

[ORIGINAL IN SPANISH]

November 9, 2007

Adolfo Rosellini
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Members of the Global Environmental Facility Council
GEF Secretariate
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RE: GEF “Paraguay Wildlife Project” (PAR98G/33) Violates the Rights of Indigenous Peoples – Request for the Assistance of the GEF Council

Dear Min. Rosellini and the other Esteemed Members of the GEF Council:

The undersigned representatives of the Association of Indigenous Communities of Itapúa (ACIDI), the Coordinating Committee for Indigenous Peoples Self-Determination (CAPI) of the Republic of Paraguay, and the Forest Peoples Programme (FPP), take this opportunity during your meetings in Washington, DC – held between November 12th and 17th – to put before you for your consideration and immediate attention the grave situation of the violations of the rights of the Mby’a Guarani indigenous peoples caused by the implementation of the Global Environmental Facility (GEF) project known as the “Initiative for the Protection of Wildlife Areas of Paraguay” (PAR/98/G33) or the “Paraguay Wildlife Project” (hereinafter the “Project”). We have confidence that with the attention of the GEF Council and the GEF staff, a joint effort can begin in order to initiate new actions to remedy the damages already caused and to guarantee that the Project bases its success on the respect for the rights of indigenous peoples and our mutual interest in conserving the biodiversity found within indigenous traditional lands.

The Project began in the year 2001. It is driven by the Secretary of the Environment of the Republic of Paraguay (SEAM), financed by the GEF, and administered by the United Nations Development Programme (UNDP). The objective of the Project is the conservation of the biological diversity in Paraguay, especially in four protected wildlife areas.¹ As part of the

¹ The Paraguay Wildlife Project “seeks to operationalize the protection of the biological diversity of Paraguay at the level of four PWAs [protected wildlife areas] that contains an ample representation of the biological riches of the

Project, the Reserve for the San Rafael National Park (hereinafter the “Park” or “Reserve for the Park”) was created by an Executive decree in 1992 within the Itapúa and Caazapa Departments. The entire area of the Reserve for the Park was superimposed directly on top of the ancestral lands of the Mby’a Guaraní people without consulting the indigenous communities that pertain to these people and without obtaining their free, prior and informed consent. This was done in spite of the fact that the Paraguayan State recognizes that these lands are the ancestral lands of said people.² These actions violating indigenous rights were also taken in spite of the internal law of Paraguay that does not permit the necessary expropriation of the ancestral lands to include them in the Reserve for the Park.³ And all of the parties involved in the mentioned project, now recognize that this consent was never obtained.

We understand that the GEF believes that this Project can serve as a pilot or an example of “best practices” when biodiversity conservation is carried out with the full and effective participation of local communities, including indigenous peoples. Unfortunately, to date the Project has not been a good example of conservation based on local indigenous management; in this case, the majority of the population living within the Reserve for the Park.

The reality is that there exists an imposition of a form of “conservation” in the ancestral lands of the Mby’a Guaraní and in spite of the national and international laws and the policies of the institutions involved that guarantee transparency, indigenous participation, respect for human rights and the dissemination of information, there has not been compliance. In fact only recently the members of the Mby’a People have received information and documentation from SEAM relevant to the Project⁴. This information sharing, (though still limited), has only begun *after* ACIDI, CAPI and FPP sent more than 10 letters to SEAM, GEF and the UNDP from March of 2006 until the present, and only *after* involving international entities, and *after* putting in writing the possibility of taking legal actions to guarantee the right to information and to petition authorities, as guaranteed by the Constitution of the Republic of Paraguay.⁵

Additionally, the Paraguayan State is aware of the concerns and the demands of the Mby’a Guaraní calling for the respect of the rights of their members who have lived in their ancestral lands since time immemorial (now known as the Reserve for the Park) and who are dependent on the same for their subsistence (including the survival of their family members that continue to live in voluntary isolation). Nevertheless, SEAM has continued with the

country.” (*Traducción no oficial*). This objective is carried out through the creation of four national parks: The San Rafael National Park (PNSR) in the Atlantic Forest of Alto Parana (BAAPA); the Paso Bravo National Park (PNPB) in the Cerrado; The Río Negro National Park (PNRN) in the Chaco/Pantanal; and the Médanos de Chaco National Park (PNMCh) in the Chaco Seco. See <http://www.paraguaysilvestre.org.py/elproyecto.php>.

² Communication N° 423/07, dated June 25, 2007, sent by the President of INDI – the Paraguay State’s indigenous entity – to the Environmental Secretariat (SEAM) where it expresses: *...clarifying that the mentioned indigenous population is distributed in 10 communities and 12 religious nucleuses (or tapyi), they occupy their traditional territory (or tekoha guazú) in the Reserve for the Park, enjoying collective rights over their ancestral lands ...*” (sic). Attached is a copy of this communication.

³ See Art. 24 of the Law on Protected Wildlife Areas that expressly prohibits the expropriation of “properties, title or not, with indigenous community settlements.” (*Unofficial translation*). And the concept of a National Park requires that the lands within them – all of them – should be property of the State of Paraguay.

⁴ Transmitted on October 22 of this year, through Communication CN N°50/07, sent by Dario Mandelburger, General Director General – DGPCB – National Coordinator of the Project, to Mirta Pereira, legal advisor to ACIDI.

⁵ Communication sent by ACIDI to SEAM, dated 14 October 2007.

development of a management plan for the Reserve for the Park *without* the participation of the Mbya People.⁶ In prior meetings held with SEAM, the leaders of the Mby'a people have been clear that SEAM should not draft a management plan until there is a comprehensive sharing of Project information so that the indigenous peoples can propose their lines of participation in an effective and informed manner. Nevertheless, the plan was drafted without consulting said peoples.⁷

Also, to date the objectives of the GEF Project have not been met. Each weekend the lands of the Mby'a Guaraní (where the Reserve for the Park is located) are systematically invaded by non-indigenous who hunt animals indiscriminately. While the rights of the indigenous peoples – the first conservationist of the area -- are violated, the toxic agrochemicals used by the agricultural industry within and outside of the area in question (particularly for the extensive cultivation of soy) continues to contaminate the aquifers and the few rivers that sustain the communities and the indigenous that live there in isolation, as well as the plants and wildlife. The few “conservationists” that work in the Park do not consult with the indigenous communities regarding their traditional and sustainable practices. And the forest that all seek to conserve, now only exists where there are settlements of the communities and groups of Mby'a Guaraní people who conserve it.

In our last meeting with SEAM, its General Director informed us that within the Project the “indigenous component is still pending.” This can not be tolerated by any of our organizations in light of the advances and developments regarding the rights of indigenous peoples, including in the context of conservation.⁸ Additionally, there is no justification that the first delivery of relevant information from SEAM to the Mby'a Guaraní people just recently occurred only a few weeks ago and only after SEAM received a letter indicating that the parties would sue to secure the documentation requested. We are certain that the GEF never contemplated implementation of its projects in this manner; that is, in manner that rejects best practices related to transparency, full disclosure of information to the public, effective participation of affected peoples, and respect for human rights. For this reason, we request the intervention of the GEF Council to secure the necessary changes to the Project in order to respond in an effective manner to the concerns and genuine claims of the Mby'a Guaraní people and to guarantee the full and successful conservation of biodiversity in Paraguay.

The recent responses of the UNDP staff and the GEF Program Manager on Biodiversity and Indigenous Peoples, leave us with an increasing sense that there is political will and good faith on the part of these two institutions to secure the changes necessary to advance the implementation of the Project in the Itapúa and Caazapa Departments. For this reason we are

⁶ See Communication CN No 50/07 from Dir. Dario Mandelburger, SEAM, to Mirta Pereira, legal advisor to ACIDI (22 October 2007) (finally transmitting documents requested since March of 2006 including the delivery of the “San Rafael National Park Management Plan” dated June 2007).

⁷ The plan affirms out of date and erroneous information regarding indigenous peoples (example: stipulating that there exists only 4 indigenous communities within the Park)

⁸ Including Recommendation 8/24 (paragraph 22) of the 8th Conference of the Parties of the Convention on the Conservation of Biological Diversity (CBD), that called upon the GEF “(d) To review and revise, as appropriate, its protected areas’ policies in relation to indigenous and local communities; and (e) To support community conserved areas, ensuring the immediate, full and effective participation of indigenous peoples and local communities in the development of relevant activities.”

hopeful that the GEF and the UNDP share our interest in collaborating to guarantee respect for the fundamental rights of the Mby'a Guaraní people and to conserve their resources; and that they will take the measure necessary to secure not only the full dissemination of information relevant to the Project to the indigenous peoples, but also protect the rights to their lands and to grant or withhold consent to the activities that affect them. *Unfortunately, this same political will and good faith has not been demonstrated by the State of Paraguay, particularly through the entity responsible for its environmental policies and the implementation of this Project, that is SEAM.*

In light of the above, we respectfully request the intervention of the Council to secure the fundamental changes necessary to continue implementing this Project in the area of the Reserve for the San Rafael National Park. Taking into account the objectives of the Project and the full recognition of rights of the Mby'a Guaraní people, specifically we ask that the GEF:

- Requests that SEAM organize its documentation regarding the Project and immediately implement effective mechanisms to fully disclose the rest of the relevant information solicited since March of 2006 by the Mby'a Guaraní people through their organizations and advisors.
- Affirm the commitment of the GEF to the conservation of biodiversity in a manner that is consistent with the rights of the Mby'a Guaraní – including their right to own, control, manage and benefit from their ancestral lands and natural resources according to their traditional uses, customs and practices and their right to give or deny their consent to the activities that affect such rights – all counting with the support and collaboration of the Paraguay State.
- Require that SEAM abstain from implementing its management plan in the area of the Reserve for the Park and all other activities that can harm or affect the traditional lands, resources and traditional uses of the Mby'a Guaraní people until the State implements all of the legislative and administrative measures necessary to achieve the legalization of the ancestral territories of the various Mby'a Guaraní communities as required by Article 64 of the Constitution of Paraguay.⁹
- Provide GEF moral and economic support to the indigenous peoples within the context of the Project so that the Mby'a Guaraní can carry out participatory mapping of their ancestral lands that at least documents with maps and extensive narration their traditional uses, their traditional occupations, their traditional knowledge (as articulated in 8j and 10c of the Convention on Biological Diversity), and their laws/customary norms related to the management, use and conservation of their natural resources. To this end the Paraguay State can begin to adequately understand the support of indigenous peoples in the conservation of biodiversity within their traditional territory.

⁹ At this moment, the area of the Park is constituted from parcels titled to private parties and titled to several Mby'a indigenous communities.

The Mby'a Guaraní are confident that if the GEF, the UNDP and the State of Paraguay promote and carry out the activities described above in an effective manner, not only will we achieve conservation of the biodiversity of the Atlantic Forests and the constitutional protection of the preservation and development of the Mby'a ethnic identity, but also we will achieve a unique model of conservation that can serve as an example for other areas of Paraguay and in other countries. That is to say, the GEF together with the UNDP and the Paraguay State can assume leadership in the international discourse and activities surrounding the relationship between indigenous territories and conservation, considering the Convention on Biological Diversity that speaks to preserving, maintaining, and respecting the traditional knowledge in the context of biodiversity conservation and the sustainable development. We believe that this proposal would invite support from numerous entities interested in financing these types of models that prioritize individual and collective human rights, while obtaining the objective of conserving nature.

In the hopes of receiving a formal response to this communication and with the confidence that our request will be attended to with due speed given the gravity of the matter, we thank you in advance for your attention and we remain available to continue dialoging with the GEF to resolve this situation. With warmest regards,

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[SIGNATURES IN ORIGINAL SPANISH LETTER, attached hereto]

cc:

Dario Mandelburger, General Director of Biodiversity, SEAM
Carlos Antonio López, Ministro, Secretary, SEAM
Yoko Watanabe, Program Manager, Biodiversity and Indigenous Peoples, GEF
Alaa A Sarhan, Senior Institutional Officer & NGO Coordinator, GEF

Veronique Gerard, UNDP Technical Assistant – Paraguay Wildlife Project
Secretary of the Permanent Forum on Indigenous Questions, UN
Ciriano Cáceres, President, ACIDI
Hipólito Acevei, President, CAPI
Mirta Pereira, Legal Advisor of ACIDI and CAPI

SIGNATURE PAGE FROM ORIGINAL SPANISH LETTER

sobre sus usos tradicionales, sus ocupaciones tradicionales, su conocimiento tradicional (como articulado en el 8j y 10c del Convenio de Biodiversidad Biológico), y sus leyes/normas consuetudinarios relacionados al manejo, aprovechamiento, y conservación de sus recursos naturales. A fin que el Estado Paraguayo pueda entender a cabalidad el aporte de los pueblos indígenas en la conservación de la biodiversidad en su territorio tradicional.

Los Mbya Guaraní, tiene toda la confianza que si el FMAM, el PNUD y el Estado Paraguayo impulsan de manera efectiva las actividades expuestas arriba, no solo lograremos la conservación de la biodiversidad del Bosque Atlántico Interior y la protección constitucional de la preservación y desarrollo de la identidad étnica Mbya basada en la conservación de su territorio tradicional, sino también lograremos un modelo único de conservación que pueda ser ejemplos en otros áreas de Paraguay y en otros países. Es decir, el FMAM, junto con PNUD y el Estado Paraguayo pueden tomar el liderazgo en el discurso y el accionar internacional sobre la relación de territorios indígenas y conservación, considerando el Convenio de Diversidad Biológica que habla de preservar, mantener, y respetar el conocimiento tradicional en el contexto de conservación de la biodiversidad y lograr un desarrollo sostenible. Creemos que esta propuesta contará con el apoyo de numerosos entes interesados en financiar estos tipos de modelos que priorizan los derechos humanos individuales y colectivos, mientras obtienen el objetivo de conservación de la naturaleza.

En espera de una respuesta formal a la presenta nota y en la confianza que nuestra solicitud será atendida con la debida celeridad atendiendo la gravedad del caso, les agradecemos con antelación para su atención y quedamos a sus órdenes para seguir dialogando con el FMAM para remediar esta situación. Nos despedimos de Ustedes muy atentamente.


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INSTITUTO PARAGUAYO DEL INDIGENA

25 de junio de 2007

Nota N° 423 /07

Señor Ministro:

Tengo el agrado de dirigir la presente a V. E. en mi calidad de Presidente del INDI y de representante estatal encargado de impulsar políticas públicas que velen por la protección de los derechos colectivos de los pueblos indígenas, en virtud de lo establecido en la Ley 904/81 y normas concordantes, a objeto de expresarle cuanto sigue:

En el tríptico referente al "Parque Nacional San Rafael", emitido con el logotipo de la Secretaría del Ambiente (SEAM)-Paraguay Silvestre-GEF y PNUD, se menciona que la presencia indígena de (550 integrantes) del Pueblo Mbya Guaraní dentro del Parque y en su zona de amortiguamiento juntamente con la población de 25.000 personas, que vive en ésta, constituye una amenaza para la biodiversidad.

Sobre el particular, cabe aclarar que la mencionada población indígena distribuida en 10 comunidades y 12 núcleos religiosos o Tapyi, ocupa su territorio tradicional o Tekoha Guazú en la Reserva para Parque, gozando de derechos colectivos sobre tal territorio ancestral, de conformidad con la legislación nacional e internacional y antes que una amenaza es víctima de los depredadores (campesinos, empresarios extranjeros y paraguayos) por el robo de los recursos naturales: madera, contaminación con agrotóxicos, provocado por los empresarios sojeros que amenaza la vida de personas y animales, así como la destrucción de las sp medicinales, de su territorio ancestral con lo cual se atenta contra la sobrevivencia física y cultural de dicha población.

A pesar de la extrema pobreza resultante de la depredación de sus bienes, causadas por los mencionados actores y por la desidia y desarticulada acción de los organismos del Estado competentes, quienes no han planteado un desarrollo sostenible con la participación indígena, son los Mbya Guaraní los mejores guardianes y quienes todavía conservan la Biodiversidad.

Un ejemplo de la desarticulada acción estatal constituye el área de la Comunidad de Arroyo Claro, adquirida por el Estado, titulada, que fue ocupada y depredada por campesinos, arrinconando a los indígenas, dueños milenarios y titulares del dominio, a pesar de las ordenes judiciales de desalojo tramitados por el INDI, que fueron neutralizados por otros entes públicos, hasta que al cabo de 7 años!!! se consiguió el desalojo, con los recursos forestales casi totalmente depredados. En este caso, la "amenaza" fueron los campesinos y determinadas entidades públicas y los perjudicados en todo sentido, los indígenas...!!!.

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INSTITUTO PARAGUAYO DEL INDIGENA

///...Por otra parte debe recordarse –según Cadogan- que la etnia Mbya es la que ha tenido el mejor conocimiento de la Etnobotánica ,ya que han catalogado y utilizado más de 300 especies para el tratamiento de unas 100 enfermedades, que hoy día está amenazado por la destrucción de sus recursos. disminuyendo además su producción agrícola, a pesar de habernos legado sp que hoy utiliza gran parte de la humanidad ..

Por todo lo expuesto, corresponde un nuevo enfoque en la actuación de las entidades en referencia en el Proyecto, haciendo lugar a la plena participación de los indígenas en la planificación, ejecución y monitoreo del mismo y modificando lo planteado en el tríptico, corrigiendo la versión de que los indígenas constituyen parte de la población que amenaza la biodiversidad, ya que por el contrario, a pesar de constituir sus guardianes, son las víctimas no solo de la amenaza , sino de la acelerada destrucción de sus recursos naturales

Contando con la comprensión y apoyo de V.E. para revertir la situación planteada, me place renovarle las seguridades de mi más alta y distinguida consideración.

Augusto Fogel Pedrozo
Presidente del INDI

A. S. E.
Arq. Carlos López Dose
Secretario de Estado de
Medio Ambiente

c.c. Sr. Henry Jackelen, representante residente PNUD

Sr. Hipólito Acevei, Presidente Coordinadora por la Autodeterminación de los Pueblos Indígenas