project is voluntary, and individual communities are free to choose whether or not to participate in the Project.**

94. **Management notes that, beyond matters related to the Project, the Request raises issues about the Honduran Property Law**, and to a lesser extent, the Conciliation and Arbitration Law. In this regard, the Requesters conclude that the solution to their problem involves actions outside the scope of the Project ("measures to resolve our problem addressed at the national instances (lobbying and political advocacy work to achieve the amendment of the Property Law)," (page 13, first paragraph of Request).

95. Management notes that inclusion of a comprehensive inventory of existing and proposed protected areas included in the EA – as required under OD 4.04 – as well as factual information regarding the organizations involved in the management of those areas, in no way constitutes an act of "establishing in advance the delivery of territory to outsiders."

96. **In Management's view, appropriate consultations have taken place during Project preparation and implementation.** Given the diversity of opinions within the Garífuna community, Management agrees with Government that a non-exclusionary consultation framework is needed to address these views and give voice to all interested Garífuna stakeholders. In Management's view, the *Mesa Regional* provides an effective, ongoing instrument for meaningful consultations, in compliance with OP 4.01 and OD 4.20.

97. Management notes that, given the broad support by a significant portion of Garífuna stakeholders, suspension of Project activities in these areas could be detrimental to the interests of these stakeholders, who have invested their time and aspirations in the Government's efforts through the PATH to address some of their long-standing multiple land tenure conflicts. In Management's view, by addressing some of the participating Garífuna communities' land claims, the Project will place the communities in a stronger and more informed position to defend their land rights.

98. Regarding the participation in the Project of the communities cited in the Request (i.e., Sangrelaya, Guadalupe, San Antonio, Limón, Punta Piedra), Management notes that it has already: (i) informed the previous Administration in Honduras of the statements made by members of these communities; and (ii) recommended to the new Administration in Honduras that it organize public discussion meetings (at the *Mesa Regional* and community levels) to explain once again the Project's objectives and operational modalities, and that Ofraneh be invited to these meetings to present its views. This way, the communities themselves will be able to make an informed decision as to whether to participate in the Project or not. Management will monitor these consultations closely in the course of Project supervision.

99. Similarly, Management has again notified Government of the importance of properly labeling Project documents as either official and approved, or discussion drafts, and of the need to enhance the Project's public dissemination activities, making information more readily accessible to Project beneficiaries and other interested stakeholders.

100. In Management's view, the Bank has followed the policies and procedures applicable to the matters raised by the Request, and has taken appropriate actions to address all of the Project-specific concerns raised by the Requesters in their August 2005 letter to the Bank and at the September 21, 2005 meeting. **The Requesters have not shown that specific actions directly attributable to the Project, or the action or inaction of Bank staff, in violation of Bank policies, have, or threatened to have, caused them material harm.**[18]

101. **Management reaffirms its commitment to meaningful consultations, broad participation and open dialogue that allows all interested parties to express their views about the Project, and to ensure compliance with all Bank policies.** Manage-

[18] See footnote 3 above.

ment remains committed to meet with the Government of Honduras, the *Mesa Regional* as well as other Garífuna groups, and other civil society groups to ensure that the concerns of all indigenous and Afro-Honduran peoples are respected under the PATH. Management reiterates that it is Bank policy to keep open channels of communication with civil society, both in our offices in Tegucigalpa and Washington, to which the Requesters have access to address their concerns about the consultation mechanisms established for the Project or other matters.

ANNEX 1
CLAIMS AND RESPONSES

In connection with Indigenous Peoples, Management notes that the Requesters claim violation of OMS 2.34 (1982), OD 4.20 (1991) and OP/BP 4.10 (2005). Management's response, however, is framed under the applicable policy on Indigenous Peoples (OD 4.20 issued in 1991), rather than OMS 2.34 or OP/BP 4.10. The Project had its PCD Review Meeting on April 9, 2003 and the PAD Decision Meeting on December 8, 2003. OMS 2.34 (February 1982) was replaced by OD 4.20 in September 17, 1991. OP/BP 4.10 applies to projects for which a PCN Review takes place on or after July 2005.

The Requesters' statements are addressed in the order presented in the Request for Inspection, and the appropriate pages and paragraphs are cited. Given the flow of the Request, those claims with a stronger emphasis on the Honduran legal framework, consultations during Project preparation and after Board approval, regulations relating to land regularization, and pending litigation before the IACHR are grouped under OD 4.20; those with a stronger emphasis on protected areas are presented under OP/BP 4.01 and OP/BP 4.04. Finally, a brief section is included on the World Bank Policy on Disclosure of Information.

Notes:

"Adjustable Program Lending (APL)" provides phased support for long-term development programs. It involves a series of loans that build on the lessons learned from the previous loan(s) in the series. An APL involves agreement on: (i) the phased, long-term development program supported by the loan; (ii) sector policies relevant to the phase being supported; and (iii) priorities for sector investments and recurrent expenditures. Triggers define when to move to the next phase. Subsequent loans in the series are phased on the basis of satisfactory progress in meeting the defined milestones, benchmarks or triggers.

Under OP 4.12, a "Process Framework" is prepared by Government when Bank-supported projects may cause restrictions in access to natural resources in legally-designated parks and protected areas. The purpose of the Process Framework is to establish a process by which members of potentially affected communities participate in the design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities.

Claim/Issue	OD/ OP/BP	Response
A. Indigenous Peoples – OD 4.20		
1. Consultations before Board approval. *1.1 Consultations relating to Indigenous Peoples Development Plan.* The Bank has infringed the provisions contained in paragraph 8 and emphasized in paragraphs 14 a) and c) of OD 4.20 [...] We can assert without doubt that the Bank's experts have never carried out consultation programs in advance of the drafting of the Indigenous Development Plan. Such Plan, as well as the Environmental Plan were delivered to the organization little before the holding of the only consultation meeting regarding the PATH and the IPDP. At that time, at a meeting in the Garifuna community of Sambo Creek on December 17, 18 and 19, 2003, the representatives of all of the Garifuna communities of Honduras signed a document that presented a firm rejection of everything that was established in the IPDP, while proposing several alternatives. However, the Bank did not take into account any of those proposals. None of those suggestions or criticisms that addressed the inconsistencies in the application of the titling arrangements contemplated by the project to	[OD 4.20 Paras. 14a & 14c]	Management wishes to clarify the respective roles of Government and the Bank under Bank-financed projects. Governments are responsible for preparing projects, which includes preparation of background documents (e.g., EA, Social Assessment), policy and operational manuals (e.g., IPDP, Process Framework, Operational Manual), and organizing consultations. The Bank's role is to appraise these documents and processes and approve them in accordance with the Bank's policies, including safeguard policies. Thus, it is inaccurate to claim that "...the Bank's experts have never carried out consultation programs..." and thus violated OD 4.20. As detailed in paragraphs 30 to 40 above, Government carried out extensive consultations, both during Project preparation and implementation. Ofraneh has participated in ten of these events to date, including during Project preparation and implementation (see Annex 2.1). Management notes that Project design and implementation considered all the relevant issues contained in the December 18-19, 2003 Sambo Creek document, and incorporated many of its proposals (see paragraph 39). This

Claim/Issue	OD/ OP/BP	Response
the legal particularity that the Garifuna people represent were considered. Summarizing, none of the options preferred by the peoples involved were considered, nor the local social organization patterns with the election of the collective holding system and the repercussions in terms of exclusion from development in the case of opening up to the system of individual ownership of land. [Citation: Page 4, para. 1 - 2]		contrasts with the Requesters' claim that "all the Garifuna communities in Honduras ... presented a firm rejection of everything that was established in the IPDP, while proposing several alternatives. However, the Bank did not take into account any of those proposals." (page 4, paragraph 1 of the Request). Management notes that although the Sambo Creek document expresses some concerns about the IPDP, it does not reject the Project or the IPDP. In fact, the objective of the Sambo Creek meeting was to "become familiar, appropriate the documents, and provide suggestions" to the Project's IPDP and EA. The Requesters misrepresent the contents of the December 2003 Sambo Creek document, which praises the diagnosis of Garifuna land tenure issues presented in the IPDP. The document notes, "The excellent analysis of the issues that affect ethnic communities in Honduras with regards to land tenure and the regularization of ancestral lands and the optimal operational directives that guided the drafting of the environmental assessment and the PATH in general give hope to indigenous and Garifuna communities of Honduras that these will be translated into a concrete application of the design by Government and the World Bank, with regards to the territorial planning issue that represents an essential prerequisite for the survival of ethnic peoples" (Annex 2 of the Request, sixth attachment, "Aide Memoire, Consultation on the PATH, chapter on IPDP, and REPEPIN Program", page 18). Likewise, most of the 12 land tenure issues raised in the Sambo Creek document (Annex 2 of the Request, sixth attachment, page 4) are explicitly addressed by the Project, including: (i) lack of titling of Garifuna lands; (ii) lack of registration of existing Garifuna titles; (iii) overlapping claims between Garifuna territorial claims and others (e.g., municipalities, protected areas, private landholdings, national lands); (iv) lack of Government policy to resolve Garifuna land issues; and (v) lack of Garifuna participation in the management of protected areas. Other issues, such as the expansion of the agricultural frontier, the coffee crisis, impact of roads, fall outside the scope of the Project. Many of the proposals mentioned in the December 2003 Sambo Creek document were incorporated in Project design and are currently under implementation. The document lists 14 conclusions, 10 of which are relevant to the Project (Annex 2 of the Request, sixth attachment, pages 11 and 12). The Project addresses all these issues and incorporates most of these proposals. For example, (i) the Project includes safeguard measures to protect the rights of Indigenous Peoples in the resolution of land tenure conflicts (see paragraphs 55 and 77); (ii) community participation in the Project is strictly voluntary; (iii) prior informed consultation with Garifuna communities is a pre-requisite before land regularization methodologies are issued and before field activities begin; (iv) the consultation framework does not mix different ethnic groups (see paragraph 34); (v) the Project calls for the issuance of communal titles to Garifuna communities (see paragraphs 73 and 74); and (vi) the Project considers co-management plans (between Garifuna com-

Claim/Issue	OD/ OP/BP	Response
		munities, NGOs, and/or other entities) for protected areas (see paragraph 78).
1.2 Legal framework at the time of IPDP preparation. On October 18, 2003, two months before the above-mentioned meeting, a consultation workshop was held in San Juan, Tela on the draft of what would become Decree 84 – 2000 Property Law. At that time, the representatives of the communities came out vocally against the issuance of said Law for reasons that are made clear by a reading of the attached documents that were drafted in the consultation and lobbying phase by the undersigned and with the support of consultations with international experts and institutions. In this respect, [...] it should be noted that [...Bank] staff already knew that the Government was about to issue shortly a land law that would be a key to the future land titling programs, besides already knowing of the opposition of the Garifuna people to said Law. However, in spite of knowing that the Property Law would become the statutory framework for the PATH project, they made no mention of that part relating to the statutory framework that would guide the project. This omission and the lack of intervention through successive socialization meetings, seems absurd and has generated confusion across the Garifuna communities. They find themselves faced with two different arrangements to implement the titling procedures and conflict resolution: the PATH Manual with the Indigenous Development Plan and the Bank rules and what is mandated by the Property Law. Besides, both instruments are inadequate from the point of view of the Garifuna people and present voids. [Citation: Page 4, paras. 3 & 4]	[OD 4.20 Paras. 14a & 14c]	Being aware of concerns by some Garifuna groups about the draft Law, the Bank welcomed Government's efforts – through activities financed under the PAAR project – to enable these groups to make their concerns known to the appropriate authorities (see Annex 2.6). Management wishes to clarify the relationship between the IPDP – prepared under the then-existing legal framework IPDP – and the eventually approved Property Law. A brief chronology of key events includes: • The IPDP, EA and Process Framework were disclosed to the public on December 8, 2003. • The PATH was approved by the Bank's Board on February 27, 2004, and the PAD became publicly available. • The Property Law became effective on June 29, 2004. • The PATH was declared effective on December 2, 2004. Project design anticipated the possibility of a new law by providing mechanisms (see paragraphs 52 to 57 above) for the continuous flexible adaptation of the Project to the new law. The Property Law is not explicitly discussed in Project documents because its approval and contents were uncertain at the time of Project Appraisal and Board Approval; the draft Law had been under discussion for more than two years and it was not certain to be approved. Project preparation identified potential gaps in the Honduran legal framework. Throughout 2003, Management reviewed the existing legal framework. In particular, three gaps that needed to be filled were critical for the Project's success: (i) lack of a legally established parcel-based property registry (*Folio Real*); (ii) lack of legislation specifically addressing indigenous and Afro-Honduran land rights, including appropriate consultation frameworks; and (iii) lack of operational procedures to deal with demarcation of protected areas and their surroundings. The Project includes specific safeguards to address the identified potential gaps in the legal framework. Government and Management agreed on the following safeguard measures to address the identified potential gaps, anticipate the possibility of a new law, and comply with applicable Bank policies. First, before Project Effectiveness, the Supreme Court of Honduras would issue a Regulatory Decree (Auto Acordado) authorizing a parcel-based property registry in Project areas. Second, specific safeguards were incorporated into the Credit Agreement and other relevant Project documents to ensure that the rights of indigenous and Afro-Honduran peoples were protected. These include, among others:

Claim/Issue	OD/ OP/BP	Response
		(i) Section 3.08(b) of the Credit Agreement obliges the Borrower to carry out an IPDP acceptable to the Bank, which would *inter alia* ensure: (a) that Indigenous Peoples have adequate access to legal advice and training before decisions are made regarding lands which are in conflict; and (b) that the decision-making mechanisms for conflict resolution on these lands are transparent and include genuine representation of indigenous and Afro-Honduran groups; (ii) Section 3.11 of the Credit Agreement established that "no titling or physical demarcation of lands adjacent to Ethnic Lands will take place unless procedures that adequately protect the rights of indigenous and Afro-Honduran peoples, duly consulted with affected parties in a manner satisfactory to the Association [Bank], and set forth in the Operational Manual, have been followed;" and (iii) A trigger for Phase II of the APL was established, requiring "adoption of a legal / regulatory framework for Indigenous Peoples lands." (iv) Finally, specific safeguards related to protected areas and natural habitats were included (see paragraphs 62 to 69). Considering the Project Development Objective, Management found the new Property Law acceptable, taking into account the above-mentioned safeguards. In the period between its passage by the Honduran Congress (June 2004) and Project Effectiveness (December 2004), Management assessed the Property Law and concluded that the Project's safeguard provisions were not in conflict with the new law and the two could be harmonized. The process of harmonization will take time, considering the need for broad and participatory consultations with Project stakeholders. The Project aims to accomplish this harmonization through participatory mechanisms, such as the *Mesa Regional* and the community-level *Mesas Locales*, established precisely for that purpose. The issue of updating the IPDP is addressed in Section 3.2 below.
2. Consultations after Board approval. *2.1 Participation between Board approval and August 2005.* [T]he consultation meetings with the pilot communities are carried out without even giving the interested parties a brochure explaining the Project (the Garifuna population is further based on an oral cultural tradition and it would have been appropriate to hold preventive meetings in the communities in accordance with such a cultural pattern.) [Citation: Page 4, para. 4] In the PATH consultation, carried out in Trujillo in April 2005, in which the project's pilot communities and protected areas were selected, the community	[OD 4.20 Paras. 14a & 14c]	From January to March, 2005, the presentation of the Project's content and operational modalities was made orally to interested communities and various Garifuna stakeholders, including individual community leaders and those who eventually became members of the *Mesa Regional* (see Annexes 2.9, 2.10 and 2.12). Nevertheless, Management has notified Government of the need to enhance the Project's public dissemination activities, making information more readily accessible to Project beneficiaries and other interested stakeholders. With respect to the April 2005 *Mesa Regional* noted by the Requesters, the *Mesa Regional* includes a broad range of Garifuna stakeholders. In December 2004, Government invited representatives of a wide range of Garifuna communities and organizations, including Ofraneh, to establish the *Mesa Regional*, as agreed at the December 2, 2003 consul-

Claim/Issue	OD/ OP/BP	Response
representatives that had been invited to the meeting were not given explanatory materials. At that time, Mr. Ángel Castro, invited as President of the *Patronato* (foundation) of the Garífuna community of Triunfo de la Cruz refused to sign a document with which the government officials sought consensus on the application of said plans in the Garífuna communities. The President of the *Patronato* of Triunfo de la Cruz, realizing the dangers for the survival of his people and the damages that the application of the arrangements contemplated in the Bank's Project would entail, left the meeting and decided to refrain from attending further meetings on the same subject. He was supported in his decision by all the members of the community he represents and, later, by all the representatives of several communities. [Citation: Page 5, paras. 1 & 2]		tation meeting (see Annex 2.11). On March 15-17, 2005, 112 Garífuna persons, including representatives from 25 Garífuna communities, municipal and *Patronato* authorities, gathered in Trujillo, Colón to create the *Mesa Regional de Regularización y Resolución de Conflictos*. The *Mesa Regional* established a guiding principle of non-exclusion to guarantee that all interested parties have the right to participate and express opinions and views about the Project (see Annex 2.12). Management notes that there is broad support for the Project among various Garífuna stakeholders as shown by the various minutes of meetings and statements made by the *Mesa Regional* (see Annexes 2.14 to 2.17 and 2.19 to 2.21). Community representatives at the *Mesa Regional*, not Government, selected the eight communities as well as the alternates. On April 29, 2005, in the community of Sangrelaya, the *Mesa Regional* issued a statement manifesting Garífuna support for the Project and called on all Garífuna communities and organizations to participate in this process (see Annex 2.14). As detailed in paragraph 45 above, Management takes no position regarding the institutional dispute within Ofraneh. Management and Government respect the right of communities to opt out of project activities. Management indicates that no activities related to the physical demarcation, surveying, or titling of any lands in Garífuna regions of Honduras have taken place to date. The only activities carried out with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20. See Section 5. below.
2.2 Management responsiveness to Requesters from August 2005 to date. Before reaching the decision of presenting this Request, Ofraneh and the affected communities took a series of steps designed towards a constructive dialogue with the institutions involved in the project. [...] Following a series of meetings and correspondence between Ofraneh and the Bank in the period from August to November 2005, a date and time were set] for the three party meeting with Ofraneh, the World Bank and a Government delegation in La Ceiba on November 4, 2005... However, on November 4, 2005 at the place selected to carry out the meeting, there appeared representatives of the *Mesa Regional* (Regional Board), an institution that is not recognized by Ofraneh and the Garífuna people and is alien to the institutions, the Government and the World Bank, with which the organization was communicating. Hence, it [the organization] sent a fax to the Bank in which it underlined its perplexity and disagreement with the way the dialogue between the institutions had been organized unde	[OD 4.20 Paras 14a & 14c]	A chronology of communications between the Requesters and Management is attached (see Annex 4). Paragraphs 85 to 90 above detail the actions which Management has taken to respond to the concerns voiced by the Requesters in a series of meetings dating back to September 2005. The detailed complaint submitted to the Bank by the Requesters in August 2005 (see Requesters' Annex 2) focused largely on specific provisions of the Property Law. Given that the contents of national laws are the responsibility of the Government of Honduras, Management sought clarifications from the Requesters in order to ascertain which Project-specific concerns required Management attention. The Requesters confirmed that their main concern was the implementation of the Property Law (see Annex 4.1). The Project-specific concerns which the Requesters raised for Management's consideration were: • More respect and transparency in the Project's consultation process; • Allowing communities themselves to decide whether to

Claim/Issue	OD/ OP/BP	Response
lining that they lacked seriousness. Besides the presence of outsiders, it had to be construed as an attempt to alter the solution procedure on the part of the agents involved. However. Ofraneh expressed its willingness to have a further meeting before presenting the inspection request. The Bank, through Mr. Benjamin, in a letter dated November 18, 2005, answered that the dialogue on the development of the Project needed to include the representatives of the *Mesa Regional*. Mrs. Miriam Miranda, of Ofraneh's executive board, in a conversation held with Mr. Muñoz on November 4, underlined the illegality of the set up of said Board, which has been created in spite of the disagreement of the communities, was not elected by the communities, is not an organization that represents them and results from a draft (the above mentioned Methodology) and not an official document. It may be noted that the members of the *Mesa Regional* cannot be considered *other Garifuna representatives*, as they are described by Mr. Benjamin McDonald in his letter of November 18, 2005. Therefore the Ofraneh, rejecting the representativeness of an institution involved in the dialogue with the Government and with the Bank, considering that they had done what was possible to find a solution to the problems resulting from the Honduras Land Management Project, made the decision to send this request. Considering what has been indicated above we may assert that clearly the contents of this action has been made known by the requesters to the Bank. [...] The solutions provided by the World Bank are unsatisfactory because, considering the background, they offer no concrete short term measure or solution, to channel the titling process in accordance with the preferences selected by the members of the communities and pursuing the process of vindication of their territory that goes back one decade. The execution of the PATH endangers the very survival of the Garifuna people because it cannot agree to solutions unless they are based on a concrete will to resolve the conflicts and recognize the rights over the lands that ancestrally belong to them. [...] Therefore, we consider that the actions and failures of the World Bank mentioned above, which are contrary to the already mentioned policies or procedural standards, have affected (by violating the right of consultation and the inconsistencies and disagreements caused by the establishment of operating rules on the titling of indigenous lands that have not taken into account the existing legal framework and the real situation of access to justice by the Garifuna people, thus contaminating and increasing the complexity of the process of vindication of their territory) and will affect, through the potential		participate in the Project; and • Requesting a meeting with Government to review the procedures of the Project's consultative framework (the *Mesa Regional*). In Management's view, broad and open dialogue with all Garifuna stakeholders is entirely appropriate and indeed essential to address complex land issues effectively. The signed minutes of the September 2005 meeting in Tegucigalpa indicate an agreement for the Bank to sponsor a follow-up meeting with Government as well as [emphasis added] other Garifuna representatives (see Annex 4.3). This agreement was confirmed by Management in a letter sent to Ofraneh on October 20, 2005 (see Annex 4.4). Management disagrees with the Requesters' assertion that the presence of other Garifuna representatives constitutes an attempt to disrupt the dialogue aimed at addressing their concerns. On the contrary, given that one of the Project-specific concerns expressed by the Requesters in the September 2005 meeting was the need to "review the participation mechanisms of the *Mesa Regional* and the procedures for selecting beneficiary communities," broad and open dialogue is appropriate. Government has also expressed its preference for supporting the ongoing consultation framework (the *Mesa Regional*) that includes all interested Garifuna stakeholders. Management disagrees with the Requesters' characterization of other Garifuna stakeholders, including community leaders, *Patronato* leaders, church leaders, and representatives of other Garifuna grassroots organizations participating in the *Mesa Regional*, as "outsiders" (page 12, paragraph 3 of Request) or as Garifuna "clowns" (Annex 1 to Request, page 2, paragraph 2). In contrast, showing an attitude towards honest dialogue, the *Mesa Regional* continues to invite the Requesters to participate in meaningful dialogue about the Project; Management and Government support this approach. Management took action to address the Project-specific concerns expressed by the Requesters in the September 2005 meeting and notified Ofraneh of these promptly. These include: • Informing Government of their concerns, following which Government (as implementer of the Project) expressed its willingness to meet with Ofraneh to discuss participation mechanisms at the *Mesa Regional*; • Management and Government agreed with the proposal that communities themselves decide whether to participate in the Project; and • Management clarified to the Requesters that no surveying activities financed under the PATH in Garifuna communities had occurred to date. Management emphasizes the voluntary nature of community participation in the Project. Only those communities willing to participate will have their lands demarcated and titled. Therefore, individual communities can avoid the potential harm alleged by the Requesters by choosing not to participate in the Project, as Limón and Punta Piedra have done and Government has accepted their right to opt out.

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damages discussed in paragraph 6, in a substantial and negative way the rights of the Garifuna people. [Citation: Page 11, para. 9 – Page 13, para 5]		On November 4, 2005, Ofraneh representatives refused to meet Bank staff and Government officials in the presence of the *Mesa Regional*; this contradicted the agreement made in the September 2005 meeting and reflected in the minutes of that meeting. In a statement issued by the *Mesa Regional* on November 4, 2005, its members reiterated their invitation to the Requesters to join the *Mesa Regional* and thus fulfill a commitment the Requesters had made with the *Mesa* on June 9, 2005 (see Annexes 2.20 and 2.21). Management has consistently maintained its commitment to meaningful consultations, broad participation and open dialogue with all Garifuna stakeholders. After the November 2005 mission, Management met internally to consider the implications of multiple Garifuna stakeholders with diverging views of the Project, and the position of the Government of Honduras with respect to the role of the *Mesa Regional* as the appropriate consultation framework for the Project (see Annex 5). Consequently, on November 18, 2005, Management sent a letter to the Requesters offering once again to sponsor a meeting between the Requesters, Government, other Garifuna representatives, and the Bank. The letter reiterated that it is Bank policy to keep open channels of communication with civil society, both in our offices in Tegucigalpa and Washington, to which the Requesters have access to address their concerns about the consultation mechanisms established for the Project or other matters (see Annex 4.9).
3. Project Design and Honduran legislation. *3.1 IPDP Legal Framework and Honduras Property Law.* [...T]he IPDP's legal framework (page 6 of the IPDP) [...] does not contemplate the Property Law that, by establishing the mechanisms for the titling of the areas occupied by Indigenous Peoples and conflict resolution arrangements, stands out as the fundamental legal pillar. We take this opportunity to clarify that the Garifuna people of Honduras is well aware that such law is an act by the Government and as such falls outside the Panel's jurisdiction, but at the same time, logic indicates that it is a duty of the financial institution to establish the regulatory elements of such an important titling project in coordination with the legislation in force in the country. The lack of attention and coordination on the part of the Bank and the borrower has translated into the development of two parallel regulations that oppose one another (the Bank's operating manuals and rules and the Government's legislation.) [Citation: Page 7, paras. 1 - 3] [...] The PATH, instead of standing out as a project in the forefront of land titling for the protection granted to the Indigenous Peoples involved, rather affects the path of said peoples towards the recognition of their territorial rights to the extent that it	[OD 4.20 Paras. 15a & 15c]	Section 1.2 above discusses the legal framework at the time of IPDP preparation. It also describes the Project-specific safeguards to address potential gaps in the legal framework. Section 3.2 below discusses the land regularization procedures and the Property Law and Section 3.3 below discusses conflict resolution arrangements under the Conciliation and Arbitration Law and under the Property Law. Management clarifies that it is the role of Government to establish regulatory elements and incorporate these into the Project Operational Manual, in compliance with the Credit Agreement and applicable Bank safeguard policies. The Bank is following this process closely, and is committed to review any proposed change to the Operational Manual to ensure consistency with Bank safeguard policies. In the process of project supervision, the Project team identified the need to enhance project dissemination activities, including training on the Property Law and providing legal advice to Garifuna communities and communicated these recommendations to Government (see Annex 6) Clarifications on titling procedures and applicable legislation are provided in Section 1.2 above, and Sections 3.2 and 3.3 below.

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generates confusion regarding the titling procedures and the applicable legislation, the institutions responsible for granting titles and the instances and procedures designated to solve the conflicts. [Citation: Page 8, para. 5]		
3.2 Regulations on Land Regularization [...] Furthermore, the Bank has violated the provisions of OMS 2.34 paragraph 5 and OD 4.20 paragraph 15 a) and c) and paragraph 9 of OD 4.20...We underline that the Bank expressed that it would not provide assistance for any development activity that knowingly entails the invasion of safeguarded territories or lands (OMS 2.34; paragraph 5 OD 4.20 paragraph 15 a) and c). [...] The Indigenous Peoples Development Plan in no way takes into account the existing legislation on indigenous Peoples and the legal procedures for collective titling. In effect, the Indigenous Development Plan provides that *the legal framework contemplates the issuance of rules to develop the legal framework for the protection of Indigenous Peoples; additionally to instructions for the delimitation and demarcation of ancestral land holdings* (page 3 of the IPDP). In this respect we clarify that never, since the release of the IPDP, have rules been developed in connection with the demarcation and delimitation of the areas claimed by the Indigenous Peoples which would, therefore, follow the procedure contemplated in the Affectation Rules addressing their expansion requests and their claims to the *Instituto Nacional Agrario* (National Land Institute.) The IPDP does, however, contemplate (see page 12 of the IPDP) the creation of an Indigenous Affairs Unit [..] as the institution that will be responsible for carrying out and monitoring the procedure of Indigenous Peoples land titling. We do not understand how this later institution will coordinate its work with the *Instituto Nacional Agrario* and which will be the titling procedure to be applied. In any case, the issuance of regulations would only contribute to creating a lack of clarity in the applicable rules to the detriment of the claim of the Indigenous Peoples. In this respect, we point out that the Coordination Unit of the PATH Project had provided Ofraneh with a set of rules called Methodology to Determine and Measure the Lands to be Titled to the Ethnic Communities –a document drafted by the PATH's Project Coordination Unit. After a claim was presented to the World Bank where that document was severely criticized, the representatives of the Bank and members of the PATH clarified that it was merely a draft. This type of behavior increases the confusion of the Indigenous Peoples and fosters the idea that those who are coordinating the Project's execution lack a clear and defined vision of how they will execute a project of such a magnitude and that has an essential importance for the survival of	[OD 4.20 Paras. 15a & 15c]	Section 1.2 above discusses the legal framework at the time of IPDP preparation. It also describes the Project-specific safeguards to address potential gaps in the legal framework. Government has not issued regulations to the Property Law related to Indigenous Peoples lands to date, as these regulations are currently under consultation with stakeholders. Thus, they have not been incorporated into the IPDP or the Project Operational Manual. The relationship between the IPDP and the existing legal framework is addressed in paragraphs 51 to 67 above. A draft document on the procedures for regularization of indigenous communities lands has been circulated to indigenous communities for consultation. One of the tasks for the *Mesa Regional* is precisely to discuss the document and make specific recommendations to Government. At the time the IPDP was prepared, Government intended to operate an Indigenous Affairs Unit at the Governance and Justice Secretariat to oversee the implementation of Project activities related to Indigenous Peoples' lands. However, since then, these oversight functions have been incorporated into the UCP. Thus, the Community Participation and Indigenous Affairs Area within the UCP is now in charge of coordinating and monitoring Project activities related to Indigenous Peoples issues. The UCP is attached to the Governance and Justice Secretariat, and is not functionally linked to INA. The Project is currently contracting a lawyer, agreeable to the *Mesa Regional*, to assist the *Mesa* in reviewing the Property Law and the draft regulations document, in response to specific recommendations made during Project preparation consultation events. Management notes a contradiction in the Request: on the one hand, the Requesters complain about the lack of regulations to the Property Law and, on the other, they argue that issuance of such regulations would contribute to confusion. Management notes that the content of national laws and regulations is the responsibility of the Government of Honduras, and that the Government has put in place mechanisms, such as the Project's consultation framework, for civil society to raise concerns on such regulations. Management would like to point out that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garifuna regions of Honduras have taken place under the Project to date. The only activities carried out by the Project with Garifuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20. Management understands that the ongoing consultations will result in land regularization procedures that Government would subse-

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the Garífuna people. This circumstance raises concerns especially with regards to possible errors in the assessment of the negative long-term effects over the Garífuna peoples involved in the project. [Citation: Page 6, paras. 6 - 7]		quently approve as regulations to the Property Law. If the proposed procedures are also consistent with the relevant Credit Agreement provisions and Bank safeguard policies, then Management will endorse the incorporation of said procedures into the IPDP and Project Operational Manual. These measures need to be taken before land regularization activities on the ground affecting Indigenous Peoples commence. Bank staff clarified the purpose of the draft land regularization methodology document to the Requesters at the September 21, 2005 meeting in Tegucigalpa (see Annexes 4.3 and 4.4). In addition, Management has notified Government of the importance of properly labeling Project documents as either official and approved, or discussion drafts, and of the need to enhance the Project's public dissemination activities, making information more readily accessible to Project beneficiaries and other interested stakeholders.
3.3 Arbitration versus judicial process [...] As an example we indicate that the IPDP provides for arbitration as the arrangement for the resolution of the conflicts that pertain to the holding of land by Indigenous Peoples (page 17 of the IPDP); such solution, that we consider unconstitutional insofar as it contemplates a single legal instance, is different from the one included in the Property Law in its Title VI Articles 110 and 111. Which procedure will be applied? Furthermore, it should be noted that the Garífuna people already expressed during the consultation phase their firm rejection of the conflict resolution mechanisms proposed by the PATH. We are concerned because conflict resolution instances are being proposed (see page 12 of the IPDP) that do not correspond to the social and political reality of the members of the communities, you cannot propose to resolve conflicts that date back to several decades by means of Interethnic Boards or Conciliation, Settlement or Mediation Procedures, where the disparities of the interests represented, power elites on the one hand and Indigenous Peoples on the other, cannot but lead to completely unfavorable decisions for the Indigenous Peoples. [Citation: Page 7, para. 4]	[OD 4.20 Paras 15a]	The arbitration procedures in the IPDP were consistent with national law at the time of Project preparation. Arbitration is a non-judicial process by which two or more parties agree to allow an impartial third party to decide on the issue under dispute; the decision (award) becomes binding on the disputing parties and is final. On the other hand, under the 2004 Property Law, disputes may be resolved through a judicial process with the right to appeal to the Supreme Court (Article 111). Management wishes to clarify that the IPDP was prepared at a time when only the Conciliation and Arbitration Law (No. 161-2000) was in effect, and not the Property Law. In Management's assessment, the conciliation and arbitration methods of conflict resolution included in the IPDP are consistent with OD 4.20. These methods provide affected groups with "the effective use of the legal system to defend their rights," following a global trend of incorporating new methods of conflict resolution that are considered "efficient, effective and reliable" (Section 1 of the Conciliation and Arbitration Law) into national legal systems. These methods of conflict resolution are widely used in Latin America, including under other Bank-financed land administration projects, some of which also have components addressing Indigenous Peoples' land rights. Government has established a participatory consultation framework (the above-mentioned *Mesa Regional)* to discuss and provide inputs into the development of land regularization procedures and conflict resolution mechanisms under the Project. Since changes to the IPDP and the Project Operational Manual are subject to the Bank's no-objection, Management expects that these participatory consultations would result in proposals to harmonize some of the Project's features with the new Property Law. Management also expects that the land regularization activities on the ground affecting Indigenous Peoples would commence only after the Bank issues its no-objection, as required by Sections 3.04 *(b)* (ii), 3.08 (b), and 3.11 of the Credit Agreement.

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4. Legal status and access to legal system by Garífuna communities [...] On the other hand, we underline that in drafting the Project's IPDP, no account has been taken of the *real ability* of the indigenous and black peoples to obtain access to the legal system and use it effectively to defend their rights. No mention is made of any study establishing the level of access of the Garífuna people to the domestic legal system. Besides, no consideration was given to the circumstance that the impossibility for the Garífuna of obtaining justice in connection with their territorial claims through the local court system, has forced them to resort to international instances as a last attempt to solve their problems. In October 2003, i.e. before the PATH was disseminated in Sambo Creek, the Ofraneh representing the Garífuna peoples of Honduras presented to the Inter-American Commission on Human Rights a petition, denouncing the violation of their territorial rights by the Government of Honduras and asking for the recognition of the territory they claim. The Commission divided the petition into three cases, registering them under numbers 1118/03 Garífuna Community of Punta Piedra vs. the Government of Honduras; 1119/03 Garífuna Community of Cayos Cochinos vs. the Government of Honduras; 906/03 Garífuna Community of Triunfo de la Cruz vs. the Government of Honduras. On October 18, 2005, a public hearing was held at the venue of the Inter-American Commission on Human Rights focusing on the admissibility of petition number 906. After the hearing a petition was filed for a precautionary measure with the purpose of freezing any transactions involving the lands being claimed, in connection with the Garífuna communities settled in the zone of *Bahía de Tela*. in said document, as well as in the hearing, the Honorable Commission was made aware of the potential damages to the procedure of expansion, regularization and territorial vindication (use and exploitation of the natural resources existing in the territory) that the execution of the PATH entails. However, none of the people responsible for the Project has reacted to these circumstances. For the above reasons, the World Bank has also violated the provisions contained in paragraphs 5, 16 and 17 of Operational Policy 4.10. [Citation: Page 8, paras. 1 - 3]	[OD 4.20]	Finding Garífuna access to the Honduran legal system to be limited, Project design incorporated appropriate safeguard measures. In compliance with OD 4.20, Management required that the Project's IPDP include specific provisions – including budgetary allocations within the Project – for: (i) capacity building and training for local community leaders on national laws and regulations pertinent to the Project; and (ii) a program of training and certification of conciliators and arbitrators (see IPDP, pages 13 to 17). Two of the three communities indicated in the Request as subject to claims before the IACHR (Cayos Cochinos and Triunfo de la Cruz) have never been considered for physical demarcation and titling under the Project. The third, the Punta Piedra community, was initially on a list of potential communities – prepared by the *Mesa Regional* – to be included in the Project; but given that some of its members may be opposed to the Project, Management informed Government that its inclusion should be reconsidered after public discussion meetings at the *Mesa Regional* and community level (see Map 1). Management takes no position with respect to the ongoing cases before the IACHR. Management respects the rights of all Garífuna communities to pursue appropriate recourses at their disposal. Management would like to point out again that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have taken place under the Project to date. The only activities carried out with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20.
5. Garífuna Support for the Project. [...] For the above reasons the World Bank has also infringed the provisions contained in paragraphs 6; 10; 11; 12 and 15 of Operational Policy 4.10. It has been established without question that there is no support for the project from the Garífuna people.		A wide range of Garífuna stakeholders was consulted as part of the participatory Social Assessment and preparation of the IPDP in July-August 2003. Three focal groups, approximately 15 structured interviews with key stakeholders, and 30 household questionnaires (as part of a survey of over 300 people throughout the country) were conducted in three

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OP 4.10 states that "the World Bank pays special attention to the social assessment and to the minutes and the result of the previous, free and informed consultations with the affected indigenous communities, as a basis to determine if said support exists. The Bank does not pursue the processing of the project if it is unable to determine the existence of said support." [Citation: Page 5, paras. 4 - 5]		Garífuna communities in the Departments of Atlántida (Sambo Creek and Tornabé) and Gracias a Dios (Batalla). The Social Assessment included the participation of municipal authorities, *Patronato* leaders (described in more detail in paragraph 31), community leaders, individuals, and civil society organizations, representing the broad spectrum of Garífuna stakeholders. There is a diversity of opinions among the various Garífuna stakeholders regarding the role of the Project in addressing their land claims. In particular, Government and the *Mesa Regional* have extended open invitations to all Garífuna communities and organizations to participate in the consultation framework sponsored by the Project. Some Garífuna groups are actively participating in the Project, others have participated sporadically, while still others have chosen not to be involved. Management notes that there is considerable Garífuna support for the Project, as shown by the various minutes of meetings and statements made by the *Mesa Regional* (see Annexes 2.14 to 2.17 and 2.19 to 2.21). Community representatives at the *Mesa Regional*, not Government, selected the eight communities as well as the alternates.
6.: Alleged damage by the Project to the Garífuna people The damage suffered by the Garífuna people is materialized in the current and potential damage entailed by the PATH to pursue the process of vindication and recognition of the territory of the Garífuna people, or in other terms the claims relating to their territorial rights. The further potential damage is materialized in the serious risk of atomization of the community's collective title in favor of individual titles, contrary to the choice of a preferred system of land tenure made by the whole of the Garífuna people. We consider that the action and failure to act that result from all of the above is the Bank's responsibility; the causality link is based on the circumstance that had the WB not implemented said plan the communities would not suffer and would not be exposed to the above-mentioned damages and would continue pursuing their claim process. [Citation: Page 9, paras. 1 & 2] [...] Almost all of the communities have claimed respect for their territorial rights. [...] A sample of the expansion requests filed by the 16 communities settled in the zone of Iriona shows that they requested 27,600 hectares and only 8,580 hectares were titled. The *Instituto Nacional Agrario* declared that not titled [to the communities] thus excluding *ab origine* any hypothesis of regularization were the lands occupied by foreigners and the lands comprised in the environmental reserve zone designated with the name of Reserva Río Tinto.		The Requesters claim that the Project harms them in three ways: (i) by already disrupting (and with potential for further disrupting) an ongoing process of vindication of their territorial claims; (ii) by risking atomization of collective titles in favor of individual titles; and (iii) by giving away to outsiders lands claimed by Garífuna communities. Regarding the communities indicated in the Request subject to claims before the IACHR, see Section 4 above. Management has considered carefully the issue of individual versus collective titling. The Social Assessment addressed this issue (see para. 20 above and pages 32 to 38 of the Social Assessment) and Management analyzed the legal framework concerning this issue in particular. The 2004 Property Law devotes an entire chapter to the regularization of property for indigenous and Afro-Honduran peoples (see Annex 7). In particular, Article 93 states, "the Property Institute shall follow the procedures established in the Law to guarantee indigenous and Afro-Honduran peoples the full recognition of their communal property rights...through communal [*emphasis added*] fee-simple titling (titulación en dominio pleno)." Neither the Property Law nor the Project favors or encourages individual titling in Garífuna communities. On the contrary, as a result of the legal analyses carried out during Project preparation, Management concluded that – given the importance of this issue and the fact that Garífuna communities may be subject to influences from outsiders encouraging individual titling – a special safeguard provision was necessary for the Project. Specifically, Sections 3.08(b) and 3.11 of the Credit Agreement provide for the establishment of procedures that adequately protect the rights of Garífuna communities, including their right to choose tenure regime.

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The protected Area is indicated in the Environmental Manual of the Honduras Land Management Project (page 25 table 7 number 4) as Forest Reserve Sierra Río Tinto; such zone would comprise an area of 69,487 hectares and would have the institutional support of the environmental NGO known as MOPAWI, totally foreign to the Garifuna people and alien to their interests and world view. Besides such area has not yet been legally recognized as a Protected Zone, no Decree has been issued in that sense. This circumstance underlines the violation of its operational policies by the Bank operatives; any titling project that contemplates the delivery of zones being claimed by the Garifuna people (since they constitute their functional habitat) to non indigenous NGOs or individuals, represents a **severe damage to the Garifuna people and a serious violation of their rights.** Therefore, the implementation of the project would generate a serious damage as compared to what would have prevailed if the project had not been developed. In this sense, we underline that part of the territory claimed by 28 of the 46 communities is within protected areas or their buffer zones. The Ofraneh has accompanied the communities throughout this process and supported their claims.[...] Also in this case the PATH activities prejudge and will have a negative incidence on the communities' claim process [already] submitted to the jurisdiction of an international tribunal. It is enough to underline that part of the Punta Izopo reserve, claimed by the above-mentioned Triunfo de la Cruz community, under the Bank's design has already been handed over to an NGO that is alien to the community. Summarizing, the World Bank damages the Garifuna people by establishing in advance the delivery of their territory to foreign people, besides determining measures that favor the atomization of community titles. Furthermore, there is a clear risk that the lack of clarity regarding the procedures applicable to the titling and the pertinent legislation, originating in the arrangements proposed by the PATH, will paralyze the progress of the territorial claims. [Citation: Page 10, para. 7 - Page 11, para. 7]		Provided communities make this choice in the context of a participatory and informed consultation framework, the Project's safeguard provisions are adequate to comply with OD 4.20. Management endorses the Government's position to respect the decisions made by the *Mesa Regional* and individual communities regarding their preferred land tenure regime. The minutes of the March 2005 meeting establishing the *Mesa Regional* explicitly state as one of its objectives "to demarcate the areas titled to Garifuna communities and proceed with its communal [emphasis added] regularization respecting the title as a private communal whole without fragmentation in individual parcels, since Garifuna lands are its patrimony. There will not be any cadastral surveying of [individual parcels, it is understood] for at least 15 to 20 years in the Garifuna community." (See Annex 2.12). Under the Project, community-level consultation boards (*Mesas Locales*) are also being established and Management understands that ultimately individual communities will decide whether to participate in Project activities and on their land tenure preferences. Management notes that the Project has not "delivered" protected areas to NGOs. To clarify, tables 6 through 11 of the EA include a comprehensive inventory of existing and proposed protected areas in six departments of Honduras, in compliance with OP 4.04, as well as to provide factual information regarding the organizations involved in the management of those areas. This in no way constitutes an act of "establishing in advance the delivery of territory to outsiders." Existing protected areas are those created by Government prior to the Project. Proposed protected areas are those under consideration by Government and/or other organizations for inclusion in the SINAPH. These latter areas are not being proposed nor created by the Project. The listing of organizations involved in the management of those areas in the Project documents should not be interpreted as a Project proposal or endorsement of those organizations; rather, the list reflects a relationship between Government and those organizations working in a given protected area. In Management's view, co-management and participatory demarcation of protected areas enhance the involvement of indigenous communities vis-à-vis government agencies (or other entities) in the management of protected areas. Management recognized the Project's potential impact on communities living in or near protected areas stemming from the loss of access to resources. For this reason, the Project includes a Process Framework setting forth the mechanisms for mitigating this potential impact, in compliance with OP 4.12. Regarding the specific areas mentioned by the Requesters, Management wishes to clarify that under the Project, no activities will take place within or near Sierra Rio Tinto Forest Reserve, as it is a proposed protected area and therefore excluded from the Project per Section 3.10 of the Credit Agreement. Regarding the overlap between the Triunfo de la Cruz community land claims and the Punta Izopo National Park, Management understands that Punta Izopo National

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		Park has been included in the preliminary list of protected areas to be included in the Project (see Annex 2.12). Management notes that Section 3.11 of the Credit Agreement affords protection to affected communities, such as Triunfo de la Cruz, indicating that "no titling or physical demarcation of lands adjacent to Ethnic Lands will take place unless procedures that adequately protect the rights of indigenous and Afro-Honduran peoples, duly consulted with affected parties in a manner satisfactory to the Association [Bank],... have been followed." Finally, regarding the importance of natural habitats to Garífuna communities, Management recognized that potentially the Project could affect negatively important natural habitats, including areas recognized as protected by traditional local communities, if said areas were titled erroneously. Consequently, Management decided that OP 4.04 and OPN 11.03 were triggered and the Project EMP and Process Framework include specific activities to mitigate these impacts. These include: (i) the exclusion of all proposed protected areas from demarcation activities as described in paragraph 66 above (per Section 3.10 of the Credit Agreement); and (ii) the inclusion of chance find procedures in the Process Framework (per Section 3.09 of the Credit Agreement.
B. Environmental Assessment – OP/BP 4.01 Natural Habitats – OP/BP 4.04		
1. Overlap between Protected Areas and Claims of Ethnic Lands Although in their Environmental Assessment Operating Manual the World Bank experts recognize the issues that affect the tenure of land by the Garífuna people, especially in connection with the circumstance of the overlapping between protected areas and territories claimed by the communities no hypotheses are set forth on the development of management arrangements or, at least, of co-management that would restore to the Garífuna the power on their functional habitat that they themselves have preserved for centuries....and we have no knowledge of measures designed to eliminate or at least mitigate the presence of government institutions in the management of the protected areas in favor of the permanent presence of the members of the communities. Instead, almost all of the NGOs and the institutions that in the PATH manual appear as responsible for the management of the protected areas do not contemplate the presence of indigenous elements and are not in line with the world view of said peoples. We refer to paragraph 7 [of the Request] for an analysis of the overlapping between claimed territories and supposedly protected areas, mentioning as an example the issues arising from the protected area Sierra Río Tinto. [Citation: Page 8, para. 4]	OP/ BP 4.01 OP/ BP 4.04	During Project preparation, Management required the inclusion of specific measures to address potential conflicts between OD 4.20 and OP 4.04. In order to ensure compliance with both OP 4.04, which protects natural habitats, and OD 4.20, which protects Indigenous Peoples, the Project includes the following measures: (i) the restriction that only legally established protected areas (with a Decree) would be eligible for demarcation under the Project; (ii) no project field activities would take place in or near proposed protected areas (Section 3.10 of the Credit Agreement); (iii) no titling or physical demarcation on lands adjacent to Ethnic Lands would take place unless procedures that adequately protect the interests of Indigenous Peoples...have been followed (Section 3.11 of the Credit Agreement). Also see Section A.6 above. The Project's Process Framework ensures that protected area demarcation will proceed only if and when local communities agree (see page 6, first paragraph of Process Framework). The Process Framework and Environmental Management Plan (EMP) include provisions for co-management of protected areas by agencies, NGOs, and local communities (see page 7, last paragraph of Process Framework). Likewise, the Process Framework has strict provisions for the recognition and demarcation of land areas in favor of indigenous communities where overlaps exist between territorial claims and protected areas.

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		Finally, the Project's EA includes summary tables of data on all existing and proposed protected areas in the Departments of Atlántida and Colón, including the institution(s) involved in the management of those areas at the time the EA was prepared (Tables 6-11). Management wishes to clarify that the while all protected areas (existing and proposed) within the Project area are listed in the EA – as required by OP 4.04 – the Project will carry out activities only in protected areas which have been legally established and selected through a participatory process in the course of Project implementation.
[...] The demarcation of the water limits is not being carried out. [Citation: Page 8, para. 4]		As noted above, to date no activities – aside from consultations – related to the demarcation of protected areas or indigenous community lands have taken place. Where supported by the consultation process, participatory demarcation activities would take place in accordance with the methodology set forth in pages 6 to 8 of the Process Framework. Management understands that the need and procedures for demarcation of water limits of protected areas will be assessed on a case-by-case basis, depending on the specific circumstances of the area in question.
[...] Finally, we underline that the PATH has not taken into account the importance of the natural habitats and their inter-relation with the Garifuna communities that occupy said habitats. [Citation: Page 9, para. 1]		The importance of critical natural habitats (both in terms of their biodiversity value as well as their cultural importance) was recognized by Management (see pages 14-15 and 80-81 of the PAD) and as such the Credit Agreement includes provisions (see Sections 3.09, 3.10 and 3.11) to prevent the erroneous demarcation or titling of those lands. These legal covenants, as they relate to natural habitats, are operationalized in pages 6 to 9 of the Process Framework and pages 59 to 62 of the EMP approved for the Project. Building upon the commitments indicated above, the *Mesa Regional* was established in March 2005; its mandate includes the issue of protected areas and land claims of neighboring Garífuna communities, as well as other issues to "prevent a negative impact on the Garifuna people." (see Annex 2.12). Management maintains that no activities related to the physical demarcation, surveying, conflict resolution or titling of any lands in Garífuna regions of Honduras have taken place under the Project. The only activities carried out with Garífuna communities in these regions relate to dissemination of information and consultations as required by the Bank's OD 4.20.
C. Disclosure of Information		
We finally emphasize that the Bank's staff has never delivered to the members of the communities the documents, information and training required to be informed of the Project's execution arrangements. Likewise, the Requesting organization has never received copy of key documents such as the Loan Agreement between the World Bank and the Government of Honduras. In spite of this further violation to the right to consultation and informed participation in the Project the Requesters have		In accordance with paragraph 72 of the Bank's 2002 Disclosure Policy, which provides, *inter alia*, that: "after the Loan, Guarantee, and Development Credit Agreements entered into by the Bank under lending operations have been signed and declared effective....they are registered or filed with the United Nations and are public documents", it is Bank practice to make these documents available upon request. Management complied with its disclosure policies by timely submission of the PAD, EA, Process Framework, and

Claim/Issue	OD/ OP/BP	Response
gathered sufficient information on which to base this Request as will be seen from the following paragraphs. [Citation: Page 5, para. 3]		IPDP to the InfoShop, as well as notifying Government of the need to make Project documents available at a public place accessible to all stakeholders. The PAD, EA, Process Framework, and IPDP are available through the Bank's website. These and other Project documents are also available through the UCP in Tegucigalpa.

ANNEX 2.1

Chronology of Events from January 2003 to November 2005

Chronology of Key Project Preparation and Implementation Events January 2003-November 2005

January-February, 2003	A series of consultation events are organized to consult civil society on the design of a project to integrate the National Registry and Cadastral System (SINREC). Ofraneh participates in the event held in San Pedro Sula on January 30, 2003. (Annex 2.2)
August 26, 2003	Ofraneh and other organizations from civil society meet with PAAR's staff to discuss the consultation process for the draft of Property Law. An *ad hoc* working group is created to receive inputs from civil society on the law and revise the draft. (Annex 2.3)
October 8, 2003	A consultation workshop is organized to revise the draft of the Property Law based on the progress made by the ad hoc group. Ofraneh participates in the event. (Annex 2.4)
October 25-26, 2003	PAAR sponsors a consultation workshop organized by Ofraneh in San Juan Tela, Atlantida to discuss the draft of the Property Law. (For minutes of this event, please refer to the attachments in Annex II of the Request)
November 12, 2003	Representatives from Ofraneh meet with member of National Congress to present the results of the workshop held in San Juan Tela. (Annex 2.6)
November 26, 2003	The first round of consultations for the Indigenous Peoples Development Plan (IPDP) and the Environmental Assessment (EA) is held in Tegucigalpa. Participants request additional time to analyze the documents. Representatives from Ofraneh participate in the event. (Annex 2.7)
December 2, 2003	The second round of consultation for the IPDP and EA are held in Tegucigalpa. Participants endorsed the documents. Representatives from Ofraneh participate in the event. (Annex 2.8)
January 13, 2005	PATH staff meets with the vice-president of Ofraneh in La Ceiba to disseminate the Project. (Annex 2.9)
January 28, 2005	PATH staff meets with representatives from Odeco and Ofraneh (Garifuna organizations) to invite them to participate in the process of planning and dissemination of the Project. (Annex 2.10)
February 12, 2005	As a follow-up to the activities undertaken in January, PATH staff and the Government of Colon invite key stakeholders (including Ofraneh) to become part of a working group session to be held in Trujillo, Colon, on February 24 with the objective of organizing the Inter-institutional Commission for the regularization and titling of Afro-Honduran Lands in Atlantida and Colon.
February 20, 2005	PATH staff meets with representatives from Ofraneh to invite them to participate in the working group session to be held in Trujillo. PATH staff reports that Ms. Gregoria Flores from Ofraneh decided to no longer participate in the planning and dissemination events for the Project because other Garifuna stakeholders were involved.
February 24, 2005	At the meeting in Trujillo, a provisional Inter-institutional Commission is created with the objective of organizing the event where the 8 communities and 12 protected areas to participate in the PATH project are to be selected. The provisional commission decides to continue with the process with or without the participation of

	Ofraneh and Odeco. (Annex 2.11)
March 15-17, 2005	A workshop is held in Santa Fe, Colon, with representatives from Garifuna communities (including some members from OFRANEH), where the *Mesa Regional de Regularizacion y Resolucion de Conflictos* is created and 8 communities and 12 protected areas for regularization are selected. OFRANEH is included as part of the *Mesa Regional*. (Annex 2.12)
April 1, 2005	World Bank Representative in Honduras meets with members of the *Mesa Regional*. (Annex 2.17)
April 28, 2005	Ofraneh issues a public statement against the PATH project. The statement characterizes the other Garifuna stakeholders participating in the Project as "clowns". (Annex 2.13)
April 29, 2005	Members of the *Mesa Regional* meet in Sangrelaya, Colon in response to Ofraneh's statement. The *Mesa* signs minutes stating their support for the Project and calling on all Garifunas organizations to join forces to strengthen the framework sponsored by the Project as well as inviting them to participate on it. (Annex 2.14)
April 29, 2005	The *Mesa Regional* includes the community of Cocalito in the list of selected communities to participate in the Project upon request of the community's representatives. (Annex 2.14)
May 15, 2005	*Mesas Locales* are created in Santa Fe and San Antonio (Department of Colón).
June 9, 2005	Representatives from OFRANEH meet with the *Mesa Regional* in Trujillo, Colon, and agree to send two representatives from their organization to be members of the *Mesa*. (Annex 2.15)
June 9, 2005	Three working committees are organized to assist the *Mesa* in the areas of training, monitoring, and dissemination to the communities. *Mesas Locales* are created in Sangrelaya, Cocalito, and Guadalupe (Department of Colón). (Annex 2.16)
August 1, 2005	Ofraneh submits a letter to the World Bank against the Project[1]. (Please refer to Annex II of the Request)
September 22, 2005	Bank staff meets with members of the *Mesa Regional* in La Ceiba, Atlantida. At the meeting, it was agreed that the Project will financed a lawyer to assist the communities in the regularization process. (Annex 2.19)
November 4, 2005	Representatives from Ofraneh are invited to meet with Government officials, Bank staff, and other Garifuna representatives in the context of the *Mesa Regional* in La Ceiba, Atlantida, to discuss their concerns with the implementation of the project. The representatives from OFRANEH show to the meeting, but refuse to participate. (Annex 2.20)
November 4, 2005	The *Mesa Regional* issues a special minute requesting the World Bank not to meet with the representatives from Ofraneh outside the framework of the *Mesa*, and inviting Ofraneh to appoint their two representatives to the *Mesa* as they had agreed to on June 9, 2005. (Annex 2.21)
November 11, 2005	Bank letter to Mesa Regional Garífuna, as a follow-up to November 4, 2005 meeting. (Annex 2.22)

[1] Management reply to this letter and subsequent correspondence is described in Annex 4.

ANNEX 2.7

First Round of Consultation for the Indigenous Peoples Development Plan and Environmental Assessment

November 26, 2003

UNOFFICIAL ENGLISH TRANSLATION

AIDE MEMOIRE OF THE 1ST CONFERENCE TO REVIEW THE INDIGENOUS DEVELOPMENT PLAN AND THE ENVIRONMENT ANALYSIS OF THE HONDURAS LAND ADMINISTRATION PROGRAM (PATH)

November 26, 2003
Hotel Plaza del General
2:00 to 6:00 pm

Documents:

- Indigenous development plan
- Environmental analysis

Participants:

- OPRANEH: Jarson Salvin Benedit, Teresa Reyes
- MASTA: Aurelio Ramos Allen, Edy McNab
- MASTA/Rayaka: Roberto Esteban
- ODECO: Yimene Calderón, Zulma Valencia; Karen Vargas
- LAKIATARA: Edgardo Benítez
- FETRIPH: Alfonso López; Enrique Carrasco, Marlon Moisés Santos
- SGYJ: Rodolfo Álvarez
- MOPAWI: Simón Greham, Adalberto Padilla
- PROLANSATE: Santiago Flores, Dennis Sierra
- Fundación VIDA: Orlando Ortiz
- PATH: Henry Merriam; Edgardo Derbes, Diacuy Mesquita; Román Álvarez, Erasmo Padilla, Joaquín Hernández, Nancy Barahona, Etna Pinel, Zuleyma Zablah.

Development:

The participants consider that there has not been sufficient time from when the document was received and the date of the workshop for an in-depth analysis of the tasks; accordingly, they have requested more time to analyze the Indigenous Development Plan. The workshop took place as follows:

1. There was discussion with regard to the 5 days of analysis that were requested and granted to hold a new workshop, which would be definitive, setting the date for December 2, 2003.
2. The terms were established under which the Indigenous Plan would be discussed.
3. The document was delivered to all those who had not downloaded it in their email.
4. Among the various points discussed were organizational topics and the participants expressed concerns with regard to the participation that indigenous peoples would have during the implementation of the indigenous plan; accordingly, the PATH agreed that the participatory processes would

be a topic to be analyzed during the development of the Second Workshop in the document of the Indigenous plan.

Enclosures:
List of attendees duly signed
List of Delivery of per-diems

ANNEX 2.8

Second Round of Consultation for the Indigenous Peoples Development Plan and Environmental Assessment

December 2, 2003

UNOFFICIAL ENGLISH TRANSLATION

AIDE MEMOIRE REMINDER OF THE 2ND ANALYSIS WORKSHOP OF THE INDIGENOUS DEVELOPMENT PLAN AND ENVIRONMENTAL ANALYSIS OF THE HONDURAS LAND ADMINISTRATION PROGRAM

December 2, 2003
Hotel Plaza del General

Analysis documents:

- Indigenous Development Plan
- Environmental Analysis

Attendees:

- NABIPLA: Arty Brooks
- FETRIXY: Selvin Bladimir Rodríguez, María Magdalena Pérez.
- ECOMAC: Luis Evelyn, Lauro Rodríguez
- MASTA: Virginia Mendoza, Orbelina Orellana
- MASTA/RAYAKA: Donaldo Allen, Whayting Wrod
- AHJASA: Omar Nuñez, Oscar Armando Lazo
- WORLD BANK: Márquez Martínez
- FUDNAPIB: Aída M. Archaga
- LAKIATARA: Edgardo Benítez
- FETRIPH: Alfonso López, Marlos Rosario Duarte, Enrique Carrasco
- OPRANAH: Jarson Salvin Benedit, Enrique Carrasco
- PRESIDENCY: Lina Martínez
- SGYJ: Rodolfo Álvarez
- PATH: Henry Merriam; Edgardo Derbes, Diacuy Mesquita; Román Álvarez, Erasmo Padilla, Joaquín Hernández, Nancy Barahona, Etna Pinel, Zuleyma Zablah.

Indigenous Development Plan

Comments

OFRANEH

They consider that there has not been enough time for an in-depth analysis with regard to the tasks; work should be done together.

Rodolfo Álvarez: He clarified that the meeting was to get a first glimpse of the studies. He acknowledged that there is still a lot to do. There was the anticipation that people would get a preliminary look at the document, if the goals were worth observations; if the procedures were adequate, reminding that a project is being initiated.

ODECO

Sulma Valencia and Carmen Vargas stated that these were only preliminary observations.

MASTA

They stated that "the document has included people's needs, but it has not sufficiently included their concerns. There are real problems that must be resolved and it would be great to have dates, to follow up with discussion of effective ways to resolve the problems".

FETRIPH

They stated "There should be a good start opening up to the communities, mainly with respect to the land. It should be done jointly and with a consensus. This law must be made known to the public-at-large". They asked if PATH has the possibility of financing the awareness campaign. "We are giving time to define, when we can start with this proposal".

Rodolfo Álvarez

He clarified that it does not involve a law.

MASTA

There are points of relevance. "I agree with the plan for acknowledging an overview of the communities (communal property). There are also indigenous people who are unable to be recognized as individual owners (case of the Ladinos)".

They asked how the Ladino colonos are going to be treated. What was going to be done? "If we are not clear on this point, there is no way to resolve the issue".
We are not clear if the solutions adopted in these parts are valid for the rest".

They suggested inviting the delegates from the German Cooperation and COHDEFOR with regard to the Plátano river reserve.

FETRIPH (PETCH)

"We lived [here] before the settlers (*colonos*), we have always been marginalized".
They stated that the decree law of the Plátano River is very new and the settlers are already exploiting the media. "in the settlements they have gone past our rights".
The decree law does not make it possible to grant property rights within the buffer zone. "We want to hold on to what belongs to us".

Mina Honda Tribe

They commented that they agreed to give individual titles to farmers on land belonging to the tribe.

Candelaria Tribe

"The government has committed monumental mistakes. There is a reason for international claims".
The government bought land in our ancestral areas and handed it over to peasants displaced of the Cajón".
The government blackmailed our tribes, a lot of people have been imprisoned and are dead, we are concerned by these new laws". "DIVIDING THE LAND IS DIVIDING OUR PEOPLE".

PETCH

They spoke of cases of conflict resolution (Conflict Resolution Committee).

TAHUACA (Edgardo Benítez)

"International funds, there is another type of interest. It has a relationship with the Puebla/Panama Plan. Projects that at the end of 15 years of the INA-FHIS-UNDP have left more problems [than before]".

"It is really this proposal, something that will truly benefit us; this is a law, it is a project; the federations should bring their technicians and politicians; they should bring their specialized resources. There is always a card up their sleeve, the commissions don't work, the indigenous peoples are always responsible; though you don't always have to see it from my negative standpoint, we should give space to the federations so they can bring their best human resources". Don Edgardo Benitez, stated having problems with the federation with regard to poor investment of funds (but he is a technician), but the Tahuaca have an excellent organization like the Lencas.

ODECO

Karen said that only actions are indicated in the document with regard to the land and stated that to formulate a plan, the participation of the communities is necessary.

"The plan itself has good things, what concerns us is the fact of the indigenous and Afro-Honduran participation, how they are going to intervene. The term of the capital markets concerns us and the role of the World Bank. The communities are mature to interpret and in all the poor peoples, there is a good deal of allusion to the information. And we are concerned by the land tenure regimes".

He also stated that the Afro-Honduran terms should be homogenized (non-black).

Moreover, he stated that the positive and negative impacts should be evaluated. "We are concerned by the qualification by the status of occupancy certificates; who will be the owners of the land; I don't believe in the certificates, they are a trap of the State".

"Protected Areas, for what or for whom. Regularization of rights. What rights? People want land".

They stated that they did not agree with the term "Ethnic Groups", it should be "Ethnic Entities".

Part II

Environmental Analysis Document

OFRANEH

"I don't see a plan for developing natural resources, it is necessary to know what it is before beginning".

CONCLUSIONS:

1. The participatory methodology and the political willingness to disseminate the project and its specialized studies (environmental and indigenous) were well perceived by the participants.
2. The content of the studies, include great changes in policies and procedures, which requires that the representatives of the federations discuss them thoroughly at the grassroots level and time for understanding it better. This issue will be address during project implementation, through component 1, which includes institutional strengthening, training, and local dissemination, and the generation of policies and norms.
3. There is good disposition to initiate the project and implement the proposal, providing confidence and access to the processes will improve this disposition.
4. The representatives agreed to consult with their grassroots to appoint members to the indigenous national forum (*mesa nacional indigena*)

ANNEX 2.9

Aide Memoire of Meeting Between the Vice-President of Ofraneh and PATH Staff

January 13, 2005

UNOFFICIAL ENGLISH TRANSLATION

LAND ADMINISTRATION PROGRAM OF HONDURAS
(PATH)

COMMUNITY PARTICIPATION AND ETHNIC AFFAIRS.
AYUDA MEMORIA
SOCIALIZATION VISIT TO OFRANEH

La Ceiba, February 13, 2005

PARTICIPANTS
Meeting held in the office of the Honduran Black Fraternal Organization (OFRANEH) with Mr. Alfredo López in his capacity as Vice-president; Ms. Nidia Arguijo and Jorge Cacho consultants of the Honduras Land Administration Program (PATH).

DEVELOPMENT.
Mr. Alfredo López started the conversation on the proposal of San Juan, Tela; regarding the Property Law, he said it did not fulfill the expectations of the people, and pointed to some articles that where the acknowledgement of ownership by third parties is unclear; there are 2 articles that worry him and some actions have already been taken. The organization is generally accused of issuing complaints or of other things.

He stated that there are many limitations in the property law and there are articles that are fatal.

Alfredo López asked that agreements which have been set down must be fulfilled to see if there is a willingness to do things.

Regarding our request to make a joint effort, he stated that things go back a while which results in people not being trusted and now we want things to look like we're best friends? A dialog should be started so we can do away with the mistrust and do something that will generate trust.

ANNEX 2.11

Invitation and minutes of working group session to integrate the provisional Inter-Institutional Commission for the demarcation and titling of Garífuna communities

February 24, 2005

UNOFFICIAL ENGLISH TRANSLATION

Secretariat of State in the Ministry of Governance and Justice
Republic of Honduras, Central America

Invitation

You are hereby invited to a working group meeting in order to set up the Inter-institutional Commission for the Regularization and Titling of Land in the Afro-Honduran communities in the departments of Colón and Atlántida and to discuss matters relating to the management of opportunities for poverty reduction. The meeting will be attended by the technical staff of the PATH project that is executed by the Ministry of Govenance and Justice.

Date: Thursday, February 24, 2005
Time: 2:00 p.m.
Place: Office of the Governor, Department of Colón

Sincerely yours,

(*Signed*) Juan Gómez Meléndez
Governor, Department of Colón

Minutes of the meeting

The following representatives of the Honduran Land Administration Program and community leaders representing the Afro-Honduran people met in the halls of the Office of the Governor at 2:00 p.m. on Thursday, February 24, 2005: community of Cristales and Rio Negro, members of the community of Rio Esteban, Centro Independiente para el Desarollo de Honduras (CIDH), municipality of Santa Fe, Organización de Desarollo Etnico Comunitario (ODECO), International Committee for the Development of Peoples (CISP), Popol Nah Tum, Office of the Governor of Colón, Centro de Promoción de la Salud y Asistencia Familiar (CEPROSAF), Inter-municipal Technical Unit, Solidarity International, Mancomunmidad de Municipios Garifunas de Honduras (MAMUGAH), San Alonso Technical Center. In introducing the Honduran Land Administration Program, the technical staff discussed the scope and objectives of the program for the regularization of land ownership in the Garífuna and Miskito communities under the property law, for which a provisional committee was formed to plan the first Workshop of Dissemination and Selection of Afro-Honduran Communities, to be held from 15 to 17 March.

The following committee members were chosen:

Omar Loredo	Community of Cristales and Rio Negro
Nancy Figueroa	ODECO
Juan Alberto Castillo	Uti Si/MAMUGAH
Thelma Gotay	CEPROSAF
Juana Olivia Gonzàlez	Office of the Mayor of Santa Fe
Evangelista García	Community of Rio Esteban
Nelson Lenin González	CIDH
Juan Gómez	Office of the Governor

Wilfredo Cacho of the Association of Professionals of Sangrelaya (APROSA) and Teofilo Iacayo of the Iseri Lidawamari Movement will also join, upon recommendation by the Assembly.

The committee will be responsible for preparing the logistic aspects of the first Assembly (invitations, preparation of an agenda, budget). The Assembly will expand and approve the membership of the committee at that time.

There being no further business, the meeting was adjourned at 4:12 p.m. Signed and approved in the city of Trujillo.

(*Signed*)

Omar Loredo	Nancy Figueroa
Juan Alberto Castillo	Thelma Gotay
Juana Olivia González	Evangelista García
Nelson Lenin González	Juan Gómez Meléndez

Office of the Governor
Department of Colón
Trujillo

List of participants

Event Venue: Office of the Governor, Trujillo Chair: Mr. Juan Gómez

No.	First and last name	Title	Office	City	Telephone	Signature

(See original for names, etc.)

HONDURAN LAND ADMINISTRATION PROGRAM (PATH)

Community participation and ethnic affairs

Date: February 24 Place: Trujillo, Colón Time: 2:00 p.m.

No.	Full name	Community	Organization and/or institution; Fax and/or e-mail	Title	Telephone

(See original for names and other information.)

HONDURAN LAND ADMINISTRATION PROGRAM (PATH)

Community participation and ethnic affairs

Date: February 24 Place: Trujillo, Colón Time: 2:00 p.m.

No.	Full name	Community	Organization and/or institution; Fax and/or e-mail	Title	Signature

(See original for names and other information.)

ANNEX 2.12

Minutes of the Creation of the *Mesa Regional de Regularización y Resolución de Conflictos de Atlántida y Colón* and Preliminary Selection of 8 Communities and 12 Protected Areas

March 15-17, 2005

UNOFFICIAL ENGLISH TRANSLATION

Aide Memoire

We, Leaders of the Garifuna communities, municipal authorities, Governor, representatives of the Association of Municipalities of Honduras [AMHON], representatives of MAMUGA, the Garifuna Catholic Pastoral Diocese Commission, representatives of OFRANEH and of the Community Development Organization of Honduras [ODECO], meeting at the Guaymuras Training Center within the framework of the Workshop on the Selection of Afro-Honduran Communities and Protected Areas organized by the Land Administration Program of Honduras with the participation of representatives of the following communities:

I. Municipal District of Esparta

1. Cayo Venado
2. Nuevo Go

II. Municipal District of Santa Fe

3. Santa Fe
4. Guadalupe
5. San Antonio

III. Municipal District of Juan Francisco Bulnes

6. La Fe
7. Buena Vista
8. Batalla

IV. Municipal District of Limon

9. El Limon
10. Vallecito

V. Municipal District of Santa Rosa de Aguan

11. Santa Rosa de Aguan

VI. Municipal District of Iriona

12. Iriona Viejo
13. Punta Piedra
14. Sangrelaya
15. Cocalito

VII. Municipal District of Balfate

16. Rio Esteban

VIII. Municipal District of Trujillo

17. Rio Negro
18. Cristales

IX. Municipal District of Tela

19. Triunfo de la Cruz
20. La Ensenada
21. Miami
22. Rio Tinto

X. Municipal District of La Ceiba
23. Corozal
24. La Ceiba

XI. Municipal District of La Masica
25. La Masica

Following a presentation and discussion about the processes of land regularization and Titling, an agreement was reached to leave the title simply as Workshop Meeting. Furthermore, emphasis was placed on regularization and titling with the component of production, which permits the economic strengthening of the communities subject to the process of regularization. Later, agreement was reached to support the organizing committee of the event in order to initiate the process in coordination with PATH, and with the representation of the communities benefiting from the process.

Finally, the working offices were integrated to select the 8 communities to be regularized by the Land Administration Program of Honduras and which are listed hereunder.

[signatures illegible]

SAN ANTONIO MUNICIPAL DISTRICT OF SANTA FE-COLON

PUNTA PIEDRA MUNICIPAL DISTRICT OF IRIONA COLON

CRISTALES Y RIO NEGRO MUNICIPAL DISTRICT OF TRUJILLO COLON

LIMON MUNICIPAL DISTRICT OF LIMON-COLON

SANGRELAYA MUNICIPAL DISTRICT OF IRIONA COLON

RIO TINTO MUNICIPAL DISTRICT OF TEL-ATLANTIDA

SANTA FE MUNICIPAL DISTRICT OF SANTA FE-COLON

GUADALUPE MUNICIPAL DISTRICT OF SANTA FE-COLON

The session ended at 7:10 pm on March 15, 2005.

THE FOLLOWING AUTHORITIES AND LEADERS ATTENDING THE WORKSHOP SIGNED THIS DOCUMENT

[Most of the handwritten entries appearing here and on the following two pages are illegible]

NAME	VILLAGE	POSITION	SIGNATURE

DEFICIENCIES OF IRREMEDIABLE PROCEDURES

Any action or meeting of the *mesa regional* that is carried out with the objective of exercising its own functions without formally guaranteeing the right of participation or expression of its members, will be invalid and therefore without effect.

OBJECTIVES AND MANDATES OF THE PLENARY IN RELATION TO THE *MESA REGIONAL* AND PATH

AIDE MEMOIRE
ESTABLISHMENT OF THE *MESA REGIONAL* OF REGULARIZATION AND CONFLICT RESOLUTION AND SELECTION OF 12 PROTECTED AREAS

We, leaders of the Garífuna communities, municipal authorities, Governor, representatives of the Association of Municipalities of Honduras [AMHON], representatives of MAMUGA, the Garífuna Catholic Pastoral Diocese Commission, representatives of OFRANEH and of the Community Development Organization of Honduras [ODECO], meeting at the Guaymuras Center within the framework of the Workshop on the Selection of Afro-Honduran Communities and Protected Areas organized by the Land Administration Program of Honduras PATH with the participation of representatives of the following communities:

I. Municipal District of Esparta

1. Cayo Venado
2. Nuevo Go

II. Municipal District of Santa Fe

3. Santa Fe
4. Guadalupe
5. San Antonio

III. Municipal District of Juan Francisco Bulnes

6. La Fe
7. Buena Vista
8. Batalla

IV. Municipal District of Limon

9. El Limon
10. Vallecito

V. Municipal District of Santa Rosa de Aguan

11. Santa Rosa de Aguan

VI. Municipal District of Iriona

12. Iriona Viejo
13. Punta Piedra
14. Sangrelaya
15. Cocalito

VII. Municipal District of Balfate

16. Rio Esteban

VIII. Municipal District of Trujillo

17. Rio Negro
18. Cristales

IX. Municipal District of Tela

19. Triunfo de la Cruz
20. La Ensenada
21. Miami
22. Rio Tinto

AIDE MEMOIRE
ESTABLISHMENT OF THE *MESA REGIONAL* OF REGULARIZATION AND CONFLICT RESOLUTION AND SELECTION OF 12 PROTECTED AREAS

X. Municipal District of La Ceiba
23. Corozal
24. La Ceiba

XI. Municipal District of La Masica
25. La Masica

Following a presentation and discussion about the processes of land Regularization and Titling, an agreement was reached to establish the ***MESA REGIONAL* OF REGULARIZATION AND CONFLICT RESOLUTION OF ATLÁNTIDA Y COLON,** which is structured in the following manner:

- The 6 members of the regional organizing committee.
  i. Juan Alberto Castillo
  ii. Nancy Figueroa
  iii. Juan Gómez
  iv. Omar Loredo
  v. Juan Olivia González
  vi. Telma Gotay
  vii. Evangelista Garcia
  viii. Nelson Lenin González

- 1 representative of each *patronato* of the 8 communities selected.
- 1 representative of each land committee (or its equivalent) of the 8 communities selected.
- OFRANEH
- ODECO
- Garífuna Catholic Pastoral Diocese Commission

Each representative will act as a permanent member, and because of the importance of the issues to be handled, each representative will name a substitute to the *Mesa* who will replace him in the event of the absence of the representative.

The communities selected that are part of the *Mesa Regional* are:

1. **San Antonio** Municipal District of Santa Fe-Colon
2. **Punta Piedra** Municipal District of Iriona Colon
3. **Cristales Y Rio Negro** Municipal District of Trujillo-Colon
4. **Limón** Municipal District of Limón-Colon
5. **Sangrelaya** Municipal District of Iriona-Colon
6. **Rio Tinto** Municipal District of Tela-Atlántida
7. **Santa Fe** Municipal District of Santa Fe-Colon
8. **Guadalupe** Municipal District of Santa Fe-Colon

Finally, the working groups were incorporated to select the 12 protected areas to be delimitated by PATH:

1. Janeth K.
2. Punta Izopo
3. Texiguat

4. Cayo Blanco
5. Punta Piedra
6. Reserva De Betulia
7. Farallones De Limon
8. Laguna De Zambuco
9. Corredor De Payas O Poyas
10. Laguna De Guaimoreto, Capiro and Calentura
11. Barra De Calderas A Cabo Camarón
12. Microcuenca Del Rio Juana Leandra

By authorizing the establishment of the aforementioned *Mesa Regional*, the plenary establishes a series of objectives, mandates and goals that this *Mesa* must always take into account, seek to faithfully fulfill and carry out as stipulated hereinafter:

GUIDING PRINCIPLES OF THE *MESA REGIONAL*

In interpreting and applying the provisions of this agreement, the following principles must be taken into consideration:

1. **Ethnic and Cultural Diversity.** This is the principle under which the activities of the *Mesa Regional* will be performed in compliance with the lifestyle of the Garífuna peoples, and will take into consideration its cultural, economic and environmental distinctiveness, as well as the criteria of comprehensiveness, interculturality, linguistic diversity and flexibility.

2. **Autonomy.** This signifies the right of the Garifuna Peoples to make autonomous decisions under the guidelines established in ILO Convention 169.

3. **Will of Majority.** This must be applied so that decisions reflect the will of the majority attending the respective ordinary or extraordinary meetings, and are consistent with justice and the well-being of the Garífuna peoples.

4. **Principle of Non-Exclusion.** This guarantees the right of participation and expression of opinions of all parties involved in this Program.

5. **Efficiency.** This signifies the best social and economic use of administrative, technical and financial resources available for the development of the work of the *Mesa Regional*, and so that the resources and benefits of PATH are used and offered in an adequate, opportune and sufficient manner.

6. **Participation.** This refers to the involvement of the *Mesa Regional* through its representatives in activities of control, management and inspection of the components of the Program in its entirety.

7. **Correction of Procedures.** Deficiencies in procedures that are correctable may be remedied with the objective of guaranteeing the correct application of processes and the rights of members of the *Mesa Regional*

DEFICIENCIES OF IRREMEDIABLE PROCEDURES

Any action or meeting of the *mesa regional* that is carried out with the objective of exercising its own functions without formally guaranteeing the right of participation or expression of its members, will be invalid and therefore without effect.

OBJECTIVES AND MANDATES OF THE PLENARY IN RELATION TO THE *MESA REGIONAL* AND PATH

1. The *mesa regional* is created with the objective of coordinating the process of regularization and conflict resolution in the 8 communities selected for that purpose.

2. As part of its activities, the *mesa regional* must include monitoring and planning with government entities and international agencies with the purpose of identifying and receiving financial and human resources within the framework of land tenure that may enable the following problems to be solved.

   a. Financing of title clearance
   b. Financing of productive projects
   c. Financing of health projects
   d. Financing of education projects
   e. Financing of environmental projects
   f. Financing to strengthen institutions

3. In Atlántida and Colon the *Mesa Regional* must coordinate the delimitation process of the protected areas, and must handle the issues of the protected areas together with the issues of the nearby Garífuna communities in order to prevent any negative impact upon Garífuna Peoples.

4. PATH will join the *Mesa* as an additional member in order to assist with regularization and conflict resolution in the Garífuna communities selected.

5. PATH will assist the *Mesa Regional* in its operations, training and planning with various local, regional and central Government authorities, as well as with various international agencies.

6. Delimitate the areas titled to the Garífuna communities and proceed with the communal regularization while respecting the title as a private communal area without dividing it into individual parcels, as the Garífuna lands are our heritage. Without proceeding to an actual cadastral survey of the Garífuna community in at least 15 to 20 years.

7. The *Mesa* must create operational procedures for its operations, and this process, as well as various processes that they [sic] carry out, must be duly validated at their given time by the communities of the Garífuna Peoples and, based on this consultation, carry out the adjustments and alterations that the people consider appropriate.

8. The process must be followed up so that every member is fully aware of same.

This meeting concludes at 1:00 PM on Wednesday, March 17, 2005.

THE FOLLOWING AUTHORITIES AND LEADERS ATTENDING THE WORKSHOP SIGNED THIS DOCUMENT.

AIDE MEMOIRE
ESTABLISHMENT OF THE *MESA REGIONAL* OF REGULARIZATION AND CONFLICT RESOLUTION AND SELECTION OF 12 PROTECTED AREAS

[Most of the handwritten entries appearing here and on the following six pages are illegible. The first two pages of names and signatures are both identified as "page 5 of 9". The last page, page 9 of 9, has no entries.]

NAME	COMMUNITY	POSITION	SIGNATURE

ANNEX 2.14

Minutes of the *Mesa Regional's* Meeting in Sangrelaya, Colón

April 29, 2005

UNOFFICIAL ENGLISH TRANSLATION

SPECIAL MINUTES

MEETING AT THE COMMUNITY CENTER OF SANGRELAYA ON FRIDAY, APRIL 29, 2005, THE MEMBERS OF THE *MESA REGIONAL* AND COMMUNITY LEADERS IN THE FRAMEWORK OF THE REGULARIZATION AND CONFLICT RESOLUTION PROCESS OF THE HONDURAS LAND ADMINISTRATION PROGRAM (PATH) IN VIEW OF RECENT EVENTS THAT HAVE TAKEN PLACE IN RELATION TO THIS PROCESS, AGREE UPON THE FOLLOWING:

[ink stamp of OFRANEH, Office of Coordination, La Ceiba, Atlantida, illegible signature]

1. To continue with the strengthening of the regularization and conflict resolution process involving Garífuna communities in Honduras.

2. That the slogans and pronouncements issued against PATH should not be taken into consideration by the authorities. Since the community issue is being discussed and examined within the *Mesa Regional* with the participation of community leaders in order to satisfy these legitimate demands.

3. We encourage Garífuna organizations to unite their efforts in order to strengthen the comprehensive development, considering PATH as a facilitating instrument.

4. We invite those outside this process to become involved and increase our human capital.

5. PATH has been granted a vote of confidence by the Garífuna through the *mesa* of regularization and conflict resolution of Colón and Atlántida, and for this reason we insist that it continues respecting and working towards the fulfillment of the agreements and guiding principles of the *mesa regional* that guarantee the communities' demands and exigencies. Otherwise, the communities reserve the right to continue assisting the said process.

In witness whereof, we sign this document.

[Most of the handwritten entries appearing here and on the following two pages are illegible. These pages are followed by the translation of the heading that appears on the last 3 pages that also carry illegible handwritten entries]

	NAME	COMMUNITY	POSITION	SIGNATURE

HONDURAS LAND ADMINISTRATION PROGRAM (PATH)
Community Participation and Ethic Affairs Department

Name of Workshop: Training of Local Office in Sangrelaya
Place and Date: Sangrelaya, Colon, April, 29, 2005

No.	Name	ID Card	Representing Organization	Position	Place of Origin	Signature

ANNEX 2.15

Minutes of the Meeting Between Members of the *Mesa Regional* and Representatives from Ofraneh

June 9, 2005

UNOFFICIAL ENGLISH TRANSLATION

AGREEMENT OF THE MEETING HELD BETWEEN THE *MESA REGIONAL* AND OFRANEH [Honduran Black Fraternal Organization]

Meeting in the City of Trujillo Colon on June 9, 2005 within the framework of the fourth meeting of the *Mesa Regional de Regularización y Resolución de Conflictos de Atlántida y Colón* and the Honduran Black Fraternal Organization, **OFRANEH.**

Following a series of studies concerning processes recently undertaken pertaining to land issues and the various legalization models that have been implemented.

Concerning the Land Administration Program (PATH) it has been agreed as follows:

1. We do not oppose the Land Administration Program (PATH), and agree to propose to our board of directors to join the Regional Office with one owner and one deputy.

2. We acknowledge that the work that the *Mesa Regional* has performed should continue with this process to be joined by the members appointed by the current Board of OFRANEH.

3. To review the document, ***Methodology for Determining and Measuring Land to be Titled in the Ethnic Community*** presented by the members of this organization once they have joined. Nevertheless, this will not prevent discussion of the document concerning what has been achieved by the *Mesa Regional* thus far.

4. We express our commitment to continue the struggle for the defense of Garífuna lands in union with the Regional Office for Regularization, Conflict Resolution and Titling of Atlántida and Colon.

In witness whereof, we sign this document on the ninth day of the month of June of the year Two Thousand Five.

[all signatures illegible]

Angel Amilcar Colon Quevado
OFRANEH

Basilia Figueroa
Board of Trustees of Cocalito

Nancy Figueroa
Secretary, Regional Office

Alberto Castillo
SI, Regional Office

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[ink stamp illegible]

....Olivia Gonzalez
Mayor of Municipal District of Santa Fe

Luis Barrios Lino
Member, OFRANEH

Vicente Loredo
Patronato, Santa Fe

Wilfredo Guerrero
Coordinator, Defense of the Land
Village of San Juan, OFRANEH

Alfred Lopez
Financial Coordinator

Luis Fernandez
Coordinator, Land and Territory

Alejandro Fernandez
Patronato, Village of San Antonio

Olegario Lopez
Deputy Assistant, Department of
Gracias a Dios

Carlos Barbareno
Vice President, Board of Trustees of
Guadalupe

Alberto Lalin Chimilio
Councilman, Municipality of Trujillo

Laura Agapito....
Garífuna Pastoral
Diocese Coordinator

Nelson Lenin Gonzalez
CIDH [Independent Center for the
Development of Honduras]

Gilma Lamberte
Travesia Youth Program,
OFRANEH

Luis Barrios
OFRANEH

Augustin Guerrero
Director of Registry, Limon

Celso Cacho Alvarez
Coordinator, Defense of the Land,
Sangrelaya

Cesar Garcia Maria, Defense of the
Land and Nat. Rec. of Travesia,
OFRANEH

Zacaria Fernandez Montero
Spiritual Affairs, OFRANEH

Mario Martinez
President, Board of Trustees
Sangrelaya

Lilian Carol Rivas
Communications Coordinator,
OFRANEH

Cesar Garcia Mariano
Defense of the Land and National Rec.
of Travesia, OFRANEH

Zacarias Bernandez Montero
Spiritual Affairs, OFRANEH

Ilbin Bermudez
President, Board of Trustees, Limon

Celso Alberto....
Councilman, Municipal District of Santa Fe

Maribel Mejia Diego
Member, Patronato, Rio Tinto

Magdalena Martinez
Secretary, Patronato, Rio Tinto

Judith Bernandez
Health Committee, Village of Rio Tinto

Ricardo Omar Loredo
President-Elect, Village
of Cristales y Rio Negro

Ansula Bermudez
Garifuna Pastoral

[illegible]
Coordinator, CIDH

Emrinino Arribia Colon
President, The Elderly
Village of Tocamacho

Maria Teresa Garcia
Auditor, Patronato, Guadalupe.

Maria Elena Fernandez
Secretary, Patronato of
Village of Guadalupe

ANNEX 2.16

List of Participants Integrating the Working Commissions of the *Mesa Regional* and the Three *Mesas Locales* in the Communities of Guadalupe, Cocalito, and Sangrelaya

June 9, 2005

UNOFFICIAL ENGLISH TRANSLATION

CREATION OF THE MESAS LOCALES IN THE GARÍFUNA AREA

Mesas Locales were created as an instance where the community participates and discuss their territorial issues.
These Mesas Locales are integrated by leaders from different community organizations, the grassroots and other representative members of the community.

Mesa Local Comunidad de Cocalito

President:	Marcelino Dolmo
Vice President:	Sotero Mejia
Secretary:	Feliza Norales
Treasurer:	Martha Figueroa
Fiscal:	Virgilia Velásquez
I Chairperson:	Lucas Martinez
II Chairperson:	Alejandro Miguel
III Chairperson:	Sandro Rivas
IV Chairperson:	Cesar Aquino

Mesa Local Comunidad de Sangrelaya, Iriona, Colón.

President:	Justino Fernández
Vicepresident:	Francisco Ortiz Dolmo
Secretary:	Rosalidia González Velásquez
Treasurer:	Sandra Álvarez Martínez.
Fiscal:	Aparicio Bernardez Casildo
I Chairperson:	Zenón Dolmo Álvarez
II Chairperson:	Santos Sofía Bulnes Guzman.
III Chairperson:	Nelly Velásquez Batiz
IV Chairperson:	Eusebio Centeno Álvarez
V Chairperson:	Benita Martinez
VI Chairperson:	Jorge Thomas Castillo.

Mesa Local Comunidad de Guadalupe. Santa Fe, Colon.

1. Carlos Barbareno
2. Perfecto Guillen
3. Venancio Caballero
4. Ciria Cayetano
5. Selma Cecilio M. David
6. Maria Teresa García
7. Celso Alberto Guillen
8. Bartola Bernardez
9. Emeregildo Sosa
10. Manuel Martínez.
11. Ignacio Mejia.

CREATION OF THE FOLLOWING WORKING COMMISSIONS TO STRENGTHEN THE MESA REGIONAL

TRAINING COMMISSION

Members:

1. Vicente Loredo, (Patronato Sta Fe)
2. Telma Gotay, (CEPROSAF).
3. Juana Olivia González (Alcaldesa Mcpio de Santa Fe)
4. Maria Teresa García, (Patronato. Guadalupe)
5. Carlos Barcelona, (Patronato Guadalupe
6. Maria Elena Fernández. (Patrònato Guadalupe)
7. Nancy Victoria Figueroa. (ODECO)
8. Lauro Agapito Álvarez. (Comisión Diocesana)

MONITORING COMMISSION

Members:

1. Olegario López
2. Alberto Lalin Chimilio
3. Lauro Agapito Alvarez Dolmo
4. Nancy Figueroa
5. Lenin González.
6. Juana Olivia González.

DISSEMINATION COMMISSION

Members:

1. Amilcar Colón Presidente de OFRANEH
2. Celso Cacho Grupo Campesino
3. Lauro Agapito Pastoral Garífuna

ANNEX 2.19

Minutes of the Meeting Between the *Mesa Regional* and World Bank Staff

September 22, 2005

UNOFFICIAL ENGLISH TRANSLATION

SECOND CONVERSATION
Mesa Regional of Land Regularization in Garífuna Communities – World Bank

Date: September 22, 2005
Place: Meeting Room of the College of Lawyers, La Ceiba, Atlántida

PROPOSED AGENDA

1. Self-Introduction
3. Welcome to World Bank Mission
   Messrs. Jorge Muñoz and Fernando Galeana
5. Presentation of the process of selecting the eight Afro-Honduran communities
6. Agreements

Participants: Representatives of *Mesa Regional* for Regularization and Resolution of Conflicts in Atlántida and Colón, PATH, and World Bank staff members

1. Juan Gómez	Political Governor of Colón
2. Erasmo Padilla	PATH Technical Coordinator
3. Rodolfo Álvarez	PATH/Coordinator P.C.A.E. Area
4. Jorge Muñoz	World Bank PATH Manager
5. Fernando Galeana	World Bank Operations Assistant
6. Alberto Castillo Ordóñez	Regional Bureau
7. Alberto Lalin Chimilio	Regional Bureau/ Municipal Councilman Trujillo
8. José Galdamez	Forest Project – UCP
9. Jorge Cacho	Afro-Honduran Liaison
10. Carlos Barbareno Barcelona	Vice President Guadalupe *Patronato*
11. Alejandro Fernández	President San Antonio *Patronato*
12. Maribel Mejia	Member Río Tinto *Patronato*
13. Julian Bernardes	Río Tinto Community Leader
14. Olegario López Rochez	Member of the National Congress for the Liberal Party
15. Ángel Amilcar Quevedo	President OFRANEH
16. Nancy Figueroa	Secretary *Mesa Regional*
17. Nelson Lenin González	Monitoring Commission
18. Adela González	PATH/Community Liaison
19. Nidia Arguijo	PATH/Dissemination Manager

The discussion began with a general report on the process used to organize the *Mesa Regional* and to select eight Garífuna communities and 12 protected areas.

In this regard, the *Mesa* informed that PATH technical staff went to the city of Trujillo and visited the different Garífuna communities of Atlántida, Colón, and Gracias a Dios to invite them to a community meeting that would address at least two objectives: one was to select eight Garífuna communities to be regularized and the other to establish a *Mesa Regional* for the Regularization and Resolution of Conflicts, composed of the various, most representative grassroots organizations.

Next, after major efforts were made, a meeting was held in Trujillo with about 112 persons, at which the communities of Sangrelaya, Punta Piedra, Limón, Cristales and Río Negro, Santa Fe, San Antonio, Guadalupe and Río Tinto were selected. These communities were selected following a consultation process and prior meetings in the communities.

The *Mesa* emphasized that this meeting was quite strong and many discussions were presented on the land problem faced by the Garífuna communities, the same problem that, to date, after 207 years of Garífuna presence in Honduras has not be resolved or has only been partially resolved. Therefore the PATH was seen as a possibility for solving this problem.

Later, the *Mesa Regional* was created, at that time composed of eight institutions: CID, ODECO, OFRANEH, MAMUGAH, Solidaridad Internacional (SI), the Municipal Government of Trujillo, the community of Cristales and Río Negro, among others. To strengthen this *Mesa*, the meeting suggested that the presidents of *patronatos* and land commissions in each of the eight selected communities also join.

Next, the World Bank mission presented a series of questions to the *Mesa Regional*, on the basis of which the following points were explained:

1. The communities were selected through working groups who, using a methodology, expressed the different problems of each community and then based on prioritization and negotiation agreed on which communities to select and for what type of work. In this regard, the *Mesa Regional* explained that some communities have more problems and are more difficult than others, and that for this process to continue an effort was made to start with the less conflictive ones or those whose leaders were able to negotiate. In summary, the work was carried out by four groups, each of which selected two communities, thus adding up to eight.

2. Once each group selected its communities, they were presented at a plenary meeting and were validated as part of the meeting's agreement.

3. There was no resentment by any community that was not selected, because it is a process and the aim is to begin with eight communities and then expand to others. What was explained at the meeting is that a process would be carried out with these first eight communities to gain experience and then continue with others.

4. Later, the *Mesa Regional* for Regularization and Resolution of Conflicts was formed, composed of the abovementioned organizations, presidents of *patronatos* and land committees with their respective alternates to represent them in their absence.

   After the first stage, other meetings were held to form the monitoring committee that will be in charge of carrying out various concrete actions aimed at strengthening the *Mesa* and monitoring the regularization process. This committee is composed of seven people who prepared an initial work that has been submitted for approval.

5. The composition of the stakeholders who participated in the first Trujillo meeting included leaders of the different grassroots community organizations, NGOS, presidents of *Patronatos*, land commissions, etc. Each community sent two to four people, from a total of 26 communities invited, as well as the institutions that work in Garífuna communities and the Departmental Governor.

6. The community of Cocalito in Sangrelaya was not selected in the first list but was included when the first community meeting was held in Sangrelaya, at the request of members of the *Mesa*.

7. To date, and as first step in dissemination to the communities, communication has been through the leaders who represented each community, acting as informants. This process is one of the *Mesa*'s principal priorities and concerns.

The *Mesa* members emphasized that they are in this process because they believe in it and although they have doubts about the program they will not go to the extreme of saying they do not want the program. They reiterated that the communities need the program, but there are certain aspects that need to be analyzed with the relevant technicians and then transmit reliable information to the communities. If the analysis by experts is counterproductive to their expectations, then they will take their own stand on the matter.

With regard to doubts about the operation of the process, the *Mesa* expressed that perhaps there are not so many doubts but that the major problem is logistics to reach the grassroots organizations and explain to them how the project is going. In this time they have been imbued with various responsibilities but lack the logistics to bring the information to the communities.

Another doubt is the concerns and fears in the communities regarding the implementation of Chapter Three, Article 100 of the Property Law and amendments to this law, from which is extracted the Forced Expropriation Law.

These elements, in association with Bahía de Tela project, among others, have increased uncertainty to such a degree that some communities believe that their lands can be expropriated to favor third parties who have illegally invaded the lands that historically belong to the Garífuna peoples.

However, it was acknowledged that these situations can be overcome through dissemination and by defining the methodology to be used in the process, which should be subject to analysis by this group of lawyers. This activity is part of the action plan that the monitoring commission presented to PATH and to date no official response has been given because many concrete actions depend on it. Otherwise, it will be difficult to begin this dissemination process and clear up all their doubts.

It was pointed out that for some Garífuna organizations land is an asset and paradoxically they currently constitute the enemies not only of the PATH but also of the *Mesa*'s members. It is regrettable that for this reason they are risking their necks as leaders and it is not fair that, by defending this process, they must gain more enemies.

Thus, I appeal to the intelligence and good will of the PATH and the World Bank so that the plan they presented can immediately be made operational.

The World Bank representatives explained that under the PATH project, established under the Credit Agreement of August 18, 2004 between the Government of Honduras and the World Bank, there are provisions to protect the rights of indigenous and Garífuna populations. Specifically, Section 3.11 of the Agreement states that in the project's areas of influence no lands adjacent to indigenous lands shall be physically demarcated or titled unless procedures are followed to ensure the rights of indigenous peoples who are duly consulted together with the parties affected, in a manner satisfactory to the World Bank and incorporated in the project's Operational Manual.

In addition, they explained that the documents dealing with procedures to regularize lands and resolve conflicts, circulated by the UCP, are drafts subject to discussion, and therefore cannot yet be considered official and have not been incorporated in the project's Operational Manual.

In this regard, it is important that the methodology be decided as soon as possible so that no field activities are carried out until these mechanisms are detailed and approved by the government and with the Bank's consent.

At the same time, the mission informed that the Government of Honduras has made a request through the World Bank to the Government of Japan for a US$1.9 million grant to support the efforts of consultation, participation, legal counseling, and training of its organizations. Unfortunately, due to bureaucracy within the Government of Japan, this request has not been approved. In three to six months it will be possible to hire lawyers to advise not only the *Mesa Regional* but also the communities on a case-by-case basis, once field work begins.

AMILCAR COLON
Further to what Olegario mentioned about these documents having created the crisis of this process, he recalled that meetings were originally held with OFRANEH and the administration before he was appointed. Unfortunately, these authorities did not transmit the information to the grassroots level because they did not reach concrete agreements during the preliminary negotiations. Now that the program has begun, they have been obliged to gather all the documents and a commission was formed, for which responsibilities must be assigned and experts must be appointed to analyze these documents.

ALBERTO CASTILLO
He expressed that one of the proposals is that the people were worried about the title clearing (*saneamiento*) of Garífuna communities. There is a loud cry about this and it would be good if the Bank can consider it under this program because the biggest problem the communities have is that they are being occupied by other people.

In addition, he indicated that the *Mesa* is a little annoyed... The *Mesa* is annoyed with the program ...we are extremely annoyed and we want to emphasize this... We are annoyed because three months ago we submitted a proposal that it asked us for, and as of today, September 22, we have had no official reply. A proposal to make the *Mesa* operational, to disseminate the program, to be able to act.

In summary, he suggested two things: that the Bank consider the title clearing (*saneamiento*) of the communities and that the people have greater participation not only in validating but also in preparing the instruments.

RODOLFO ALVAREZ
He acknowledged that there is a structural reality and an operational reality. In this regard, he reminded [those present] that the first one to tell them and admit to them that there was an operational problem was he, and that the transparency and acknowledgment of these errors has been part of the trust that has existed.

With regard to their suggestions, he reminded them that point three of the Trujillo meeting minutes states as one of PATH's commitments its support in seeking title clearing (*saneamiento*) projects when these exist in the country, as well as education, infrastructure, and health projects, as well as the hiring of Garífuna staff.

JORGE MUÑOZ
He indicated that it is very important for the *Mesa* to keep in mind that the PATH is not an entity but rather a financial instrument of the Government of Honduras to resolve land problems, and like this instrument there are others such as the one Alberto mentioned. Therefore, it is very important not to confuse them. He reminded them of the commitment assumed by the Government of Honduras with the World Bank, which is applied to the PATH. As an example, the other leaders of OFRANEH have formally complained to the Bank that something like this was happening. However, it was investigated and it turned out not to be this project.

OLEGARIO LOPEZ
He proposed that the minutes of this meeting be signed by the World Bank representatives as witnesses of what has been proposed, and the matter of the ratification of non-expropriation [*of lands*] and other commitments that the Bank has assumed with the Government and people of Honduras is also implicit.

Therefore, he proposed that several commitments be reached at the end of the meeting:

1. Because there is no official response to the plan submitted to the PATH, see what things can and cannot be done under the framework of the PATH's limitations.

2. Carry out dissemination, prepare radio spots, and visit the fifteen Garífuna communities to make them aware of the project.

3. Analyze the documents as to why actions were not implemented, unless there is something that arises from the world view of the black peoples of Honduras.

4. Do not wait for the Japanese funds to arrive for hiring the experts who will support the analysis of the documents because this was one of the agreements reached in Trujillo.

JORGE MUÑOZ
He expressed that it would be better to discuss with the PATH the issue of how many resources exist, because he does not handle the details on this. However, there is the possibility of hiring a lawyer, and the important thing is to continue moving forward in defining the methodology which should be in accordance with the laws and other procedures established under the legal framework of the Government of Honduras. What is important is to comply with the requirements of and commitments to the Bank.

In this regard, Mr. Muñoz asked what were the three most important things that need to be done right now.

AMILCAR COLON
1- A lawyer should be hired to interpret the official documents
2- The resolution of this commission should be submitted to the full *Mesa Regional*
3- Once approved by the *Mesa*, go to the grassroots and begin disseminating the information.

JORGE MUÑOZ
He proposed that the architect, Mr. Padilla, together with PATH staff, make a detailed assessment of the resources available for six months, and based on this prioritize the costs of experts, the type of analysis that can be performed, and how long it will take. Also, analyze whether the

dissemination can begin in at least one community and then in others, while reaching early 2006 when more resources will be available.

ERASMO PADILLA
He expressed his satisfaction with the meeting and said that the team did not feel offended by any just complaint that has been made, because the *Mesa*'s principal objective is to present concerns and in the end come up with a proposal. The representatives are here to support the *Mesa* in this land problem which is becoming increasingly complex.

In this regard, he expressed his willingness to validate the *Mesa* and urged them not to disregard the efforts it is making. Instead, work should be done to consolidate it and to better organize so it can carry out periodic and systematic meetings and that these should be transparent.

With regard to the four proposed requests, he asked that the *Mesa* be the one to propose which of its trusted experts it wants to be hired and not to seek someone from outside, and he suggested revising the proposal for dissemination and to begin with small contributions.

For his part, he offered the technical support of the PATH to bring together criteria, strengthening with tools such as the Property Law and its articles, revising and implementing them together with the *Mesa*.

JORGE MUÑOZ
To finalize, he emphasized the Bank's willingness to support the regularization process in the Garífuna communities. It is aware of their struggle and therefore the Bank is supporting the Government of Honduras in meeting its expectations. One recommendation that he made both to the PATH staff and the *Mesa* is not to raise false expectations in the people and before beginning dissemination to be sure what the project can and cannot do in the short term because there will be budget restrictions.

ANNEX 2.20

Minutes of the Meeting Between the *Mesa Regional* and World Bank Staff

November 4, 2005

UNOFFICIAL ENGLISH TRANSLATION

Aide-Memoire – Meeting with the World Bank, Monitoring Commission of the Garifuna Mesa Regional and PATH

The meeting began at 9:00 a.m. in the meeting room of the Hotel Italia in the city of La Ceiba on November 4, 2005 with the following participants:
Monitoring Commission of the Garífuna Mesa Regional: Ángel Amilcar Colon, Lauro Agapito López, Olegario López, Alberto Lalin Chimilo, Nancy Figueroa.
Commission of the Garífuna Mesa Regional: Edy McNab, Aurelio Ramos.
World Bank Representatives: Jorge Muñoz, Fernando Galeana.
PATH Staff Members: Erasmo Padilla, Rodolfo Álvarez, Jorge Cacho, Nidia Arguijo, Miguel Ordoñez, Mauro Pino, Adela González, Deniásery Juárez.

The discussion took place as follows:

Mr. Lauro Agapito Álvarez, member of The *Mesa*, gave the opening prayer and welcomed the participants.

Jorge Muñoz, World Bank representative: Thank you for your kind wishes. I represent the World Bank. The objective of our visit is to hold discussions with you, as a formal mechanism of representatives of Garífuna communities, on the key subject of this visit. We are the financiers of this project and we wish to see what progress has been made since the meeting in La Ceiba this past September 22, especially on the hiring of a lawyer and other matters, on OFRANEH's complaint to the World Bank. I will tell you that we have specific procedures to address these complaints. There is a [World Bank] Board which establishes these procedures, in particular with regard to the supervision and evaluation of our projects. The procedures require participatory mechanisms and this *Mesa* is a mechanism that the World Bank recognizes. One of the [Bank's] policies is participation and consultation. In the case of OFRANEH's complaint, we are obliged to hear them and this in no way signifies that we have entered into an agreement with them. I regret and it hurts me very much that you think so. The World Bank will not take any decision until exhausting all possible options. I'd like to know if you have any question on this.

Amilcar Colon, *Mesa* member: There is a space to settle and discuss land problems and the *Mesa* is the mechanism to do this. It hurts me that they use land problems for their *modus vivendi*. We are aware of the Bank's policies and safeguards to ensure the rights of black peoples. We cannot permit the seesawing by some Garífuna organizations which utilize the land issue for personal gain.

Alberto Lalin, *Mesa* member: The *Mesa* is open to all those brothers and sisters who want to be part of it. Our desire is to have them among us so they can support us with their experiences.

Lauro Álvarez, *Mesa* member: I reiterate my greetings. We have been transparent and I believe a timeline should be prepared, listing the times that we have tried to meet with the brothers and sisters of OFRANEH, and it has not been possible. It is necessary to set a precedent with dates and everything so there is evidence of what is happening. I was one of those who expressed opposition at the first meeting held in Trujillo when the PATH was disseminated, but now I am here because I believe in the program and I am a tireless fighter and I have been fighting for forty years helping to establish many organizations.

Jorge Muñoz, World Bank representative: The issue of complicity does not exist and this saddens me a lot because they are attacking the World Bank. Another letter should be prepared to

document that this is the space for those in the program to express all their concerns. I am satisfied. We need each other, the country needs the World Bank, the government needs the people.
It is important that we show the importance of the *Mesa*. Let's make this commitment, all three parties, so we can support one another. I will send a letter just like I've been asked, expressing the World Bank's full support to the *Mesa Regional*.

Issue: Damage caused by tropical storm Beta

Olegario López, *Mesa* member: There is an emergency committee. Don Juan Gómez (Departmental Governor of Colón) understands the communities' conditions but we are going to have to run the risk ourselves for our brothers and sisters. The first thing is to bring food and medicines and then rehabilitate the damaged infrastructure. We want to know if there is any hope.

Jorge Muñoz, World Bank representative: First, I want to express my sadness about this situation. I am going to do everything possible. Some [actions] will be through the government. I will speak with Arq. Merriam. I want you to understand that this is not part of our mandate, addressing emergencies. I am saying this in order not to raise false expectations.

Issue: OFRANEH participation in the meeting

Ángel Amilcar Colón, *Mesa* member: A bulletin should be prepared to let the others know about OFRANEH's withdrawal, and I feel that it was due to my presence (he refers to invitees to the meeting, members of OFRANEH, who did not want to be present). We could have met but unfortunately they withdrew.

Olegario López, *Mesa* member: As long as there is communication, the opening will be there. We shouldn't become enemies of our OFRANEH brothers and sisters. It is necessary to make use of the ancestral methods of understanding that we know. Let's move forward with the process.

Edy McNab, Indigenous liaison: What I say to the World Bank is that we in La Mosquitia are very happy that you allow this space. The method works and it is possible when everyone is involved. One should never disregard the importance of new community leaders.

The meeting ended with the following agreements and resolutions:

1. Preparation of a letter expressing the opening of the *Mesa Regional* and the reason for the present meeting.
2. The World Bank will not meet with any organization if the Garífuna *Mesa Regional* is not present.
3. The World Bank will send a letter expressing its support to the *Mesa Regional*.
4. Mr. Jorge Muñoz, World Bank representatives, agrees to seek aid for the communities affected by tropical storm Beta through the government and other institutions.
5. The World Bank will send a report on a workshop it is sponsoring in CA [Central America] on land issues.

ANNEX 3.1

Notification from Ofraneh Interdicting Mr. Angel Amilcar Colón from Acting as the Organization's General Coordinator

March 4, 2005

UNOFFICIAL ENGLISH TRANSLATION

OFRANEH
Honduran Black Fraternity Organization
Barrio La Merced, Contiguo a Clínicas la Fe, Casa No. 1747, La Ceiba,
Departamento de Atlántida, Apartado Postal 341

Telefax: 00(504)443.35.80, Tel: 443.24.92
E-mail: ofraneh@laceiba.com
Honduras, Central America

NOTIFICATION

To all Government and Non-Government Institutions, may this serve to advise the following:

That the director members and advisors of the organization OFRANEH, the Honduran Black Fraternal Organization, elected at assembly in Sambo Creek, Municipality of La Ceiba, Department of Atlántida, held from 18 to 21 December 2003,

Having convened to discuss and analyze as the sole point the arbitrary attitude assumed by Mr. Ángel Amilcar Colón,

Agree the following in representation of our organization, and as authorised by the assembly of director members and the advisory team:

As of this date to divest Mr. Ángel Amilcar Colón of his authority to represent or carry out whatever management task in the name of our organization, until a further assembly is held, from which emerge new authorizations.

Signed and sealed in the City of La Ceiba, this fourth day of March in the year two thousand and five.

(Signed)
Alfredo López
Elsie Córdova
Miriam Miranda
Roxana Álvarez
Gregoria Flores

ANNEX 3.2

Press release from OFRANEH signed by Mr. Ángel Amilcar Colón declaring null the call for an assembly to elect a new Board

March 23, 2005

UNOFFICIAL ENGLISH TRANSLATION

HONDURAN BLACK FRATERNAL ORGANIZATION
OFRANEH
La Merced District, next to La Fe Clinics, No. 1747, La Ceiba, Province of Atlántida, PO Box 342 Telefax: (504)443-3580
ofraneh@laceiba.com

Press release

The Honduran Black Fraternal Organization (OFRANEH) hereby proclaims to the whole population of Honduras in general, and to the Afro-Honduran communities in particular, that:

1. A special assembly of the organization, designated as Erasmo Zúniga Sambula, will be held on April 7, 8, and 9 in the Garífuna community of Cristales, Trujillo, Department of Colón.

2. The assembly convened by the advisers in the community of Punta Piedra, municipality of Iriona, is null and void, since it violates the statutes, which clearly establish that only the general coordinator, or where appropriate the general counsel, may convene the assembly.

3. The Garífuna communities of Honduras must remain alert and vigilant concerning their organization and, with a view to ensuring the transparency that should guide the actions of OFRANEH, we are proposing, in the framework of the assembly in Cristales, Trujillo, that the organization should be subjected to a structural and administrative evaluation; these actions are essential in order to deal with the situation in the country, in which the black community should be an important actor.

4. With regard to the demonstration convened by Miriam Merced Miranda and Gregoria Flores and their followers, if the participants take irresponsible decisions, the general coordinator of OFRANEH will be forced to bring Gregoria Flores before the courts of justice, since she is attempting to avoid being subjected to the people's evaluation.

5. We call on all the leaders of Afro-Honduran associations in the country to draw closer and heed this new step being taken by OFRANEH, which should extol and legitimately represent the interests of all the blacks of Honduras and in this way avoid becoming a haven for opportunists.

Done in the city of Ceiba on March 23, 2005.

(*Signed*) Angel Amílcar Colón Quevedo
General Coordinator
OFRANEH

ANNEX 4.1

Letter from the World Bank to OFRANEH

September 14, 2005

UNOFFICIAL ENGLISH TRANSLATION

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
TERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.
Washington, D.C. 20433
U.S.A.

(202) 473-1000
Cable Address: INTBAFRAD
Cable Address: INDEVAS

September 14, 2005

Gregoria Flores
Coordinator
Honduran Black People's Fraternal Organization La Ceiba, Honduras

Dear Ms. Flores:

Honduras Land Administration Program (Credit 3858-HO)

We appreciate your correspondence from August 15, 2005, which we received on August 26 of this year, with relation to the application of the Operational Directive 4.20 and Bank Procedure 4.10 in the context of the Honduras Land Administration Project (PATH). We are undertaking a detailed review of your letter and we will reply in more detail at the earliest possible time. In the meantime, we invite you to meet with officials from the World Bank during their next project supervision mission, so that we are able to understand in more detail the concerns stated in your letter. The mission, lead by Mr. Jorge Munoz, will be in Tegucigalpa from September 19 - 23. Therefore, we'd appreciate if you would communicate with our office in Tegucigalpa at 239-4551, and indicate possible dates and times that would be convenient for you, so that we can agree on a meeting with the Bank mission.

Sincerely,

McDonald Benjamin
Sector Manager
Social Development
Latin America and the Caribbean

Cc: Mr. Adrian Fozzard, World Bank Representative in Honduras

ANNEX 4.4

Letter from the World Bank to OFRANEH

September 20, 2005

UNOFFICIAL ENGLISH TRANSLATION

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
TERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.
Washington, D.C. 20433
U.S.A.

(202) 473-1000
Cable Address: INTBAFRAD
Cable Address: INDEVAS

October 20, 2005

Gregoria Flores
Miriam Miranda
Honduran Black People's Fraternal Orgánization, OFRANEH
La Ceiba, Honduras

Dear Ms. Flores and Miranda:

Honduras Land Administration Program (Credit 3858-HO)

As follow-up to my letter on September 12, I am writing to inform you about the actions taken in relation to the Honduras Land Administration Project (PATH). We are pleased that the meeting on September 21 in Tegucigalpa between representatives from OFRANEH and World Bank was positive. This allowed us to better understand your concerns with respect to the Property Law and the project, and gave us the opportunity to explain in detail the existing provisions in the project to comply with the World Bank's safeguards policies.

In the meeting, I understand that the representatives from OFRANEH clarified that their main concern is with certain provision of the Property Law, in particular, Art. 97. We understand that your organization has taken concrete actions in relation to this subject by means of the presentation on proposals to modify the Law given for the consideration of the National Congress on July 2005.

With relation to the PATH project itself, in the meeting the representatives from the World Bank clarified that provisions exist in the PATH project to guarantee compliance with the safeguard policy related to Indigenous Peoples. Specifically, it was mentioned that Section 3.11 of the Development Credit Agreement establishes that in the project area, there will be no physical demarcation or titling in lands adjacent to ethnic lands unless procedures that adequately protect the rights of indigenous peoples, duly consulted with affected parties in a manner satisfactory to the World Bank, and set forth in the Project's Operational Manual.

Furthermore, the representatives from OFRANEH made three specific suggestions on the implementation of the project:

(i) that the respect and transparency of the socialization process is increased;
(ii) that the communities themselves will decide if whether they want to participate or not in PATH, through their procedures for internal decision making;
(iii) that the Government of Honduras is requested for a tri-partite meeting (Government, representatives from OFRANEH and other representatives entities of the Garifuna communities, and World Bank's staff) to revise the project's implementation modalities (e.g., the participation mechanisms in the *Mesa Regional* or the selection of communities).

In relation to your concerns, I am pleased to inform you that we have discussed these concerns with officials from the Government of Honduras and they have taken the following concrete measures. First, they have confirmed their willingness to dialogue with you with respect to the mechanism of participation in the *Mesa Regional*. For this matter, a tri-partite meeting in La Ceiba for October 11 or 12 was proposed.

However, we received your news that you were not able to meet during those dates. You proposed October 25 as an alternative, but unfortunately the World Bank Task Team Leader for the project has other commitments on this date. Therefore, we'd like to propose a meeting for Friday November 9, at 11:00 a.m., when I will be in La Ceiba, Honduras. Please confirm if such date and hour are feasible for you.

Second, the Government of Honduras, like ourselves, fully agree that the communities should be appropriately consulted to protect their interests before carrying out any activity under the project that could harm them. This is consistent with Section 3.11 in the Development Credit Agreement.

Third, the *Mesa Regional* meeting held on September 22, attended by two World Bank staff, proposed that in order for the Government of Honduras to better understand the scope of the Property Law and the operative mechanism for the implementation of the project, the project shall finance the hiring of a lawyer (to be suggested by the *mesa regional* itself and selected according to the procurement procedures agreed upon in the Development Credit Agreement 3858 for the PATH project) to directly support and advice the *Mesa Regional*. The World Bank fully supports this request, which has already been received positively by the Government. It is expected that this hiring will take place shortly.

Fourth, with respect to the concern manifested by OFRANEH on September 21 about the actions of some officials on August 2005 in the community of Punta Piedra in the Department of Colon, demanding to make land measures (without having previously communicated with the community), we'd like to inform you that we have been informed that these officials were not from the PATH project, but that they worked for a project not financed by the World Bank.

Finally, with respect to the official documentation about the implementation of the project, we have made the recommendation to Government to ensure that documents that are circulated and discussed with the project's participants. The official documents are the Development Credit Agreement and the Operational Manual approved on November 2004. It bears noting – and to avoid misunderstandings in the future – the document "Methodology to Determine and Measure the Lands to be Titled to the Ethnic Communities", which was a draft elaborated by the UCP, that had yet to be been discussed with the *Mesa Regional*, neither approved by the Government of Honduras nor the Bank is not an official document of the project.

We will be waiting your confirmation to attend the proposed meeting on November 4 in La Ceiba.

Without further due, my regards,

McDonald Benjamin
Sector Manager
Social Development
Latin America and the Caribbean

Arq. Henry Merriam, National Coordinator, Honduras Land Administration Project, Project Coordination Unit
Mr. Adrian Fozzard, World Bank Representative in Honduras

ANNEX 4.6

Letter from the World Bank to OFRANEH

October 27, 2005

UNOFFICIAL ENGLISH TRANSLATION

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
TERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.
Washington, D.C. 20433
U.S.A.

(202) 473-1000
Cable Address: INTBAFRAD
Cable Address: INDEVAS

October 27, 2005

Executive Committee
Honduran Black People's Fraternal Organization
La Ceiba, Honduras

Dear members of the Executive Committee:

Honduras Land Administration Program (Credit 3858-HO)

I would like to thank you for correspondence of October 25, 2005 with respect to the Honduras Land Administration Project (PATH). As McDonald Benjamin is away on mission, I am taking the liberty to reply to you as World Bank Task Team Leader.

First, I wish to clarify that it was not the intent of the World Bank in the letter from October 20 to suggest that our discussion have been only with respect to Art. 97 of the Property Law. In this regard, in response to your specific concern about the implementation of the project – summarized in the minutes of our meeting on September 21 – we have informed the Government of Honduras about all of your concerns (not only those regarding the Law). The Government has confirmed its predisposition to meet with you and the Bank with regards to the participation mechanisms in the *Mesa Regional*. Furthermore, we fully agree with your suggestion to properly consult Garifuna communities before carrying any field activities under the project in order to protect their interests.

The World Bank is open to understand in more detail your concerns. The field activities for demarcation and titling financed by the project have not yet begun in the Garifuna areas. The main intention of the consultations that are currently taking place through the *Mesa Regional* is precisely to gather suggestions about how to safeguard the interests of Garifuna communities. If you have other concerns, we would like to know these and what specific suggestions you have to improve project implementation. Our invitation to meet together with representatives of the Government, Mr. McDonald Benjamin and myself in La Ceiba, on Friday November 4, at 11:00 AM, remains open. Please confirm your assistance to the meeting.

Sincerely,

Jorge A. Munoz
Task Team Leader, Honduras Land Administration Project (PATH)
Latin America and the Caribbean Region

Mr. McDonald Benjamin, Manager, Social Development, Latin America and the Caribbean
Mr. Adrian Fozzard, World Bank Representative in Honduras

ANNEX 4.9

Letter from the World Bank to OFRANEH

November 18, 2005

UNOFFICIAL ENGLISH TRANSLATION

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
'NTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.
Washington, D.C. 20433
U.S.A.

(202) 473-1000
Cable Address: INTBAFRAD
Cable Address: INDEVAS

November 18, 2005

Members of the
Honduran Black People's Fraternal Organization, OFRANEH
La Ceiba, Honduras

Dear OFRANEH colleagues:

Honduras Land Administration Program (Credit 3858-HO)

Through this letter, I wish to send you a cordial greeting while apologizing for not having been able to join you personally in La Ceiba this past Friday, November 4, due to a postponement of the mission to Honduras due to Hurricane Beta, as well as due to the fact that I did not receive your letter on time to confirm such meeting. I would like to take this opportunity to indicate our support with the Garifuna communities affected by the recent hurricane and our best wishes for a quick recovery.

Likewise, I would like to thank you for your correspondence of November 8, 2005, in connection with an upcoming meeting regarding the Honduras Land Administration Project (PATH). Again, we are confirming our willingness to meet with you to understand in greater detail your concern with regards to the project. We believe that, in order for the dialogue regarding the project to be as productive as possible, this should be open to all interested parties. The Government of Honduras, as the executing entity for project implementation, has established a mechanism for consultation and participation (the *Mesa Regional*) to discuss and resolve differences in opinion about the project. We consider important that said mechanism be strengthened taking into account the opinion of all interested parties, and for this reason we are prepared to request a meeting between representatives from the Government of Honduras, OFRANEH, other Garifuna representatives, and the World Bank, in the consultation framework established for the project, the *Mesa Regional*.

We'd like to reiterate that is the World Bank's policy to maintain open all communication channels with civil society, via our office in Tegucigalpa as well as our office in Washington, to attend to your concerns regarding the consultation mechanisms established for the project or other considerations. Please speak with the Task Team Leader of the PATH project in the World Bank, Mr. Jorge A. Munoz, regarding any concerns or suggestions that you have, which will be fully considered by the Bank.

Sincerely,

McDonald Benjamin
Sector Manager
Social Development
Latin America and the Caribbean

Arq. Henry Merriam,	National Coordinator, Honduras Land Administration Project, Project Coordination Unit
Mr. Adrian Fozzard,	World Bank Representative in Honduras

IBRD 34485

HONDURAS

LAND ADMINISTRATION PROJECT: GARIFUNA COMMUNITIES AND RELATED SITES

Request for Inspection

Cristales — COMMUNITIES PRELIMINARILY SELECTED BY MESA REGIONAL FOR CONSIDERATION UNDER THE PROJECT

Cusuma — COMMUNITIES REFERRED TO IN ANNEX 13 OF THE REQUEST

OFRANEH OFFICE

COMMUNITIES WHICH HAVE A CASE PENDING BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

EXISTING PROTECTED AREAS

PROPOSED PROTECTED AREAS

** This community was included in April 29, 2005.*

GARIFUNAS ETHNIC POPULATION BY MUNICIPALITY:

- PREDOMINANTLY GARIFUNAS
- GARIFUNAS & ENGLISH SPEAKING AFRO-DESCENDANTS
- PECH & GARIFUNAS & ENGLISH SPEAKING AFRO-DESCENDANTS
- PREDOMINANTLY ENGLISH SPEAKING AFRO-DESCENDANTS
- INDIVIDUAL GARIFUNA COMMUNITIES
- MAIN ROADS
- SECONDARY ROADS
- RAILROADS
- AIRFIELDS
- PORTS
- CORAL REEFS
- SELECTED CITIES
- DEPARTMENT CAPITALS
- DISTRICT BOUNDARIES *(shown only in predominantly Garifuna Municipalities)*
- MUNICIPALITY BOUNDARIES
- DEPARTMENT BOUNDARIES

87° 86° 85° 16°

Caribbean Sea

200 meters

Santa Elena
Jose Santos Guardiola
Roatán
Isla de Roatán
Cohoon Ridge
I. Barbareta
Isla de Guanaja
Guanaja

ISLAS DE LA BAHÍA

Utila
Isla de Utila
Turtle Harbour Wildlife Refuge and Marine Reserve
Cayos Cochinos Biological Reserve
Cayos Cochinos
Cayos Cochinos

Punta Castilla
Puerto Castilla
Cristales
Laguna de Guaimorado Proposed Protected Area
Guadalupe
Santa Fe
Trujillo
Limón
Vallecito
Cocalito*
Batalla
Sangrelaya
Punta Piedra
Iriona
Tocamacho
Laguna Cacao Proposed Protected Area
Rio Negro
Capiro y Calentura National Park
Col. del Aguán
Sico
San Antonio
Corocito
Cusuma

Rio Tinto
Jeannette Kawas National Park
Punta Sal
Punta Izopo Municipal Decree
Bahía de Tela
Laguna Quemada
Tela
Triunfo de la Cruz
Cuero y Salado Wildlife Refuge
La Ceiba
Sambo Creek
Nueva Armenia
Balfate
Jutiapa
Utila
Sonaguera
Sava
Río Aguán
Río Sico
Río Paulaya
Sierra Río Tinto Proposed Forest
Mezapa
Toyos
Pico Bonito National Park
Nombre de Dios Proposed Protected Area
Texiguat Protected Area
Sierra de Agalta National Park
Río Plátano Biosphere Reserve
Yoro

ATLANTIDA
COLÓN
YORO
OLANCHO

0 5 10 15 20 25 Kilometers

0 5 10 15 20 25 Miles

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FEBRUARY 1, 2006