

**The Inspection Panel**  
**Report and Recommendation**  
**On**  
**Request for Inspection**

**Romania: Mine Closure and Social Mitigation Project**  
**(IBRD Loan No. 4509-RO)**

1. On January 6, 2006, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the Romania: Mine Closure and Social Mitigation Project (the “Project”). The company SC Ergio Prod SRL (“Ergio Prod”) submitted the Request on its own behalf and on behalf of inhabitants that live in the area known as Vermesti, Comanesti City in Bacau County, Romania.
2. Ergio Prod specializes in wood processing and is situated at the Vermesti Mines road in Vermesti. The Request for Inspection includes a number of documents, among them a copy of a document that shows 30 signatures of inhabitants from the area that authorize Ergio Prod to represent them and to act on their behalf.

**A. The Project**

3. The Project constitutes the first phase of several interrelated elements<sup>1</sup> of the World Bank supported reform process of the Romanian mining sector and is “*a mine focused regional social mitigation project*”.<sup>2</sup>

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<sup>1</sup> In the Request, the Requesters refer to the more recent World Bank-financed “Mine Closure, Environmental and Socio-Economic Regeneration Project”, which was approved on December 16, 2004 and went into effect on June 27, 2005. According to the PAD of this Project, the Project constitutes one of several interrelated elements of the World Bank supported reform process of the Romanian mining sector. After an initial review, the Panel understands that the Request concerns another Project named the “Mine Closure and Social Mitigation Project”, which covers the area in which the Requesters are situated and which, according to the PAD, is another of the interrelated elements of the World Bank-financed reform process (PAD for a Mine Closure, Environmental and Socio-Economic Regeneration Project, November 18, 2004, p.1). In its Response, Management explains that “[a]lthough the two projects [the Mine Closure, Environmental and Socio-Economic Regeneration Project and the Mine Closure and Social Mitigation Project] share a joint management structure, the mine closure activities at the Vermesti mine site referred to in the request are exclusively under the first project (MCSMP) [Mine Closure and Social Mitigation Project]. Therefore, while the Inspection Panel was correct to determine that the Request actually concerns the MCSMP, management would wish to clarify that the matters raised in the request are not related, in any way, to the activities financed under the follow-on project.” Bank Management Response to Request

4. According to the PAD, the Project's objective is to support the Government's efforts to reduce the burden on the national budget of Romania by closing uneconomic mines in a socially and environmentally sustainable manner, and by providing support to the modernization of the sector's administrative framework.
5. The Project's objective is to be achieved through support for three components: (1) the closure of 29 uneconomic mines and the environmental remediation of mine sites;<sup>3</sup> (2) the financing of social mitigation initiatives to help diversify the local economy in support of the Government's restructuring program for the mining sector; and (3) technical and institutional assistance.
6. The Requesters' concerns mainly relate to the first of these components, the mine closure component.

## **B. Financing**

7. The Project is supported by an IBRD Loan of US \$44.5 million, which was approved on August 31, 1999. The Loan Agreement became effective on January 27, 2000. The closing date was originally set for June 30, 2005, but was extended until June 30, 2006. The Project is co-financed by the UK Department for International Development (DFID) with about US \$4.2 million<sup>4</sup>.

## **C. The Request**

8. The Requesters claim that they have been harmed by the Project. They assert that the works related to the environmental reconstruction of the Vermesti Mine area failed to protect adequately the land surrounding the mine area. They identify two major issues: (1) flooding of their land; and (2) problems related to the Vermesti Mines road.
9. The Requesters claim that their land has been filled with water because of insufficient provisions for water drainage channels. They state that as a consequence of failures related to the closure of the Vermesti mine their land has been flooded and that massive rains in 2004 and 2005 have aggravated the situation. According to them, sterile material from the waste dump was carried

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for Inspection Panel Review of The Romania Mine Closure and Social Mitigation Project (IBRD Loan No. 4509-RO) [hereinafter "Management Response"], p. 2, para 8.

<sup>2</sup> Project Appraisal Document for a Mine Closure and Social Mitigation Project (PAD), August 6, 1999, p.

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<sup>3</sup> According to Management Response, the Project has been extended to cover the closing of 31 mines. Management Response, p. 3, para 11.

<sup>4</sup> PAD, p. 10.

by the rainwater onto the Requesters' area and clogged the Vrânceanu brook, thus reducing the brook's capacity to absorb the rainwater.

10. According to the Requesters, the water from the waste dump of the Vermesti mine has reached their area and damaged the production machines of Ergio Prod and the timber needed for production. They fear that the company will have to close and dismiss its 105 employees. The Requesters believe that the situation caused by the mine closure operations has put them under great risk of being flooded again.
11. The Requesters also claim that the flooding has made it impossible for people to cultivate the land in this area. They explain that many of the affected landowners are poor.
12. The Requesters also assert that as a consequence of the above-mentioned problems, the authorities decided not to continue the existing permit for water management for Ergio Prod. The Requesters now fear that if they carry on their activities without the necessary permit they might be subject to legal action.
13. Further, the Requesters claim that the mine closure operations, in particular massive ground transportation by heavy cars and trucks used for Project works, severely damaged the Vermesti Mines road used by the Requesters. This required them to make other arrangements and to repair the road at their own cost using ballast and stones and their own machines. They add that their own cars have suffered damage from the deteriorated condition of the road.
14. The Requesters state that, when they tried to bring their concerns to the attention of the Bank, they faced difficulties in receiving information about whom to contact in the Bank.<sup>5</sup> They contacted the Bank's country office but claim that they did not receive an adequate response. They state that the Bank claimed not to be responsible and referred the Requesters to the Ministry of the Economy and Commerce. They therefore request that the Panel recommend an investigation to the Board of Executive Directors.
15. With regard to the Bank's failure to comply with its Operational Policies and Procedures, the Requesters state that they are unable to be specific about relevant policies because they have not been able to access Project documents. However, the Requesters claim that the Bank has failed to ensure that the Project improves the situation of their community and failed to recognize that the Project worsens the community's situation.
16. The Panel notes that the above claims may constitute violations by the Bank of various provisions of the following operational Policies and Procedures, including:<sup>6</sup>

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<sup>5</sup> Request, p. 2.

<sup>6</sup> This is not an exhaustive list of Bank Policies and Procedures that might have been violated.

## D. Management Response

17. On February 14, 2006, Management submitted its Response to the Request. The Response includes background information on the Project and responds to the Requester's claims. Management Response includes seven Annexes.

### Background information on the Vermesti Mine

18. Management Response indicates that the Vermesti mine is one of several brown coal mines near the city of Comanesti. Production in the Vermesti mine ended in 1997 because the mine was no longer commercially viable. According to Management, the mine, which is about 4 km from the town of Comanesti, is located on a hillside with flat areas below. Management states that the *“site contained an old waste dump on the slope above the mine buildings, as well as a newer waste dump in the flat area towards the river.”*<sup>7</sup> Management acknowledges that *“[t]he old waste dump had some stability issues.”*<sup>8</sup>
19. Management states that at the time of the mine closure, the Ergio Prod plant was only a small wood cutting facility and explains that the factory as it stands now was built subsequently.

### Response to Requester's Claims

20. Management believes that it has complied with Bank policies and contests that the Requesters' rights or interests have not been harmed. More specifically, Management claims that it has complied with OD 4.01.
21. In its response, Management states that the Project was given Category B. The environmental analysis identified environmental issues related to the closure and environmental remediation of mine sites, including groundwater and surface land pollution and addressed physical impacts of the mine closure activities on the environment and adjacent communities. Management expected that overall the Project would have a positive impact on the environment.
22. Regarding the Requesters' claims related to the flooding of their area, Management states that mining activities have changed the hydrology of the area but claims that the mine closure activities have not aggravated the

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<sup>7</sup> Management Response, p. 4, para 14.

<sup>8</sup> Management Response, p. 4, para 14.

situation. Management explains that the Ergio Prod Factory is situated in a low lying area with restricted drainage and states that this area has “a history of flooding not related to mine closure activity.”<sup>9</sup> Management asserts that “[t]his area has almost certainly been subject to flooding since the construction, some decades ago, of both the adjacent mine access road as well as railroad downstream from these properties which impedes the escape of runoff to the Trotus River.”<sup>10</sup>

23. Management indicates that in the years 2004 and 2005, “rainfall in the Trotus River watershed occurred on an unprecedented scale, resulting in flood events with approximate return rates of 150 and 500 years respectively ...”<sup>11</sup> Management claims that the drainage channels between the mine site and the river were not designed for such an event.
24. Management confirms that runoff from the mine site entered the flood waters, but states that the runoff “came primarily from above the site in the watershed of Hagiu brook and from the watershed of the upper reaches of Vranceanu brook which lies outside the site.”<sup>12</sup> In a footnote in its Response, Management clarifies that “the lower reaches of Vranceanu brook, including a relatively straight channel running across the Ergio Prod property down to the railroad, are fed by the watersheds of both brooks as well as other runoff from the mine site.”<sup>13</sup>
25. According to Management, “there is no evidence of significant transport of waste from the waste dumps to the flooded area”. Management believes that this is “most likely some sediment”.<sup>14</sup> Though Management sees that some “limited sloughing of materials occurred”, it asserts that the waste remained “on the margins of the waste dumps” and specifies that “sediment noted in excavations from the channel below the mine site appears to be primarily topsoil and not material transported from the waste dumps.”<sup>15</sup> Moreover, Management believes that in this regard the drainage channels prevented failure of the waste dump and thus worked appropriately.
26. Regarding problems raised by the Requesters with respect to the water permit, Management states that under Romanian law it is the responsibility of the landholder to maintain watercourses. With regard to the stretch of the Vranceanu brook between the mine site and the railroad, Management explains that “[n]onetheless, recognizing the importance for the community and in order to bring the drainage works up to a standard consistent with European Union

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<sup>9</sup> Management Response, p. 6, para 22.

<sup>10</sup> Management Response, p. 6, para 22.

<sup>11</sup> Management Response, p. 6-7, para 22.

<sup>12</sup> Management Response, p. 7, para 22.

<sup>13</sup> Management Response, p. 7, FN 4.

<sup>14</sup> Management Response, p. 7, para 22.

<sup>15</sup> Management Response, p. 7, para 22.

*(EU) regulations ..., the Project management decided to remove sediment from and reprofile the channel.”*<sup>16</sup> According to Management this work was carried out between December 1 and December 17, 2005 and in a meeting with the stakeholders on December 21, 2005 all parties noted that the sediment had already been removed from this part of the Vrânceanu brook and that additional work was envisaged.

27. Management says that after the Request was registered by the Inspection Panel, another stakeholder meeting<sup>17</sup> was held on January 26, 2006 [see annex 7, attachment 15, p. 89 of Management Response] at which the December 21 agreement was extended to include *“removal of sediment from the remaining course of Vrânceanu brook to its confluence with the Trotus River and to reprofile the channel.”*<sup>18</sup> Management asserts that Ergio Prod agreed to the actions and that the new course of action was then formalized in an action plan approved by the Ministry of Economy and Commerce on February 1, 2006.
28. Management states that in the future the Municipality will be responsible for the maintenance of the channel and that the *“responsibility assumed by the Project management in reprofiling the channel will be limited to what is necessary to ensure evacuation of runoff from the mine site; works to ensure the ability to carry additional runoff also remain the responsibility of the landholders and/ or Municipality.”*<sup>19</sup>
29. In response to the Requesters’ claims regarding the deterioration of the mine site’s access road, Management claims that the road, which was built by the mining company, had already deteriorated in 2002. Management believes the road to be in a reasonable condition, given that it is a mine and forest access road and claims that the road can be used by passenger cars.
30. Further, Management is of the opinion that any deterioration of the road is caused not only by mine closure traffic but also by heavy logging traffic from trucks to the Ergio Prod factory. Management states that upon completion of the mine closure works, the contractor is required by law to return the road to at least the condition in which it was when the works started. Afterwards, the municipality will be responsible for maintenance.
31. Regarding disclosure of information, Management claims that it has complied with Bank policies. According to Management, the Project Documents have been posted on the website and were available in the Infoshop. Management claims that *“consultations were held in August 2001 (public hearing on the*

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<sup>16</sup> Management Response, p. 8, para 26.

<sup>17</sup> Representatives of the World Bank, Bacau Environmental Protection Agency, Siret-Bacau Water Directorate, Comanesti Town Hall, Prominfo Ploiesti, Ergio Prod, University of Bucharest, Cominco Bucharest (the Contractor), Ministry of Economy – the PMU and ANDZM Bucharest participated.

<sup>18</sup> Management Response, p. 9, para 27.

<sup>19</sup> Management Response, p. 9, para 27.

*closure plan), October 2002 (consultations on the Sector Environmental Assessment), and November-December 2005 (on removal of sediment from Vrânceanu brook).”<sup>20</sup>*

32. As to supervision, Management believes that it has supervised the Project regularly, in a manner consistent with Bank policies. According to Management, the Project task team, which was subjected to some changes in staff, worked in “good continuity” and included “*mining specialists, social development specialists, and environmental specialists from Bank headquarters as well as local Project officers and financial specialists.*”<sup>21</sup>
33. The Response acknowledges that with regard to the Vermesti mine, Management was aware of problems arising from instability of the waste dump, sewage disposal, a collapsed shaft, and a gas leak, but it claims that the Bank followed-up on these problems appropriately.
34. Management underlines that Project staff and the mine closure contractor have been responsive to the Requester’s concerns. Management objects to the Requesters’ claim that the Bank did not adequately respond to the Requesters’ complaints. According to Management, it first learned about their complaints when the Request was registered with the Inspection Panel. Management states that when the Requesters contacted the Bank office in Bucharest, a staff person referred them to the Ministry of Economy and Commerce. Management indicates that the Requesters submitted complaints to the Bank’s “Investigation Hotline” in 2004 and 2005, but states that the Requesters’ complaints were not brought to the attention of the County Unit or the Task Team.<sup>22</sup>

## **E. Eligibility**

35. The Panel must determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution<sup>23</sup> establishing the Panel and its 1999 Clarifications<sup>24</sup>, and recommend whether the matter alleged in the Request should be investigated.
36. The Panel has reviewed the Request and Management’s Response. The Panel Chairperson, Edith Brown Weiss, together with Executive Secretary Eduardo Abbott and Assistant Executive Secretary Anna Sophie Herken visited Romania from February 26 through March 3, 2006. During their visit, the Panel met with

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<sup>20</sup> Management Response, p. 13, para 42.

<sup>21</sup> Management Response, p. 12, paras 38-39.

<sup>22</sup> The Panel understands that after the Requesters attempted several times to obtain the address of the concerned unit from the “Investigation Hotline”, it was also suggested to them to contact the Inspection Panel.

<sup>23</sup> Resolution No. IBRD 93-10 of September 22, 1993, hereinafter “the Resolution”.

<sup>24</sup> The 1999 Clarifications to the Resolution (hereinafter “the 1999 Clarifications”) are contained in the “Conclusions of the Board’s Second Review of the Inspection Panel” dated April 20, 1999.

the signatories of the Request for Inspection, national, regional and local Government officials, technical experts and World Bank staff. The Panel visited Bucharest, Bacau, Comanesti and the area of the Vermesti mine.

37. The Panel wishes to thank the Requesters, national, regional and local Government officials in Bucharest, Bacau and Comanesti and the PMU and Contractor staff. The Panel especially expresses its appreciation to the Requesters for arranging meetings with affected people and for showing the Panel the area of concern to them, to the PMU and Contractor staff for their cooperation in providing documents, discussing points of concern, and showing the Panel the Project area. The Panel also wishes to extend its gratitude to Bank staff, especially for providing the Panel with information and for assisting with logistical arrangements.
38. The purpose of the visit was to confirm that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Panel. Of particular concern to the Panel was the fact that the Request for Inspection did not include the original signatures of the Requesters but rather a photocopy of them. Further, Bank staff informally raised a concern that these signatures could have been “lifted” from another document allegedly signed by the Requesters around the time when the Request for Inspection was signed and sent to the Panel. In a meeting with the Requesters, the Panel was able to ascertain that among the persons present, many own and cultivate land in the area that may be affected by the flooding alleged in the Request. In the same meeting the people confirmed that they had signed the Request for Inspection and ratified its terms, and provided their signatures to the Panel.
39. The Panel was able to ascertain, that the people who signed the Request live in the Project-affected area, have a common interest and common concerns about the Project’s negative impact, and reside in the Borrower’s territory, as required by Paragraph 9(a) of the 1999 Clarifications.
40. 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.*” Paragraph 9(b).
41. During the Panel’s visit, the Requesters and other affected people stressed their concern about the negative consequences of the works related to the mine closure. They claim that as a result of the Project, their land has been flooded and that Project-related works have damaged the mine access road on which they depend. They fear that the situation created by the Project will continue to affect them, leading to serious harm for the Ergio Prod company, which is a significant source of local employment, and limiting their ability to cultivate their fields.



42. The Requesters allegations constitute claims that the Bank may have violated its own operational policies and procedures, especially 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).
43. The Panel confirmed that the World Bank has been aware from the outset of concerns from the Requesters about the Project's adverse effects on people living in the Project area, and that their complaints about the Project have been brought to the Bank's attention. The Panel also notes the several attempts made by the Requesters to contact the Bank through its "Investigation Hotline".
44. 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"*, as set forth in Paragraph 9(c).
45. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d).
46. The expected closing date of the Loan is June 30, 2006. Only about 79 percent of the Loan had been disbursed as of the date the Request was filed. The Request therefore satisfies the requirement in Paragraph 9(e) that the related Credit has not been closed or substantially disbursed.<sup>25</sup>
47. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).
48. Although the Requesters and the Request may meet the eligibility criteria set forth in the Resolution that established the Panel, in the instant case, the Panel notes that there are special circumstances which shape the Panel's views on handling the Request. As stated in Management Response, on January 26, 2006, a meeting took place at the Vermesti mine site, in which national, local and Project authorities, the Bank, a representative of Ergio Prod and other stakeholders participated.<sup>26</sup> According to the minutes of the meeting, the following issues were discussed and agreed<sup>27</sup>:

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<sup>25</sup> According to the Resolution, *"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).

<sup>26</sup> Participants were the World Bank, Bacau Environmental Protection Agency, Siret-Bacau Water Directorate, Comanesti Town Hall, Prominfo Ploiesti, Ergio Prod, University of Bucharest, Cominco Bucharest (the Contractor), Ministry of Economy – the PMU, ANDZM Bucharest.

<sup>27</sup> For a copy of the minutes of the January 26 meeting, see annex 7, attachment 15, p. 89 of Management Response.

- Consent of Ergio Prod to allow re-alignment of the conveyance channel across its property. Additionally, a new alignment of the channel on the west side of the old waste dump will be done on the property, subject to approval by the authorities;
  - Reconsideration of the need for, and the location of a proposed settling chamber;
  - Construction and financing under the Project of a new drainage from the old waste dump to the Trotus River under the Project;
  - Modifications and improvements of a 800 meter channel that extends from the mine access road to the railroad track, which will be completed earlier than provided;
  - The need to increase the capacity of the water conveyance channel that extends from the railroad track to the Trotus River (ca. 1.2 km) *“to conform with recent changes to the Romanian water law and to be consistent with the 800 meter reach of the channel above the railroad track.”*<sup>28</sup> This would increase the capacity of the channel to accommodate a flow rate associated with a hundred-year flood. According to the minutes, agreement was reached that the costs for these works would be shared between the local government, local community and landowners and the Project.<sup>29</sup> Further, it was noted that the modification of the channel would be subject to approval from landowners and authorities.
  - Confirmation that the Project *“will restore the road to a condition consistent with its type as planned.”*<sup>30</sup>
49. According to Management, the agreed actions were formalized in an action plan approved by the Ministry of Economy and Commerce on February 1, 2006.<sup>31</sup>
50. Although not stated in the January 26, 2006 document, Management also maintains that *“it should be noted that the Project management agreed to this course of action as a service to the community and not as an assumption of liability. Future maintenance of the channel will remain the responsibility of the municipality. Furthermore, the responsibility assumed by the project management in reprofiling the channel will be limited to what is necessary to ensure evacuation of runoff of the mine site; works to ensure the ability to carry additional runoff also remain the responsibility of the landholders and/or municipality.”*<sup>32</sup>
51. During its visit, the Panel noted diverging views about the meeting on January 26, 2006. While some parties stated that this was a new agreement to address the problems raised by the Requesters, others claimed that the January 26

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<sup>28</sup> Minutes of the meeting on January 26, 2006, p. 2, para 2.

<sup>29</sup> During the Panel visit to Comanesti, the local authorities expressed their concerns that the Municipality would not have the financial means to fund the works.

<sup>30</sup> Minutes of the meeting on January 26, 2006, p. 2, para 6.

<sup>31</sup> Management Response, p. 9, para 27.

<sup>32</sup> Management Response, p. 9, para 27.

document only clarified what had to be done by whom under the Project anyway. In any event, all of the parties agreed that these actions will take place as set forth in the document.

52. The Requesters expressed to the Panel that, in their view, the measures set forth in the minutes of the January 26 meeting would address their concerns in a satisfactory manner.
53. Some of the Requesters and local officials noted how important it is for the works agreed at the January 26 meeting to include not only the removal of sediments and the reprofiling of the part of the channel that stretches from the mine access road to the rail tracks, but also to include the continuation part from the rail tracks to the Trotus River. This would allow the water to discharge into the river. They are concerned that if the channel works are not extended to cover the entire channel, the water may flow adequately in the first 800 meters of the channel but the downstream part of the channel will not have the capacity to absorb the water. This in turn could lead to flooding in the lower part and a possible back up of water in the upper lands surrounding the upper channel.
54. On March 8, 2006, the Panel received a letter from the Requesters, dated March 6, 2006, sent by Ergio Prod on its own behalf and on behalf of the other Requesters [see Annex III of this Report]. In this letter, the Requesters refer to the minutes signed in the meeting on January 26, 2006. They state “[c]onsidering that the claimed negative situation can be avoided, we ask to the Panel Inspection [sic] not to initiate a recommendation regarding our request for inspection for a period of 6 months”.<sup>33</sup> They add that this period of time should be enough for the works described in the Minutes of January 26, 2006 to be carried out and any harm to the Requesters avoided.
55. They also state that “if these works will not be made in this period of time, however, the harm that we fear may become real and then the Panel Inspection [sic] should initiate an investigation regarding this problem.” Finally, they state that “we trust that you will accept this request which will permit resolving of our problems in a positive way.”<sup>34</sup>
56. In the Panel’s view this is an unusual request that the Panel Procedures do not directly address. The Panel notes the constructive way in which the Requesters’ concerns were addressed in the January 26, 2006 meeting, where national, regional, local and Project authorities and Bank Management participated and the Requesters’ willingness to avoid an investigation if their problems are dealt with in a satisfactory manner. In this context, the Panel feels that the Requesters’ petition merits due consideration. The Panel proposes, therefore, to refrain from issuing a recommendation at this time on whether an investigation is merited and to await further development.

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<sup>33</sup> Letter sent by the Requesters, dated March 6, 2006.

<sup>34</sup> Letter sent by the Requesters, dated March 6, 2006.

## **F. Conclusions**

57. The Request and Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures. In this case, however, several other considerations indicated above are relevant.
58. In light of the foregoing and in fairness to all the parties concerned, the Panel, as it has done in a similar situation in the past, does not take a position at this time on whether the Request merits an investigation.
59. Since the Panel is not making a recommendation on this issue, the Requesters may still have recourse to the Panel later if they consider there are serious violations of Bank policies and procedures causing material adverse effect, which are based on specific acts or omissions of the Bank relating to the Project.
60. The Panel, therefore, recommends to the Board of Executive Directors that it approve the Panel's proposal to refrain from issuing a recommendation at this time on whether an investigation is warranted in this case, but rather await further developments on the matters raised in the Request for Inspection.