

**MANAGEMENT RESPONSE TO
REQUESTS FOR INSPECTION PANEL REVIEW OF THE
PANAMA LAND ADMINISTRATION PROJECT (Loan No. 7045-PAN)**

Management has reviewed the two Requests for Inspection of the Panama Land Administration Project (Loan No. 7045-PAN), the first received by the Inspection Panel on February 25, 2009 and registered on March 11, 2009 (RQ 09/01), and the second received on March 17, 2009 and registered on March 20, 2009 (RQ 09/04). Management has prepared the following response.

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Abbreviations, Acronyms, and Terms

ACD	Alianza para la Conservación y Desarrollo (Alliance for Conservation and Development), a Panamanian environmental organization
ANAM	Autoridad Nacional del Ambiente (National Environmental Agency)
Annex Areas	Those areas belonging to a <i>Comarca</i> , which are not geographically adjacent to the <i>Comarca</i> , but rather dispersed throughout different provinces
BP	Bank Procedures
Carta Orgánica	Charter
Comarca	Administrative division for an indigenous population created by a specific law
DANIDA	Danish International Development Agency
Delimitation	Mapping of an area
Demarcation	Physical placement of markers on the ground along an area's boundary
EPM	Empresas Publicas de Medellín (Utilities service provider with headquarters in Medellín, Colombia)
GEF	Global Environment Facility
IBRD	International Bank for Reconstruction and Development
IDB	Inter-American Development Bank
IGN	Instituto Nacional de Geografía (National Geographic Institute)
IPDP	Indigenous Peoples Development Plan
IPN	Inspection Panel
M&E	Monitoring and Evaluation
NGO	Nongovernmental Organization
OAS	Organization of American States
OD	Operational Directive
OP	Operational Policy
PAD	Project Appraisal Document
PCU	Project Coordination Unit
PDO	Project Development Objectives
PRONAT	Programa Nacional de Administración de Tierras (Panama Land Administration Program)
SC	Superior Council for Land Administration
SIICAR	Sistema Integrado de Catastro y Registro (Integrated Cadastre and Registry System)
SINAP	Sistema Nacional de Áreas Protegidas (National System of Protected Areas)
UNESCO	United Nations Education, Scientific and Cultural Organization
US\$	United States Dollar

EXECUTIVE SUMMARY

BACKGROUND

1. **On March 11, 2009, the Inspection Panel registered a Request for Inspection concerning the Panama Land Administration Project (the Project),** financed by the International Bank for Reconstruction and Development (the Bank). **A second Request for Inspection, related to the same project, was registered on March 20, 2009.** As agreed with the Bank Board of Executive Directors on March 24, 2009, Bank Management has prepared this Response addressing both Requests for Inspection.

2. **The Project aims to modernize Panama’s land administration system.** It addresses policy, legal, and institutional reforms; modernizes the country’s geodetic network and mapping capabilities; and builds institutional capacity of various entities. **Both Requests for Inspection refer to the implementation of Subcomponent 3.2 of the Project, related to the consolidation of Indigenous Peoples’ territories,** which absorbs approximately 6 percent of Project resources.

3. **The First Request for Inspection was submitted by members of the Naso People.** Bank Management understands that the First Requesters’ main claims are that: (i) the Project is no longer supporting the full aspiration of the Naso People, which is the creation of a Naso *Comarca*;¹ (ii) the Project promoted a Law on Collective Lands (Law 72 of 2008) which – through its Article 17 – imposes a land tenure and administrative regime, with a corresponding Charter, not acceptable to the First Requesters; (iii) the Project does not recognize Valentín Santana, considered by the First Requesters as the legitimate King of the Naso; and (iv) Bank staff have not been responsive to the First Requesters’ concerns.

4. **The Second Request for Inspection was submitted by members of the Annex Areas (*Areas Anexas*) of the Ngöbe-Buglé *Comarca*²** in the Bocas del Toro Province. Bank Management understands that the Second Requesters’ main claims are that: (i) the Project has not adequately carried out consultations related to the delimitation of these Annex Areas; (ii) the Project is trying to title “lands” and not “territories;” (iii) insufficient territorial protection has allowed certain enterprises to encroach on their lands; (iv) the Law on Collective Lands (Law 72 of 2008) promoted by the Project prohibits the creation of Annex Areas; and (v) Bank staff have not been responsive to the Second Requesters’ concerns.

5. **Both requests contain claims that the Panel has indicated may constitute violations of certain of the Bank’s policies and procedures,** specifically: OD 4.20 “Indigenous Peoples” and OP/BP 13.05 “Project Supervision.”

¹ In Panama the term *Comarca* refers to an administrative division for an indigenous population created by a specific law. There are five such regimes in the country: Kuna Yala (1938), Emberá-Wounan (1983), Madungandi (1996), Ngöbe-Buglé (1997) and Wargandi (2000).

² The Ngöbe-Buglé *Comarca* was created by Law 10 of 1997 and is composed of a core area and several adjacent or “annexed” areas.

KEY OBSERVATIONS

6. **Addressing the political and institutional aspects of land tenure issues, particularly as they relate to Indigenous Peoples, is complex.** Controversies over land have been at the core of conflict in Latin America for centuries. Over the past two decades, the Bank has been supporting the efforts of governments and civil society in several countries in the region to resolve differences and provide greater security of land tenure.³

7. The Project, like similar projects in other countries in the region, is one where technical inputs are necessary but not sufficient to meet the stated objectives, given the complex political and socio-economic conditions surrounding this issue in the country. From the Project's inception, Management has been aware that this poses challenges for Project implementation, particularly as it relates to law-making and interactions with critical stakeholders. **Despite these challenges, Management considers that supporting Indigenous Peoples in the consolidation of their territories is a worthwhile development endeavor.**

8. **Beyond external pressures and conflicts, issues related to land use, tenure and decision making processes are frequently exacerbated by internal divisions.** For example, within the Naso community, a disagreement about land use contributed to a schism that left the community deeply divided – with two groups each claiming legitimate representation and insisting that it be the only one with whom the Project and Bank Management ought to engage.

SUMMARY RESPONSE TO THE FIRST REQUEST (NASO)

9. Management's Response to the First Request makes five main points:

- (i) **Management concurs with the First Requesters that a *Comarca* is the preferred solution to the Naso territorial and administrative aspirations.** This is why the Project from its inception supported the submission of a bill to create a *Comarca* for the Naso People. Management shares the Naso's disappointment that the bill failed twice, in 2004 and 2005, to win approval by Panama's National Assembly. Given that the Naso People are now divided, Management has been recommending that they reach internal agreement, as this is a major limitation in the consolidation of their territory.
- (ii) During Project preparation, a Social Assessment was undertaken, addressing issues of social diversity, resources, and conflict. This included attention to Indigenous Peoples' issues, and was consulted on among different groups. Relevant excerpts from the Social Assessment were summarized in Annex 12 of the Project Appraisal Document as an Indigenous Peoples' Strategy. **Although this strategy contains the key elements of an Indigenous Peoples' Development Plan (IPDP) and the Project included a subcomponent**

³ For example, the Bank has financed Land Administration Projects in Honduras (2004), Nicaragua (2002), Guatemala (2000) and Bolivia (1994).

- specifically targeted to Indigenous Peoples, Management acknowledges that no separate or free-standing IPDP in accordance with OD 4.20 was prepared.** Neither Annex 12 nor the Social Assessment was disclosed in Panama or at the Infoshop, except when the PAD itself became public.
- (iii) **Management did not have prior knowledge of, nor was it in a position to influence, the inclusion of Article 17 in the Law on Collective Lands (Law 72 of 2008) approved by the National Assembly on December 3, 2008,** which instructs the Ministry of Government and Justice to issue a *Carta Orgánica* (Charter) for the Naso territorial claims.
 - (iv) **Management notes that there are differing views among the Naso as to what constitutes legitimate leadership.** There are two factions claiming representation, but the Bank has not favored one over the other and has constantly encouraged mediation among them.
 - (v) **Management believes that it has been responsive to the First Requesters' concerns.** Bank staff have met with their leaders and with the First Requesters' legal representatives on several occasions, and has encouraged them to resolve their differences.
10. **Management reaffirms its commitment to informed participation and open dialogue that allows all interested parties to express their views about the Project and to ensure that Bank policy requirements are met.**

SUMMARY RESPONSE TO THE SECOND REQUEST (NGÖBE-BUGLÉ)

11. Management's response to the Second Request makes five main points:
- (i) **Management acknowledges that the Project staff have not adequately consulted with the Second Requesters in relation to the delimitation of the Annex Areas of the Ngöbe-Buglé Comarca** in the Bocas del Toro Province. The Bank has been aware of this Project shortcoming since January 2008, has made several specific recommendations to Government to bring the Project into compliance with OD 4.20, and is monitoring their implementation progress.
 - (ii) **Management would like to clarify that for the Ngöbe-Buglé Annex Areas, the Project is engaged in delimitation of "territories" which include housing and productive areas.** This was agreed with Ngöbe-Buglé leaders in February 2007.
 - (iii) **Management acknowledges the Second Requesters' concerns about the pressures on their territories caused by growth and development activities in the Bocas del Toro Province.** Limited progress in the consolidation of Indigenous Peoples territories in the early years of the Project was due to a hiatus of relations between the Bank and the Government of Panama. The arrival of a new Panamanian Administration in 2004 opened up opportunities for re-engagement with Management. Project restructuring to speed up implementation was agreed to with the Government in 2006. Management would like to clarify,

however, that the Project was not involved in the drafting or approval of the Law to Regulate Concessions for Tourism Investments and the Expropriation of Island Territories for their Tourism Development (Law 2 of 2006), or the granting of related concessions.

- (iv) **It is Management's understanding that the Law on Collective Lands (Law 72 of 2008) does not apply to Annex Areas of the Ngöbe-Buglé Comarca, nor does it supersede the Law creating the Ngöbe-Buglé Comarca (Law 10 of 1997) which created said Annex Areas.** Nevertheless, given the Second Requesters' concern about Law 72 of 2008, and consistent with OD 4.20 and OP/BP 13.05, **Management has sought clarifications from Government as to how it intends to apply Law 72 of 2008 to the Ngöbe-Buglé Annex Areas in the context of the Project's implementation and in relation with the recently approved Law 18 of 2009.** Management will report back to the Second Requesters once it has received Government's clarifications and has assessed their likely impact on achievement of the Project's objectives and compliance with relevant Bank policies.
- (v) **Management believes that it has been responsive to the Second Requesters' concerns,** first expressed in December 2007. It has done so through several supervision missions, including field visits, and via repeated recommendations made to Project staff to improve the consultations in Ngöbe-Buglé Annex Areas.

12. Finally, to systematically follow up on both Requesters' concerns, Management is following a detailed **Action Plan** and is enhancing its supervision efforts for the remainder of the Project.

I. INTRODUCTION

1. On March 11, 2009, the Inspection Panel registered a Request for Inspection, IPN Request RQ09/01 (hereafter referred to as the “First Request”), submitted by representatives of the Naso People concerning the Panama Land Administration Project (Loan No. 7045-PAN), known in Spanish as *Programa Nacional de Administración de Tierras* (PRONAT),⁴ financed by the International Bank for Reconstruction and Development (the Bank). A second Request for Inspection, IPN Request RQ 09/04, submitted by representatives of Annex Areas of the Ngöbe-Buglé⁵ *Comarca* (the “Second Request”) related to the same project was registered on March 20, 2009. As agreed with the Bank Board of Executive Directors (the Board) on March 24, 2009, Bank Management has prepared this Response addressing both Requests for Inspection.

2. The Project aims to modernize Panama’s Land Administration System. It was originally approved by the Board on January 16, 2001, with restructuring approved by the Board on April 11, 2006, and with a Closing Date of December 31, 2009. The Project addresses policy, legal, and institutional reforms; modernizes the country’s geodetic network and mapping capabilities; and builds institutional capacity of various entities. Although primary responsibility for the Project’s implementation falls under the Ministry of Finance, the Project has several national co-executing agencies. The two Requests for Inspection refer to the implementation of Subcomponent 3.2 of the Project, related to the consolidation of Indigenous Peoples’ territories,⁶ which absorbs approximately 6 percent of Project resources.

3. **Structure of the Text.** The document contains the following sections: Section II presents a summary of Management’s understanding on the subject of the two Requests for Inspection. Section III provides some context and background information on the Project and Indigenous Peoples. Section IV describes in detail the history and content of the Project, and the status of Project implementation. Sections V and VI present the detailed Management Response to each of the Requests for Inspection, respectively. And finally, Section VII addresses some special issues related to the Project and presents a detailed Action Plan of recent and intended measures by the Bank to address the concerns raised by both groups of Requesters. Annexes 1 and 2 present the First Requesters’ and Second Requesters’ claims, respectively, together with Management’s detailed responses to each Request for Inspection, in table format.

⁴ PRONAT is a national “program” comprising three parallel projects, one financed by the World Bank (Loan 7045-PAN) and two others by the Inter-American Development Bank. In this Management Response, unless otherwise noted, the “Project” refers only to those activities financed by the World Bank Loan and the Panamanian authorities with responsibility for it.

⁵ There are different spellings commonly used to refer to the Ngöbe-Buglé People. In this Response, Management uses the spelling used in Law 10 of 1997 that created the Ngöbe-Buglé *Comarca*.

⁶ The definitions of critical technical and legal terms related to land tenure in Panama are presented the first time the term is used in the text and, for convenience, are also included in the Abbreviations, Acronyms and Terms.

II. THE REQUESTS

THE FIRST REQUEST

4. **The First Request for Inspection was submitted by members of the indigenous community of Pueblo Naso** (hereafter referred to as the “First Requesters”). Attached to the Request is a list of signatures. No further materials were received by Management in support of the Request.

5. Management understands that the First Requesters’ main claims are that: (i) the Project at this stage is not supporting the only and true aspiration of the Naso People, which is the creation of a Naso *Comarca*; (ii) the Project promoted a Law on Collective Property (Law 72 of 2008) which imposes an uncertain regime of “regional zoning” (*corregimiento comarcal*); (iii) the Project is trying to impose a Charter (*Carta Orgánica*)⁷ that does not have the legal status of a *Comarca*; (iv) the Project does not recognize the legitimate representative of the Naso People; and (v) Management did not attend a meeting with the First Requesters in March 2008 and has not responded to their concerns.

6. The First Request contains claims that the Panel has indicated may constitute violations of certain of the Bank’s policies and procedures, specifically:

OD 4.20, Indigenous Peoples; and

OP/BP 13.05, Project Supervision.

THE SECOND REQUEST

7. **The Second Request for Inspection was submitted by representatives of some Ngöbe-Buglé communities** living in the *Areas Anexas*⁸ or “Annex Areas” to the *Comarca* Ngöbe-Buglé in the Bocas del Toro Province (hereafter referred to as the “Second Requesters”).

8. Management understands that the Second Requesters’ main claims are that: (i) the Project has not adequately carried out consultations related to the delimitation⁹ of Annex Areas of the Ngöbe-Buglé *Comarca*; (ii) the Project is trying to title “lands” and not “territories;” (iii) encroachment of Ngöbe Annex Areas by development is occurring because territorial protection is not yet in place; (iv) Law 72 of 2008 (“Law on Collective Lands”) supported by the Project prohibits the titling of Annex Areas; and (v) Bank staff discouraged the Second Requesters from submitting a complaint to the Board, did not attend a meeting with the Second Requesters’, and has not responded to their concerns.

⁷ In Panama, a *Carta Orgánica*, or Charter, refers to the detailed description of the by-laws and regulations related to an administrative division, either a *Comarca*, or a *Corregimiento Comarcal*.

⁸ The *Areas Anexas*, or Annex Areas, refer to those areas belonging to the Ngöbe-Buglé *Comarca*, created by Law 10 of 1997, which are not geographically adjacent to the main area of the *Comarca*, but rather dispersed throughout different Panamanian provinces.

⁹ Under the Project, the term “delimitation” refers to the mapping of an area, whereas “demarcation” refers to the physical placement of markers on the ground along an area’s boundary.

9. The Second Request contains claims that the Panel has indicated may constitute violations of certain of the Bank's policies and procedures, specifically:

OD 4.20, Indigenous Peoples; and

OP/BP 13.05, Project Supervision.

III. CONTEXT AND BACKGROUND

MANAGEMENT'S BROADER ENGAGEMENT WITH PANAMA

10. With a per capita GDP that ranks it as an upper middle income country, **Panama's wealth is very unequally divided among three groups: those with access to the dynamic service sector (urban residents); those who depend on less competitive, lower growth sectors like agriculture (rural and mainly non-indigenous residents); and those who are geographically isolated from economic activity (primarily Indigenous Peoples living in the northern Atlantic region and in the Mesoamerican Biological Corridor).** The result has been that over one-third of Panama's population was poor in 2003 and 16 percent were living in extreme poverty. Of rural residents, more than half of the non-indigenous were poor in 2003¹⁰ and 90 percent of Panamanians living in indigenous *Comarcas* were living in extreme poverty, an increasing share. Half of Indigenous Peoples' children were malnourished. Poverty-related pressures for land conversion to agriculture and unsustainable use of natural resources in Panama's Mesoamerican Biological Corridor region, including through unregulated tourism, are threatening not only the biodiversity and long-term tourism potential, but also the longer-term sustainability of livelihoods for many of the country's indigenous communities, who comprise about 10 percent of all Panamanians. Panama is one of the most biologically diverse countries in the world. More than 17 percent of the country's territory falls within the National Protected Area System and about 20 percent falls under the *Comarca* regime.

11. The World Bank was one of Panama's major development partners over much of the 1990s, a period in which the country made steady progress to open its economy, improve the investment environment and modernize the state. **Between 2000 and 2004, with a change in Government, economic growth and policy reform slowed and the Government turned increasingly to capital markets for financing, leaving much of the Country Assistance Strategy unimplemented. Bank engagement in Panama dropped off dramatically and portfolio performance fell significantly.** This was also evident in the case of this Project, whose implementation was very slow during these initial years. **The country partnership, policy dialogue, and portfolio implementation were rejuvenated after 2004,** through activities reflected in the Interim Strategy Note (dated August 30, 2005) and later through a new Country Partnership Strategy (dated September 7, 2007) in support of the Government's poverty and inequality reduction goals.

¹⁰ Source: 2003 Living Standard Measurement Survey, Ministry of Economy and Finances, Panama.

12. As backdrop for the financial and technical support of Bank-financed projects, **Management has contributed to Panama's development policy dialogue through broad analytical work** (e.g., Governance, Public Expenditure Review, Country Environmental Assessment, Indigenous Peoples' Profile, Urban Transport). Key contributions, such as a Poverty Assessment and a Country Economic Memorandum, were well reflected in the design of Government programs and Bank-supported operations and took special account of the substantial and distinct development challenges faced by, *inter alia*, Panama's Indigenous Peoples. **As reflected in the Bank's current lending portfolio, Panama has a strong focus on investments in human capital to help rural and indigenous poor break out of their poverty cycle, and in the creation of both more and sustainable economic opportunities.** For a more detailed discussion of the Bank's current investment program in Panama, see Section VII (Special Issues).

13. **To promote dialogue on territorial rights of Indigenous Peoples in Panama, the Bank co-chaired the Inter-American Congress on Indigenous Peoples** on October 10-12, 2007. The Congress, organized by the National Directorate of Indigenous Policy of the Ministry of Government and Justice, and with support from the International Labour Organization (ILO), was attended by representatives of the majority of Panama's Indigenous Peoples groups, and several international speakers.

PANAMA'S EFFORTS IN LAND ADMINISTRATION

14. **The Panama Land Administration Program (PRONAT) was officially launched in 2001 as a result of the Government's recognition of the necessity to address land administration issues in a systematic way.** Initial discussions between the Government of Panama (the Government) and Bank Management regarding land administration issues began during the preparation of the Rural Poverty and Natural Resources Project in 1996. Security of land tenure and efficient land administration services were identified as important aspects of poverty alleviation and sustainable use of natural resources and were placed by the Government among the central elements of its Poverty Reduction Strategy (*Nuevo Enfoque Estratégico Frente a la Pobreza*, 1998). The country further recognized the need for a holistic approach to land administration, one that would cover all types of lands and tenure regimes, including protected areas and Indigenous Peoples territories.

15. **In 1999 the Government decided to embark on a long-term and far-reaching legal, institutional, and technological reform to regularize land tenure country-wide, resolve land conflicts, facilitate access to land by the poor, reduce land transaction costs, and increase the transparency of land administration services.** In 2001, the National Land Administration Program was launched by Executive Decree No. 124 to address, *inter alia*, one of the most important and sensitive development issues in Panama: Indigenous Peoples' access to and rights over land, its cultural values and natural resources.

16. **Land tenure issues have been at the root of conflict and war in Latin America for centuries.** Loss of land by peasants and Indigenous Peoples was the main

reason for the Mexican Revolution in 1910. More recently, bloody civil wars have been fought in Central America, largely related to land tenure issues. The ongoing conflict in neighboring Colombia is also fundamentally rooted in unequal access to land and productive resources. Latin America has the highest level of economic inequality as measured by the Gini Coefficient of any region in the developing world, and Panama is no exception. Rapid economic growth in Panama has exacerbated the existing inequality, leaving poor and vulnerable groups behind. Management has been aware of the social unrest and continued marginalization of poor groups in Panama, with particular attention to Indigenous Peoples. **Thus, the Project, like similar projects in other countries in the region, is one where technical inputs are necessary but not always sufficient to meet the stated objectives, given the complex political and socio-economic conditions surrounding this issue in the country.** From the Project's inception, Management has been aware that this poses challenges for Project implementation, particularly as it relates to law-making and interactions with critical stakeholders. Despite these challenges, Management considers that supporting Indigenous Peoples in the consolidation of their territories is a worthwhile development endeavor.

ORIGINS OF CONFLICT

17. **The considerable scientific, hydroelectric, economic, and tourism potential of the Naso, Ngöbe-Buglé and other Indigenous Peoples' ancestral territories has attracted much international and national interest.** Accordingly, beginning in the 1980s, the Government transferred large portions of these regions to its own system of protected areas (Palo Seco Protected Forest and La Amistad International Park). It has also given concessions for commercial development of natural resources, including for mining and hydroelectric power. And it has recognized some Indigenous Peoples' territorial claims (e.g., Ngöbe-Buglé *Comarca* in 1997).

18. **The tensions among these sometimes conflicting uses of land are exacerbated by unclear land tenure rights and lack of physical demarcation of boundaries.** The territorial claims by Indigenous Peoples in the area are thus part of a broader climate of conflict created by the inherent trade-offs among the alternative uses of land.

19. In the case of the Naso People, **in January 1997, the Naso General Council in an extraordinary meeting established a committee to negotiate the construction of the Bonyik Dam** (see Map 1). Conflicts and disagreements within the Naso community led to the establishment, in January 1998, of the Naso People's first set of rules to regulate internal elections. In June 1998, the first elections took place and Tito Santana was elected King of the Naso. **In 2004, Tito Santana agreed to allow the Government of Panama and the Colombian firm Empresas Públicas de Medellín (EPM) to build a US\$ 50 million plant to harness the hydropower of the Bonyik River, which flows through Naso territory. This decision contributed to a schism within the Naso community.** While some members supported Tito's decisions, others in the tribe's General Assembly accused Tito of putting his own interests first. Tito was ousted and his opponents installed his uncle, Valentín Santana, as the new king.

20. Local elections, organized with the support of the Government, were held in 2005, and again Tito Santana was elected. The Government thus recognizes Tito Santana as rightful monarch and King of the Naso People and refers to him as “Rey Tito” (King Tito) in official documents. Since then, **the Naso community has been divided in its allegiance between Tito Santana and Valentín Santana as its legitimate king.**

21. **The Ngöbe-Buglé People are the largest and most dispersed indigenous group in Panama. Conflicts among its leadership are also perceptible, but to a lesser extent. Their aspiration to have their own Comarca was achieved in 1997.** However, some complain that the allocation of their lands included too little of their ancestral grounds, and that the Government has withheld rights to much of their land because of interests in natural resource exploitation.

22. **The lives of the Ngöbe-Buglé Indigenous People living in the area of the Palo Seco Protected Forest have drastically changed recently as some communities are being relocated to give way to the Chan 75 dam** being built by an affiliate of the Virginia-based AES Corporation, which received a concession from the Government of Panama to build two hydroelectric dams along the Changuinola River in the Bocas del Toro Province. There have been allegations of forced evictions and violence, most recently on March 30, 2009, leading to international attention and criticism.¹¹ The river is in the buffer zone for the International La Amistad Biosphere Reserve, a UNESCO protected world heritage site that Panama shares with Costa Rica. It is also at the heart of the Palo Seco Protected Forest (see Map 2). **Management notes that neither the Project, nor any other Bank-financed project, is involved in the concessions for, or the construction of the hydroelectric dams in this area.**

IV. THE PROJECT

THE PANAMA LAND ADMINISTRATION PROJECT – OBJECTIVES

23. The World Bank-financed Land Administration Project (Loan No. 7045-PAN) was declared **effective on July 19, 2001**. It is one of three projects that constitute the Panama Land Administration Program, the other two being financed by the Inter-American Development Bank (IDB).

24. The original **Project Development Objectives (PDO)** as stated in the Project Appraisal Document (PAD, dated December 14, 2000) were twofold:

- to ensure equitable access to land and improve land security, by providing land administration services in selected rural, peri-urban and urban areas; and
- to enhance natural resources conservation through the consolidation of the national System of Protected Areas (SINAP) and Indigenous Peoples’ territories.

¹¹ For example: Cultural Survival (www.culturalsurvival.org): “Crisis in Panama.”

25. Following **Project restructuring, effective on June 23, 2006**, the PDOs were simplified into a single PDO: to modernize the land administration system, including priority protected areas and Indigenous Peoples' territories. The Project seeks to:

- establish simpler procedures for land regularization and titling and strengthen land administration institutions;
- map half of the country, survey 110,000 parcels and issue 27,000 urban and rural titles;
- establish an integrated registry and cadastre system (SIICAR); and
- consolidate selected protected areas and three Indigenous Peoples' territories (Ngöbe-Buglé, Kuna and Naso).

The main beneficiaries are urban and rural poor who lack tenure security, including Indigenous People.

PROJECT COMPONENTS

26. The following description of Project components and US Dollar amounts are effective since June 23, 2006, date of the Project's restructuring. **Total project cost is US\$58.57 million, with an IBRD loan amount of US\$47.9 million.**

27. *Component 1: Land Policy, Legal and Institutional Framework (US\$ 13.56 million; 23.2 percent of total Project cost).* This component aims at providing the policy, legal and institutional framework, as well as the capacity needed by the Project to deliver land administration services. The Project envisages actions on three specific sets of activities: (i) introducing a series of land policy, legal/regulatory, and institutional reforms to simplify land titling, enable land sales and rentals, consolidate protected areas and indigenous territories, and serve as a basis for land valuation and taxation; (ii) establishing inter-institutional co-management mechanisms at the national and local level; and (iii) building capacity in local level NGOs and municipalities.

28. *Component 2: Land Regularization (US\$ 28.99 million; 49.5 percent of total cost).* This component aims at activities required for the massive land regularization process in Project areas. The Project envisages three sets of activities: (i) modernizing the geodetic network and generating maps and satellite images to identify parcels in rural and urban areas for regularization, and for demarcation of protected areas and indigenous territories; (ii) carrying out cadastral surveys to ground truth the satellite imagery, resolve issues relating to property rights, and issue titles; and developing an integrated information system (SIICAR) and updating it with cadastral survey data; and (iii) establishing alternative dispute resolution mechanisms.

29. *Component 3: Consolidation of Protected Areas and Indigenous Territories (US\$ 7.97 million; 13.6 percent of total cost).* This component aims at: (i) the consolidation of SINAP; (ii) the establishment and consolidation of protected areas within SINAP; and (iii) the establishment and consolidation of indigenous territories, including support for the preparation of the draft law and charter required to establish and

legally recognize the Naso Teribe Region, the updating of the charters of selected *Comarcas* and the demarcation of selected Indigenous Peoples' territories. Subcomponent 3.2 also provides for technical and baseline studies, technical assistance for conflict resolution in indigenous territories, public information and promotion campaigns and strengthening of indigenous organization and indigenous authorities.

30. *Component 4: Project Management and Monitoring and Evaluation (M&E) (US\$ 8.05 million; 13.7 percent of total cost).* This component aims at: (i) capacity building of land administration entities, including strengthening them to provide land administration services on a decentralized basis; (ii) development of a monitoring and evaluation system; and (iii) strengthening the capacity of the Project Coordination Unit.

IMPLEMENTATION ARRANGEMENTS

31. *Project Executing Agencies.* Although primary responsibility for Project implementation falls under the Ministry of Finance, as a national program, the Project is implemented by multiple agencies: the National Directorate of Agrarian Reform, the Public Registry, the Directorate of Cadastre and Patrimony, the National Environmental Agency (ANAM), the Directorate of Indigenous Affairs; the National Geographic Institute (IGN), and the National Directorate of Local Government. Following the Project restructuring, the Ministry of Housing was included as co-executing agency. **Interagency coordination is promoted at the national level by two structures created specifically for the Project: the Superior Council for Land Administration and the Technical Operational Committee. They are respectively responsible for the policy and technical regulatory frameworks needed for Project implementation, and are supported by a Project Coordination Unit (PCU), under the Ministry of Finance,** as defined in section 3.05 (b) of the Loan Agreement. This unit is responsible for the day-to-day management of Project activities, coordination, financial transactions, procurement, and operational reporting to Management.

32. Extent of Management's influence over implementation arrangements: Management notes that the Project's institutional arrangements, although unique given Panama's specificities, are rather common in Latin America for this kind of land administration project. Several features of these implementation arrangements merit further clarification. First, PRONAT is an official "program" of the Government of Panama. Second, the Project's implementation arrangements are defined by Loan 7045-PAN and by Executive Decree No. 124. Third, **there are several types of staff associated with the Project: (i) career civil servants working in the various co-executing agencies listed in the above paragraph, who, in addition to their regular duties, may perform certain specific tasks related to Project activities** (e.g., a surveyor from IGN who goes on a field assignment); (ii) long-term and full-time individual consultants who work at the PCU, including the Project Coordinator,¹² or are stationed at one of the co-executing agencies; (iii) short-term consultants (individuals or firms) hired for specific assignments (e.g., carrying out a specific study), and other

¹² Financing of the post of Project Coordinator has alternated between the Bank Loan and one of the IDB projects.

consultants hired with proceeds from the parallel IDB loans. Fourth, although technically “consultants” with project-specific defined terms of reference, Project senior staff, particularly the Project Coordinator, are identified as high-level Government officials. **Line Ministries and agencies in Panama often rely on Project staff for support in carrying out broader policy objectives. As such, it is Management’s experience that in this kind of project, it is a challenge to rigorously maintain the line separating Project-specific activities and broader policy initiatives undertaken by Project staff. This limits Management’s ability to monitor all the activities or actions which may be associated with the Project or indirectly with the Bank.**

PROJECT MILESTONES

Project Concept Document Decision Meeting	May 13, 1999
PAD Decision Meeting	November 21, 2000
Board Approval	January 16, 2001
Project Effectiveness	July 19, 2001
Project Restructuring—Effective date	June 23, 2006
Closing Date	December 31, 2009

33. The 2006 restructuring addressed several implementation bottlenecks that occurred due to:

- fiscal space constraints and limited availability of counterpart funds;
- weak operational leadership, largely due to the failure to appoint a permanent Project Coordinator; and
- ineffective inter-institutional coordination.

34. **The restructuring narrowed the Project’s scope, while simplifying the two PDOs into a single objective and providing more effective financing and operational modalities.** Other modifications included the revision of targets to better reflect the PDO, the creation of a new component to separate quality control and monitoring activities, and the application of new financing parameters for Panama, which were approved by the Board on December 20, 2004. Specifically, land regularization targets in rural areas were reduced by 30 percent, while in urban areas they were reduced by 25 percent. Project Administration and M&E (which was previously included under Component 1) became a separate component. No significant changes to Part C of the Loan Agreement, i.e., the consolidation of protected areas and indigenous territories, were introduced as part of the restructuring. As a result of the narrowed scope of the Project, the total costs were reduced by about 20 percent (for a total project cost of US\$58.57 million). The total loan amount remained unchanged, as it was accompanied by a reduction in the required government counterpart funding. Finally, several changes to expenditure categories were

introduced to reflect the lessons learned over the first four years of Project implementation.

PROJECT STATUS

35. **Following the restructuring, the Project made substantial progress towards achievement of expected outcomes and development impact, and Project ratings have consistently improved.** Since the Project received a letter with concerns in December 2007, Bank staff have conducted five supervision missions. In addition, the Bank's Country Representative for Panama is also a Land Administration Specialist and the Project's TTL, and thus maintains a frequent dialogue with high level Government officials. The Project's last Implementation Status Report rates progress as moderately satisfactory, although it cites delays in the consolidation of protected areas and indigenous territories as well as the need to continue increasing the pace for titling urban and rural lands to make up for lost time from slow execution through the period 2001-2006.

36. To date, the Project has disbursed US\$ 36.95 million, 77 percent of the total loan amount, including a significant increase of US\$ 20.0 million in 2007/2008 (i.e., 42 percent of the total loan amount). Among the most notable achievements are the:

- approval of a Law on Mass Land Titling (Law 24 of 2006, a key legal reform);
- establishment of Alternative Dispute Resolution Mechanisms in all the provinces covered by the Project;
- modernization of the geodetic network;
- mapping of half of the country;
- completion of the final pilot version of SIICAR and its ongoing deployment (to be completed this year);
- surveying of 80 percent of parcels in rural areas and 20 percent in urban areas;
- titling of more than 80 percent in rural areas, and 20 percent in urban areas;
- demarcation of about 30 percent of protected areas boundaries;
- demarcation of about 75 percent of the Ngöbe-Buglé Comarca (1,021 linear km have been demarcated out of the 1,361 linear km targeted);
- elaboration of the draft law for the establishment of the Naso Comarca and its presentation to the Assembly;
- delimitation of 70 percent of the Naso territory (including the natural boundaries that do not require demarcation); and
- establishment of sixteen roundtables in indigenous territories, designed to allow for extensive consultations with communities.

INDIGENOUS PEOPLES IN PANAMA

37. According to the Census 2000, **Indigenous Peoples account for about ten percent of the country's population, totaling about 300,000 people, belonging to seven well recognized linguistic Indigenous Peoples groups.** Some 50 percent of the Indigenous People in the country live in five *Comarcas*. These Indigenous Peoples are the Kuna Yala, Emberá-Wounan, Madugandi, Ngöbe-Buglé and the Wargandi. They are located in five Provinces, mostly in the west (Chiriquí, Bocas del Toro, Veraguas) and in the east of the country (Darién and Colón).

The Naso People

38. The **Naso**, also known as the Teribe, have inhabited the mountainous jungle region of the northwestern corner of Panama since long before the Spanish colonizers reached the shores of Central America. **The arrival of the Spanish in the 17th century led to decimation of the Naso population through war, relocation, and disease.** Their population was devastated by tuberculosis between 1910 and 1930.

39. **The Naso currently have a population of approximately 3,500, settled in 11 communities according to the 2000 Census.** Most are located in Bocas del Toro in small villages on the banks of the Teribe River in the forest of La Amistad International Park and the Palo Seco Protected Forest in the Province of Bocas del Toro (See Map 1).

40. **Until as recently as three or four generations ago the Naso People led an essentially autonomous existence.** Dispersed among their clans and homesteads, and geographically isolated from most of the world, the Naso developed cultural self-sufficiency through their language and the institution of the family. Today, many traditions in the villages have largely been maintained in spite of pressure from modernization and economic development in the area. Most Naso are bilingual (Naso and Spanish) and wear Western clothing. In recent years, many among the Naso have converted to evangelical Protestant denominations.

41. **The Naso are proud to be among the last peoples in the Americas still led by a king.** It appears that the title was first applied to the highest chief of the Naso warriors. The Naso monarchy is believed to have derived from the period between 1780 and 1850 during which the Miskito people – who were themselves ruled by a king – exacted tribute from the Naso and their hostile Bri Bri neighbors.

42. **Over the years the Naso king has become an elected figure with the stipulation that he or she be descended from the Santana family.** The Naso political regime of today is a hybrid system that combines traditional elements of a hereditary monarchy (i.e., a king and his appointed councilors), and locally-elected community representatives responsible for the administration of justice and the maintenance of public order.

43. The succession, according to tradition, follows from the king to his brother, to the older son of the previous king. **When there is a sense within the community that there**

is dissatisfaction with the current king, another member of the royal family may choose to stand for a public vote to see if he or she can replace the current king.

The Ngöbe-Buglé People

44. The Guaymí, also known by the name Ngöbe, are closely affiliated with a small group known as the Buglé. The Ngöbe are the largest indigenous group in the Bocas del Toro Archipelago. **The 2000 Panamanian census estimated 110,080 members of the Ngöbe-Buglé community in Panama, forming 63.6 percent of the national indigenous population.** The Ngöbe-Buglé traditionally live in the provinces of Bocas del Toro, Veraguas and Chiriquí. However, many of the Ngöbe have migrated to other parts of Panama in search of employment. Currently, they live in several communities in the islands of Colon, Bastimentos, Solarte, Cristobal, Popa and Water Cay (Map 2).

45. **The Ngöbe-Buglé Comarca is roughly equivalent to a province with semi-autonomous political organization.** It was created by Law 10 of 1997 with lands from the provinces of Bocas del Toro, Chiriquí, and Veraguas. This *Comarca* is divided into 7 districts – Besiko (Soloy), Kankintú (Bisira), Kusapín (Kusapín), Mirono (Hato Pilón), Müna (Chichica), Nole Duima (Cerro Iglesias), and Nürüm (Buenos Aires).

46. The Ngöbe-Buglé organized in the latter twentieth century to protect their land and culture. Their society was disrupted by the spread of banana plantations, the construction of the Inter-American Highway through their territory, and the appropriation of their communal lands by *mestizo* peasants¹³ and cattle ranchers.

The Comarcas

47. **In Panama, a Comarca is an indigenous area with semi-autonomous political organization, under the jurisdiction of the national government.**¹⁴ Each individual *Comarca* is established by an independent legislative decree and its regulations (“Charter”, or *Carta Orgánica*) adopted by executive decree that lays down the laws and forms of organization agreed with the Government of Panama. These include justice administration and conflict resolution agreed in line with their culture, the methods of use and enjoyment of the land, and bilingual education. In general, Indigenous Peoples acknowledge a certain level of state interest with respect to sovereignty, security, and resource exploitation, but retain authority over their internal cultural, economic, and political affairs.

¹³ The term *mestizo* is generally used to describe people of mixed indigenous and Spanish heritage. The distinction between *mestizo* and indigenous groups is generally based on social, cultural and economic traits and aspects rather than biological differences, since intermarriage among indigenous and Spanish ancestors is the norm rather than the exception in large parts of Latin America. Rather, “indigenous” tends to refer to those communities that maintain collective identity, language, culture and customs, to differentiate them from others who to a larger degree have assimilated into a more Western type society and generally speak Spanish.

¹⁴ The concept of this administrative unit, in use since colonial times, has emerged in Panama largely since the 1960s. *Comarcas* offer an alternative for the administration of native lands, with a number of potential benefits for both indigenous groups and the state. They constitute a geopolitical division and administrative system that accommodates both state and indigenous interests.

48. **Comarcas represent approximately 20 percent of Panama’s territory** (about 15,100 square kilometers) and their recognition has been an important achievement for indigenous mobilization in the region. Marginalization and poverty of Indigenous Peoples remain an important development challenge. Poverty causes some of the inhabitants of the *Comarcas* to migrate to urban areas where, according to the 2000 Census, over 50,000 Indigenous Peoples now live. The remaining indigenous population lives in communities whose lands are not titled. In 2008, it was estimated that about 40-50 percent of Indigenous People live outside the *Comarcas*, either collectively, in rural areas (especially protected natural areas), or individually, in peri-urban or urban areas.

49. There are currently five indigenous *Comarcas*, as shown in Table 1 below.

Table 1. Indigenous *Comarcas*

COMARCAS	Law N° and Date	Size (km2)
Kuna Yala	02 (Feb 16, 1938)	3,206
Emberá-Wounan	22 (Nov 08, 1983)	4,383
Madungandi (Kuna)	24 (Jan 12, 1996)	2,319
Ngöbe-Buglé	10 (Mar 07, 1997)	6,968
Wargandi (Kuna)	34 (Jul 25, 2000)	775

50. The Naso, who do not have a legally recognized territory or *Comarca*, have been trying to obtain legal rights to their lands since 1973.

V. DETAILED MANAGEMENT RESPONSE – FIRST REQUEST (NASO)

51. Management’s understanding of the First Requesters’ claims have been summarized in paragraphs 5 and 6 above. The First Requesters’ claims accompanied by Management’s detailed responses are presented in Annex 1.

THE PROJECT’S APPROACHES TO IMPROVE LAND TENURE SECURITY OF INDIGENOUS PEOPLES

52. **Management notes that the Project was designed with the objective of improving land tenure security of Indigenous Peoples and other poor groups in Panama.** Discussions about the need to pass legislation related to the recognition of Indigenous Peoples’ land claims in Panama date back to the 1970s. According to paragraph 15(c) of OD 4.20, when local legislation needs strengthening, Management should offer to advise and assist client countries in establishing legal recognition of the customary or traditional land tenure systems of Indigenous Peoples. The Project was designed and implemented accordingly.

53. **Management has supported the creation of a *Comarca* as the solution to the Naso territorial and administrative aspirations.** Consistent with OD 4.20, one of the Project’s objectives under Subcomponent 3.2 (Indigenous Peoples territories) called for the preparation of a bill and charter for the establishment and legal recognition of the Naso Tjër Di *Comarca*. Since 1973, the Naso People have been trying, albeit

unsuccessfully to date, to create a *Comarca* for their territory. The Project has tried to assist in these efforts since 2001. It has done so by financing consultations, awareness-raising campaigns, and activities related to the drafting of the Naso *Comarca* bill. With Project support, a proposed bill to create the Naso *Comarca* was submitted twice to the National Assembly (October 2002 and September 2004). The bill was not adopted by the National Assembly on either occasion (the first time, in 2004, it was rejected by three votes in the plenary vote; the second time it did not pass the review before the plenary vote, and its discussion was suspended in 2005).

54. **Management considered the drafting of a bill of Collective Lands a viable, if less ideal, measure to continue the momentum for improved security of tenure of Indigenous Peoples in Panama generally.** Management viewed this process (led since the late 1990s by the Emberá-Wounan People) as a good faith effort to address the situation of Indigenous Peoples' inequality, where five groups have the full benefits of a *Comarca*, while others do not have a specific legal framework recognizing their territorial claims. That is the principle reason why Management concurred with the Project's support to the consultation process related to the bill of Collective Lands, which enjoyed broad support from other indigenous groups. Throughout this process, until the bill's approval by the National Assembly on December 3, 2008, it was Management's understanding that adoption of the Law of Collective Lands would not preclude a renewed attempt in the future to create a *Comarca* for the Naso People.

55. **Management has been aware of the First Requesters' opposition to the Collective Lands bill initiative since early 2008.** After receiving a letter with concerns in December 2007, Management fielded a mission in January and February 2008 to meet with the First Requesters as well as other groups among the Naso and Ngöbe communities. At that time, Valentín Santana and others indicated that the Collective Lands bill was unacceptable to the Naso, and that only the full *Comarca* would suffice. Tito Santana said that although he wished for a *Comarca*, he was supporting the bill of Collective Lands as a step forward for Panama's Indigenous People.

56. The bill was submitted to the National Assembly in April 2008, and approved on December 3rd, 2008. **The Law of Collective Lands (Law 72 of 2008), as approved, contained a provision establishing a special regime for the Naso People that was not included in the bill submitted to the Assembly.** Management understands that the new provision, Article 17 of Law 72 of 2008, instructs the Ministry of Government and Justice, through Executive Decree, to issue a Charter (*Carta Orgánica*) for the *Corregimiento Indígena Comarcal Teribe*. The precise nature of this regime is not yet defined. It is likely to include territorial and administrative aspects. The First Requesters argue that this regime is different from what was proposed in the unsuccessful *Comarca* bill and it does not fulfill all the aspirations of the Naso People.

57. **Management notes that it became aware of Article 17 of Law 72 of 2008 on December 8, 2008, five days after the law had been approved by the National Assembly.** Although the Project has supported the consultation process for the bill of Collective Lands, Management has not had any indication that the Project was involved in the drafting of the Law, and had no information about the inclusion of Article 17 in it.

Once this article came to Management's attention, the Bank expressed its concern about its inclusion in the Law 72 of 2008 and its implications for the constitution of a Naso territory. On December 10, 2008 the Project informed Management that with the approval of Law 72 of 2008, it is now the Government's intention to place Naso territory under the political-administrative jurisdiction of the Province of Bocas del Toro.

58. **Management notes that the outcome of a legislative process is beyond its control and responsibility.** Although paragraph 14(b) of OD 4.20 calls for studies that anticipate adverse trends likely to be induced by the project and development of the means to avoid or mitigate harm, the introduction of Article 17 of Law 72 of 2008 during the legislative debate would have been extremely difficult, if not impossible, to anticipate. Respecting the independence of the legislative branches of its members, the Bank, on advice from its Legal Department, refrains from obligating its borrowers, through covenants in loan agreements with the Bank, to obtain or prevent passage of specific legislation. Proper legislation may constitute a condition underpinning implementation of a project, but its attainment by a borrower should not constitute a legally binding obligation. A project description may, as is the case with the Project under consideration herein, call for the preparation of a draft law for submission to the legislature, but there should be no binding obligation that such a draft law actually be approved.

DIFFICULTIES OF ENGAGING IN A DIALOGUE WITH BOTH SIDES OF THE CONFLICT

59. **Management notes that there are different views among the Naso as to their legitimate leadership, but Management has not favored one over the other.** A split occurred among the Naso People in 2004, three years after the Project became effective, with the result that Tito Santana and Valentín Santana now each claim to be the only legitimate King and representative of the Naso People, consequently dividing the allegiance of the community. **The Government of Panama continues to recognize Tito Santana as the legitimate King (per resolution issued by the Indigenous Peoples Directorate on April 17, 2005), and does not accept the claims of Valentín Santana.** In spite of this official recognition, Management's view is that informed participation, consistent with OD 4.20, means that the Project should consult with both groups rather than assigning unique legitimacy or representativeness to either one. Therefore, upon learning of the concerns expressed by the First Requesters through their letter of December 2007, Management has tried to impress upon Government authorities and Project staff the need to consider the views and concerns of both groups.

60. **Representativeness as a matter of degree.** Management does not attempt to assign representativeness to any stakeholder group. **Each category and sub-category of stakeholders may have legitimate perceptions, needs, claims, and concerns, and from a sociological perspective it is problematic to assign more or less legitimacy to the views of a particular group.** Locally recognized groups and organizations often claim to represent particular stakeholder interests, but other, non-organized groups or informal institutions and networks may also have legitimate claims. Representation is

therefore a matter of degree, not of absolutes.¹⁵ Reaching agreement on issues among indigenous groups can be a lengthy process as their preference is generally for a consensus that the community agrees to collectively, rather than decision making through voting and majority rule.

61. **Management notes that engaging in dialogue with the two sides of the controversy and encouraging the Project to do likewise has been delicate.** By adopting this stance, Management is effectively demonstrating reservations about the Government's official position of recognizing Tito Santana as the only Naso King. Management notes that even though its position has created occasional friction with Government authorities and Project staff, it continues to successfully manage its relationship with the Government and tries to impress upon Project staff the need to take concrete steps towards conflict resolution by promoting mediation between the two factions. Management would also like to note that the Bank's interaction with the First Requesters has been a matter of concern and explicit complaints by the Naso faction led by Tito Santana.

62. **Management notes that the First Requesters did not try first to contact Management on the issue of Article 17 – nor did Government.** Thus, and with a view to the Inspection Panel Resolution (IBRD 93-10/IDA 93-6, paragraph 13), **Management wishes it had been given the opportunity to intervene and address this issue on a timely basis,** prior to the Registration of the Request with the Inspection Panel.

MANAGEMENT ENGAGEMENT AND SUPERVISION

63. **Management believes that it has been responsive to the First Requesters' concerns.** After the First Requesters raised their concerns to Management through a letter in December 2007, a Bank field visit to the province of Bocas del Toro was organized in January 2008 (see Map 1). On January 31, 2008, Bank staff met separately with the two Naso leaders and took note of their concerns. Tito Santana said that although he aspired to have a *Comarca*, he was also supporting the Collective Lands bill. Valentín Santana's group reiterated its opposition to the Collective Lands bill and its wish for a Naso *Comarca* law only. **Given the different positions of both factions on the Collective Lands bill, the Bank encouraged mediation among them,** seeing that this division would be a major limitation for any future consolidation of their territory. Bank staff also committed to send a follow-up field mission.

64. In March 2008, Bank staff met first with Tito Santana in his community (see Map 1). The same day, a second meeting with Valentín Santana was arranged by the Project. To attend this second meeting, Bank staff had to travel 30 minutes on foot and another 30 minutes by boat. **The Bank mission arrived in Bonyik, the agreed meeting place, about 20 minutes late. While the Bank mission was reaching the shore, Valentín Santana's group was leaving, making it impossible for the two parties to meet.**

¹⁵ "Rights and Participation," Good Practices in Latin America and the Caribbean, Volume 2, Number 1, August 2008.

65. A few days later, Bank staff invited Valentín Santana's representatives to a meeting in the Bank's office in Panama City, where the First Requesters reiterated their concerns. In response to the First Requesters' call at the meetings for Government to approve a *Comarca* Bill, Bank staff noted that **the approval of such a Bill was the prerogative of the National Assembly of Panama.**

66. Also as a follow-up to the First Requesters' concerns, **Management conveyed to Government authorities and Project staff the importance of helping Tito Santana and Valentín Santana to reach a consensus, as a basis for moving forward with the consolidation of their territory with a unified voice.** Through this dialogue, Management promoted a mediation process that Management considers still worthwhile to pursue.

67. **During the June 2008 supervision mission Bank Staff agreed with Government authorities and Project staff on an action plan,** which called for a mediation between the two groups and the involvement of all the Naso People, without regard to their representativeness.

68. As agreed with Bank staff in June 2008, the Project has made efforts to promote mediation between the two groups, with the aim of achieving a unified position regarding the consolidation of Naso territory. This mediation is an important element of Project activities in the Naso territory. **On July 14, 2008, the Project offered to finance a mediation process, facilitated by Caritas Pastoral Social. Tito Santana's group accepted the offer. Valentin Santana's group acknowledged the offer, but communicated to Project staff (directly and through its legal counsel) that it did not accept the proposed mediator and proposed, instead, another mediator.** Subsequently, the Project's effort faded. After approval of Law 72 of 2008, Bank staff reiterated once again to Government authorities that the Project should continue its mediation efforts.

69. **As soon as Management became aware of the inclusion of Art. 17 into Law 72 of 2008 in December 2008, it took action and engaged with the Government on this issue promptly.** The Bank first met internally to consider the implications of this Article for all Naso stakeholders, as well as the position of the Government with respect to the appropriate consultation framework as applicable to the Project. On December 18, 2008, Bank staff members met with Government authorities and the Project Coordinator and raised the issue of the unresolved dispute between the Naso factions and urged them to continue with the mediation process with both factions with a view to achieving an amicable solution to the Naso conflict before moving forward with the consolidation of their territory. Accordingly, for the third time, the Project offered, *inter alia*, to facilitate up to three workshops attended by both groups (Tito Santana and Valentín Santana) towards resolving their differences. Unfortunately, this offer did not result in a meeting of the two factions.

70. When Management learned about the First Requesters' objection to the drafting of the Charter mandated by Article 17 of Law 72 of 2008, on March 13, 2009, it requested and received a copy of the draft Charter from the Project. On March 18, 2009,

Management took the following steps: (i) it requested clarifications from Government on the consultation process that led to the preparation of the draft Charter; (ii) it asked Government not to use Loan proceeds to finance any activities related to the Naso, except those related to the mediation process between the two competing factions; and (iii) **it recommended to Government not to approve the draft Charter until Management had an opportunity to review the requested documentation and exchange views with Government on the matter.** In its reply of April 2, 2009, Government signaled its willingness to discuss the issues raised with Bank staff.

VI. DETAILED MANAGEMENT RESPONSE – SECOND REQUEST (NGÖBE-BUGLÉ)

71. Management’s understanding of the Second Requester’s claims have been summarized in paragraphs 8 and 9 above. The Second Requesters’ claims accompanied by Management’s detailed responses are presented in Annex 2.

PROCESS OF DELIMITATION OF ANNEX AREAS OF THE NGÖBE-BUGLÉ COMARCA

72. Management agrees that the Annex Areas of the Ngöbe-Buglé *Comarca* indeed were not delimited (“mapped out”) in 1999. **Management notes that (i) the creation of the Ngöbe-Buglé *Comarca*, and related Annex Areas, in 1997, and (ii) the proposal in 1999 which failed to address Annex Areas, both precede the Project.**

73. **Management shares the Second Requesters’ concern related to the lack of mapping and delimitation of these areas.** That is why from its inception, one of the Project’s objectives under Subcomponent 3.2 has been to complete the demarcation of the boundaries of the already created Ngöbe-Buglé *Comarca*, as well as some of the territories outside the core area, known as Annex Areas, as defined by Law 10 of 1997.

74. **Management agrees with the Second Requesters that the Project has not fully demonstrated the principle of informed participation in relation to the delimitation of the Annex Areas of the Ngöbe-Buglé *Comarca* in the Bocas del Toro Province. Management acknowledges that Alliance for Conservation and Development (ACD) communicated its concerns regarding consultations.**¹⁶ The first time that the Second Requesters directly brought their concerns about the Project’s activities in their territories to the attention of Management was in a letter in December 2007. In response, on January 31, 2008, Management met with the Second Requesters in Bocas del Toro and took note of their concerns regarding Project activities in the Annex Areas of the Ngöbe-Buglé *Comarca*. At that meeting, the Second Requesters raised several issues, some unrelated to the Project or activities supported by the Bank. Their main concerns were related to the consultation process and the land delimitation activities in the Annex Areas. Accordingly, consistent with OP/BP 13.05, from March 3 to March 14, 2008 a Bank mission—accompanied by the Ngöbe-Buglé General Chief (*Cacique*), and the two *caciques* for the Annex Areas—visited 9 out of the 15 Annex Areas in the Bocas del Toro Province to assess the work being undertaken by the Project in these

¹⁶ Alianza para la Conservación y Desarrollo, a Panamanian environmental organization.

areas. The mission confirmed that the Project had carried out consultations in the areas, but also identified several weaknesses in the consultation processes. The mission also noted the lack of awareness by Project staff of the Project's Social Assessment and Indigenous Peoples Strategy. The mission made specific recommendations to improve consultations including, *inter alia*: (i) use of native language rather than Spanish; (ii) targeting messages at the education level of the audience; (iii) ensuring consistency among messages; (iv) ensuring adequate gender representation; and (v) informing the audience of its legal rights in regard to the subject matter. The mission also asked Project staff to prepare a Consultations Plan to address and resolve the weaknesses identified.

75. **A subsequent supervision mission in June carried out a comprehensive review of the entire subcomponent related to Indigenous Peoples territories.** The Bank mission agreed with Project staff on the preparation of an action plan and a consultation plan. The action plan included, *inter alia*, land tenure studies, conflict resolution activities, as well as other activities foreseen in this subcomponent. The consultation plan was to improve the quality of the consultations.

76. At the July 2008 supervision mission, the Project presented to Bank staff an action plan for the aforementioned activities, a timetable and a budget for completing implementation of this subcomponent. The plan also contained provisions related to consultations. The supervision mission was informed that the delimitation of 14 out of 15 Annex Areas in the Ngöbe-Buglé *Comarca* had been completed. **Based on the information provided by Project staff at the time, there was no reason to believe that the delimitations of the Annex Areas did not meet beneficiaries' expectations.** During a subsequent mission in October 2008, whose main focus was the preparation of an Additional Financing operation, Project staff informed the mission that they were following up with the plans (related to Subcomponent 3.2 for Indigenous Peoples' territories) agreed to during the July 2008 mission. Considering the full range of issues discussed with Government for the Additional Financing, the October 2008 mission had no further discussion on the delimitations of the Annex Areas. In retrospect, Management acknowledges that this was a missed opportunity and therefore has taken the additional step of requesting that Government authorities submit a report on the consultations and work done in the Annex Areas of the Ngöbe-Buglé *Comarca*.

“LANDS” VERSUS “TERRITORIES”

77. **Management would like to clarify that the Project, from its inception in 2001, has had as one of its specific objectives the delimitation of the “territories” of Indigenous Peoples, including the Ngöbe-Buglé *Comarca*.** Management notes that the Project operates with the concept of territory as it relates to Indigenous Peoples' territorial claims. The Project objective is “to modernize the land administration system, including priority protected areas and Indigenous Peoples territories.” Under Subcomponent 3.2, the Project's specific goal is the establishment and consolidation of indigenous “territories.” To date the Project has achieved the demarcation of approximately 1,000 linear kilometers (out of an approximate total of 1,300 km) of territorial boundaries of the main area of the Ngöbe-Buglé *Comarca* in three provinces (Veraguas, Chiriquí and Bocas del Toro). In addition, the Project has already demarcated

the territorial boundaries of two Annex Areas in the Province of Chiriquí and four Annex Areas in the Province of Veraguas.

78. For the Annex Areas in Bocas del Toro, in February 2007 the Project agreed with Ngöbe-Buglé leaders: (i) to initiate the delimitation of the 15 Annex Areas included in Article 2 of Law 10 of 1997; and (ii) to include *trabajaderos* (i.e., those complementary areas used for productive and working activities) in addition to housing areas.

79. **Management notes that under the Project, Ngöbe-Buglé beneficiary communities can choose whether they want to be delimited and demarcated as Annex Areas of the Ngöbe-Buglé Comarca.** Throughout 2007 and 2008, the Project sponsored, along with members of the National Boundaries Commission, consultation events with each of the 15 Annex Areas which resulted in: (i) the preparation of preliminary maps by the Project of each Annex Area; and (ii) the issuance of resolutions whereby each community decided whether or not to be part of the Ngöbe-Buglé *Comarca*. It is Management's understanding that 7 out of the 15 have chosen to be delimited as Annex Areas (see Map 2).

ENCROACHMENT ON INDIGENOUS LANDS

80. Management acknowledges the Second Requesters' concerns about the pressures on their territories caused by growth and development activities in the Bocas del Toro Province. **Management notes that one of the Project's key objectives—to support the “establishment and consolidation of indigenous territories” and improve overall land tenure security in the region—is intended to address the concern about these pressures.**

81. **Management would like to clarify that the Project was not involved in the drafting or approval of the Law that Regulates Concessions for Tourism Investments and the Expropriation of Island Territories for their Tourism Development (Law 2 of 2006), or the granting of related concessions in the area, including for the construction of the hydroelectric project Chan 75.**

82. While some progress was made in Subcomponent 3.2 before 2005, such as the demarcation of the core area of the Ngöbe-Buglé *Comarca* (see Map 2), **slow initial implementation of the Project was due to a hiatus of relations between the Bank and the Government of Panama.** Also, a combination of weak operational leadership, slow disbursements and counterpart contributions, and ineffective inter-institutional coordination contributed to weaknesses in the Project's ability to achieve its development objectives and output targets. The arrival of a new Panamanian administration in 2004 opened up opportunities for re-engagement with Management. With considerable involvement by Management, a Project restructuring was agreed to with Government in June 2006. This extended the Project Closing Date by three years to December 2009, and allowed the Project to begin to recover the lost ground.

83. The Project informed Management that the two Annex Areas (Valle de Risco and Nance de Risco) located in the region of Valle de Risco had chosen not to be annexed to

the Ngöbe-Buglé *Comarca* (see Map 2) but had indicated their willingness to form part of a *Corregimiento*. During the March 2008 mission, the community of Valle de Risco had expressed in writing the desire not to be annexed to the Ngöbe-Buglé *Comarca*, while the community of Nance de Risco was undecided. On April 19, 2008, leaders from the community of Nance de Risco sent a letter to the Project categorically rejecting being an annexed area to the Ngöbe-Buglé *Comarca*. These communities also questioned the consultation process, and noted their preference for being part of a *Corregimiento*, rather than a Ngöbe-Buglé annexed area. Given the doubts expressed by the Second Requesters about the adequacy of the consultations with regard to the decision to be annexed areas, on April 7, 2009 **Management has requested Government to submit a detailed report on the consultations process before legalization of the Annex Areas is finalized.**

IMPLICATIONS OF SELECTED LAWS MENTIONED IN THE REQUEST

84. **It is Management's understanding that the Law of Collective Lands (Law 72 of 2008) does not apply to Annex Areas of the Ngöbe-Buglé Comarca, nor does it supersede the Law that created the Ngöbe-Buglé Comarca (Law 10 of 1997) which established said Annex Areas.** Therefore, based on the information available, Management's understanding is that Law 72 of 2008 would not preclude the aspirations of Annex Areas communities to have a legal framework in which their culture and all forms of political life are respected.

85. Nevertheless, considering the importance of the Second Requesters' claim related to Law 72 of 2008, and consistent with OD 4.20 and OP/BP 13.05, on April 7, 2009 **Management requested additional clarifications from Government as to how it intends to apply Law 72 of 2008 to the Ngöbe-Buglé Annex Areas in the context of the Project's implementation and in relation with the recently approved Law 18 of 2009.** Management will report back to the Second Requesters once it has received Government's clarifications and has assessed their likely impact on achievement of the Project's objectives and compliance with relevant Bank policies.

86. Regarding the bill submitted to the National Assembly mentioned in the Second Request, Management understands that the Second Requesters are referring to the Law that creates *Corregimientos* in the Chiriquí Grande and Changuinola Districts in the Province of Bocas del Toro (Law 18 of 2009). Although the Second Request refers to a submission to the National Assembly, Management learned on March 30, 2009 that that law had already been promulgated on February 26, 2009 and published on March 4, 2009. Management understands that this Law was not supported by the Project. Considering the importance of the Second Requesters' claim related to Law 18 of 2009, and consistent with OD 4.20 and OP/BP 13.05, **Management has requested clarifications from Government on this Law's implications for Project implementation in these areas. Management will also report back to the Second Requesters on this issue.**

ENGAGEMENT AND SUPERVISION

87. **Management believes that it has been responsive to the Second Requesters' concerns**, first expressed in December 2007. As noted in paragraphs 74-76, 83 and 86-89 above, it has done so through several supervision missions, including field visits, and via repeated recommendations made to Project staff to improve the consultations in Ngöbe-Buglé Annex Areas.

88. **Management notes that none of the four Bank staff present at a meeting with the Second Requesters on January 31, 2008 recall asking them to refrain from sending a complaint to the Bank's Executive Board, or anyone else in Washington.** While Bank staff expressed willingness and interest in continued meetings and interaction, to Management's recollection, Management did not receive further information related to details of the congress referenced in the Second Request. **The Bank staff present at the meeting do not recall having committed to attend such a congress.**

89. Since three Ngöbe-Buglé *Caciques* (Chiefs) accompanied Bank staff during the field visits of the March 2008 supervision mission, Bank staff expected that the *Caciques* would inform their constituents about the substance of the Bank mission. In retrospect, Management acknowledges that it also could have informed the Second Requesters directly. Moving forward, **Management will engage more regularly with the Second Requesters to inform them and consult with them about follow-up actions.**

VII. SPECIAL ISSUES AND ACTION PLAN

THE PROJECT'S INDIGENOUS PEOPLES DEVELOPMENT PLAN (IPDP)

90. **During Project preparation, a comprehensive social assessment was undertaken. This included consultations with different groups, including representatives of Indigenous Peoples.** A summary version of the Social Assessment as it relates to Indigenous Peoples was incorporated in Annex 12 of the PAD, which refers to this as an Indigenous Peoples Strategy. Although this strategy contains the key elements of an IPDP, and included a subcomponent specifically targeted to Indigenous Peoples it did not include, for example, a detailed analysis of local indigenous forms of organizations or implementation arrangements. Management acknowledges that no separate or free-standing IPDP in accordance with OD 4.20 was prepared. While a draft Spanish version of the strategy was prepared, neither a final version of this document nor the Social Assessment was disclosed in Spanish in Panama or in English at the Infoshop, except when the PAD became public. Management acknowledges the importance of this, since the lack of a stand-alone document makes it harder for key stakeholder groups, including the indigenous communities in Panama, to know what rights they have under the Project.

91. **In the context of preparing the proposed Additional Financing operation for the Project in 2008, a social assessment and corresponding IPDP were completed and disclosed on the Project's website in December 2008.** Management considers that

for the ongoing Project this does not meet the full requirements of OD 4.20, because the 2008 Social Assessment and IPDP do not address all the Indigenous Peoples in the Project, including the Requesters. Consequently, Management will support additional work for the Project to finalize this, and to disclose an IPDP meeting Bank policy requirements. This is expected to be completed by August 2009.

SCOPE OF MANAGEMENT RESPONSE

92. **Regarding the claim by both Requesters that the Project is in violation of the country's Constitution, Management chooses not to comment on such claim as Panama has its own judicial mechanism to address this issue.**

93. Management understands the seriousness of both Requesters' claims and will engage as fully as possible to address their concerns. **Management notes that to the extent that certain human rights related claims have been subject to consideration in various fora, it is the policy of the Bank not to comment on these processes involving the Requesters and the Government.**

INTERACTION WITH THE FIRST REQUESTERS' LEGAL COUNSEL

94. **Management notes that since mid-2008, Bank staff have interacted on several occasions with Akin Gump, a law firm retained by the First Requesters, and has informed it of Management's actions to address the First Requesters' concerns.** Management understands that the Akin Gump firm has been retained by the First Requesters. In retrospect, Management acknowledges that it could also have informed the First Requesters directly. Management intends to engage with the First Requesters directly to inform them about Management's follow-up actions related to their concerns.

95. On December 11, 2008, Management met with Akin Gump. Its representative expressed his client's concerns about the proposed Additional Financing for the Project and voiced concerns, which are essentially the same ones presented in the Request for Inspection. **Management communicated to Akin Gump that it had already decided to pause internal processing of the Additional Financing operation** (see paragraph 103 below).

OTHER PROJECTS IN PANAMA

Projects Complementary to Land Administration Project

96. **The Project is complemented by financing from the IDB as part of a broader Program.** IDB engaged through two loans totaling almost US\$60 million supporting: (i) the Land Administration and Regularization Project (signed in March 2003); and (ii) the Metropolitan Region Cadastre and Land Administration Modernization Program (signed in October 2007).

97. While not formally supporting PRONAT, the Danish Development Cooperation (DANIDA) has in the past provided analytical and technical support to land regularization efforts for Indigenous Peoples by supporting the Dobbo Yala Foundation.¹⁷

The GEF-financed Rural Productivity and Consolidation of the Atlantic Mesoamerican Biological Corridor Project (GEF Grant TF066628)

98. **With Global Environment Facility (GEF) funding**, the Bank is also supporting the **“Rural Productivity and Consolidation of the Atlantic Mesoamerican Biological Corridor Project”** (GEF Grant TF066628, effective since January 2007), which includes activities in the Palo Seco Protected Forest. Its objective is to conserve biodiversity of global importance and protect important forest, mountain and marine-coastal ecosystems in Panama, in part by helping communities develop sustainable livelihoods that are consistent with conservation goals. Among other activities, this GEF project strengthens ANAM’s capacity to manage the National System of Protected Areas. In the course of Management’s supervision of that GEF project, in May 2008 Management became aware that local area residents could be adversely affected by the ongoing and planned construction of hydroelectric dams within the Palo Seco Protected Forest. Although the GEF project has no relationship with the planned hydroelectric power investments in the area, **as part of a broader sectoral dialogue in an advisory capacity, Management recommended to ANAM specific actions which could minimize the adverse environmental and social impacts of these hydroelectric power projects.**

99. **Management recommended that ANAM:** (i) develop an action plan to improve and intensify the environmental monitoring and supervision of the construction of the hydroelectric projects; (ii) promote improved compliance with the Palo Alto Protected Forest’s Management Plan that ANAM had developed and officially approved in 2006 (before this GEF project became effective); and (iii) prepare a broader environmental zoning plan (*Plan de Ordenamiento Ambiental*) for the entire watershed of the Changuinola River, which includes not only the Palo Seco Protected Forest, but also La Amistad International Park (Parque Internacional la Amistad, shared with Costa Rica). This environmental zoning plan will eventually provide a more thorough evaluation of the cumulative and other large-scale impacts of all the planned hydropower projects in the Changuinola River basin. Since these activities are part of the overall mandate of ANAM, and are not part of the GEF project, they will not be financed with GEF project funds.

Other World Bank Financed Projects

100. To support long-term investments in human capital, the World Bank is also financing **projects in education, health and nutrition, water supply and sanitation, rural productivity and social protection.**

101. The **Social Protection Support to the “Red de Oportunidades” Project**¹⁸ is financing measures to improve the targeting and management of the a flagship

¹⁷ The Dobbo Yala Foundation is a nongovernmental indigenous organization.

conditional cash transfer program that provides cash to Panama's poorest people, many indigenous, in exchange for their children going to school and getting regular check-ups and vaccinations. The project's success is being measured in part against specific improvements in school attendance and maternal and infant health indicators in the *Comarcas*, among other areas.

102. To address the health and economic issues of low access to improved water supply among rural and indigenous communities, the **Water and Sanitation Project for Low-Income Communities**¹⁹ is investing in water supply hardware at the community level to improve impact and sustainability. The project targets poor communities in a phased approach and includes community participation in indigenous areas.

103. Finally, the Bank is financing a **Rural Productivity Project**.²⁰ This project contributes to **increased productivity among organized rural small-scale producers** through their participation in productive alliances with large-scale producers. By supporting productive investments in land and providing links to markets, the project aims to relieve pressures on migration into forested lands and traditional indigenous living areas.

ADDITIONAL FINANCING OPERATION

104. **In late 2008 the Government of Panama requested from the Bank an Additional Financing loan in the amount of US\$23 million to support the geographical extension of the Project's activities.** The proposed operation was to help finance the costs associated with the scale up of Project activities covering: (i) the Provinces of Panama and Colón for rural and urban lands; (ii) additional urban lands in the Province of Chiriquí; (iii) additional protected areas in the Provinces of Panama and Colón; and (iv) three Indigenous Peoples groups lands (Emberá, Wounan and Kunas). Considering that: (i) the satisfactory completion of certain Project activities is pending; (ii) changes in Government are imminent (May 2009 elections); and (iii) there will be a subsequent need to agree with the new administration on priorities in the land administration and related sectors, Management decided to pause the preparation of the Additional Financing operation.

PROJECT APPRAISAL DOCUMENT (PAD) REVIEW

105. **As part of a Bank-wide initiative in late 2008, Management initiated a portfolio review of all documentation of the entire Regional portfolio. In the case of this specific project, the review identified some discrepancies when comparing the PAD and provisions of the Loan Agreement with past, ongoing and planned Project activities.** Specifically: (i) management plans for four existing protected areas included in

¹⁸ L-7479-PA; US\$24 million; approved by the Board of Directors in July 26, 2007; effective February 26, 2008.

¹⁹ L-7477-PA; US\$32 million; approved by the Board of Directors in July 17, 2007; effective March 04, 2008.

²⁰ L-7439-PAN; US\$39.4 million; approved by the Board of Directors March 21, 2007; effective November 1, 2007.

the PAD will not be implemented but instead the Project will implement management plans and ecotourism plans (considered as a specialized type of management plan) in another five existing protected areas; (ii) land tenure regularization in five existing protected areas included in the PAD will not be implemented by the Project but instead the Project will implement land tenure regularization within two other protected areas; (iii) co-management pilots in four existing protected areas included in the PAD will not be implemented; (iv) technical studies and follow-up activities in five proposed new protected areas included in the PAD will be implemented only in four of these areas and in another new proposed protected area; and (v) the development of a general system for land valuation, mentioned in the PAD and the Loan Agreement, will not be financed under the Project as it is being financed by an ongoing IDB project. Management will address these issues in the context of a further Project restructuring.

MANAGEMENT'S ACTION PLAN

106. **Management plans to follow up on the issues raised by the Requesters with intensified supervision for the remainder of the Project.** The specific steps are outlined in the table below.

Table 2. Action Plan

ISSUES AND CONCERNS, WITH CURRENT AND PROPOSED ACTIONS	TIMELINE
Lack of stand-alone Indigenous Peoples' Development Plan (IPDP)	
1. Finalize IPDP, including consultations with key stakeholder groups.	Underway; started mid 2008 Completion August 2009
2. Disseminate IPDP through consultations, in-country web sites, and World Bank Info-Shop.	September – October 2009
Naso Comarca Bill was not approved by the National Assembly, and Article 17 in the Ley de Tierras Colectivas does not meet the aspirations of the Naso people	
3. Clarify implications of Article 17 of Law 72 of 2008, and support further mediation and consultations among the Naso.	Underway; dialogue with Government started December 2008. Completion by December 2009 unless resolved earlier
4. Follow up with Government regarding potential for reintroduction of new draft <i>Comarca</i> Bill, with offer to support consultations and other work within the scope of the Project.	May to December, 2009 (with new Government following May 2009 elections)
Concern among Ngöbe-Buglé that the delimitation of Annex Areas is inadequate	
5. Clarify and report to Requesters on the implications of Law 72 of 2008 and Law 18 of 2009 regarding Annex Areas.	April – May 2009
6. Verify that delimitation includes the broader territory including <i>trabajaderos</i> .	April – May 2009
Concerns over inadequate consultations in the Project	
7. Verify improved consultations regarding delimitation of Annex Areas among Ngöbe-Buglé as per previous supervision recommendations;	Underway. Completion by December 2009

ISSUES AND CONCERNS, WITH CURRENT AND PROPOSED ACTIONS	TIMELINE
support further strengthening as required.	
8. Continue to support efforts to mediate between the two Naso factions.	Underway. Completion by December 2009 unless resolved earlier
Need for strengthened Project capacity to implement recommendations from Social Assessment, consultation framework, and IPDP	
9. Organize training event(s) for Project staff and national resource persons on social assessment processes including consultations.	August / September 2009, in connection with completed IPDP
Concern among Requesters that the Bank has not been sufficiently responsive	
10. Summarize key points in Management Response and Action Plan related to the Requests for Inspection, and offer to meet and discuss follow-up actions.	April – May 2009, with additional meetings as required
11. Provide direct feedback about previous and future missions and interactions.	April – December 2009
12. Continue to interact with both Tito Santana and Valentín Santana and their constituencies, as well as different groups among the Ngöbe-Buglé.	Underway, will continue with meetings as required until December 2009
Overall concerns about poverty and marginalization of Indigenous Peoples, and pressures on their resources	
13. Continued country level dialogue to strengthen attention to Indigenous Peoples' rights in the Bank's portfolio.	Ongoing. Will be addressed in dialogue with new Government following May elections
14. National capacity building on international good practice standards related to safeguards, in particular environmental management and Indigenous Peoples' rights.	This has been proposed to the Government. Will be addressed with new Government. Workshop for implementing agencies proposed for August / September
15. Offer to assist Government to develop more sustainable and equitable solutions for Indigenous Peoples.	Current Government has expressed interest in such support. Will be discussed with new Government. Relevant options may be discussed within the framework of the CPS

ACTION PLAN IMPLEMENTATION RISKS

107. Management considers the two principal implementation risks to this Action Plan to be:

- (i) The **political transition** with a new Government coming in, where a dialogue on these issues will have to be established. Political support for the proposed agenda cannot be ascertained at this moment, but the Bank will engage immediately with the new Government and offer support for this.

- (ii) **Security risks related to field work** in the area of Bocas del Toro. The situation is currently volatile, and an assessment will have to be made about safety of staff and local communities, including the Requesters, prior to continued engagement.

ANNEX 1
CLAIMS AND RESPONSES
FIRST REQUEST FOR INSPECTION (NASO)

No.	Claim/Issue	Response
OD 4.20, Indigenous Peoples		
1.	<p>Bill to Create a Naso Comarca</p> <p>Since 2001, the Government of Panama has benefited from World Bank financing for PRONAT... that was supposed to demarcate the territory of the original peoples of the Bocas del Toro Province.</p> <p>This financing made [it] possible to agree on a Naso People-supported Bill (proposed law) that was presented to [the] National Assembly... The National Assembly rejected the Bill that would create the province of Naso Tjër Di.</p>	<p>Since 1973 the Naso People have been trying, albeit unsuccessfully to date, to create a <i>Comarca</i> for their territory (see Map 1).</p> <p>Management concurs with the First Requesters that the Project²¹ has assisted in the effort of creating a <i>Comarca</i> since 2001. One of the Project's subcomponents relates to Indigenous Peoples, and calls for the preparation of a Naso <i>Comarca</i> bill and charter for the establishment and legal recognition of the Naso Tjër Di <i>Comarca</i>.²²</p> <p>The Project financed consultations, awareness-raising campaigns, and activities related to the drafting of the Naso <i>Comarca</i> bill. Also, with Project support, a draft Naso <i>Comarca</i> bill was submitted twice to the National Assembly (October 2002 and September 2004). The bill was not adopted by the National Assembly on either occasion (the first time, in 2004, it was rejected by three votes in the plenary vote; the second time it did not pass the review before the plenary vote and its discussion was suspended in 2005).</p> <p>Despite this outcome, the Bank, consistent with OD 4.20, continued to recommend to the Government of Panama that the Project finance activities to help resolve the Naso People's land claims. In particular, Bank staff agreed with the Project on an action plan to mediate the internal conflict among the Naso leadership (see Item 3) as this conflict creates significant obstacles to the consolidation of their territory.</p>
2.	<p>The Dobbo Yala Foundation</p> <p>... this Project has been carrying out activities in our Naso Tjër Di territory with the support of the Dobbo Yala Foundation and the then King Tito Santana and his team.</p> <p>Unfortunately, the Dobbo Yala Foundation was contracted by the Public Enterprise of Medellín (EPM) to carry out a supposedly community consultation for the Bonyik Hydroelectric Project to be built within the Naso Territory.</p>	<p>Management confirms that the Project hired the Dobbo Yala Foundation in 2002 in connection with the consultations and drafting of the draft bill to create the Naso Tjër Di <i>Comarca</i>. Judging by the result of this work, namely, agreement on a draft bill to create the <i>Comarca</i>, which was supported by the First Requesters, Management's view is that the Foundation's work was satisfactory.</p> <p>Management acknowledges the First Requesters' claim that EPM also contracted the Dobbo Yala Foundation for consultations related to the Bonyik hydroelectric project. During these consultations on behalf of EPM, the Secretary of the Board of Dobbo Yala was working as part of the Project team. Management would like to confirm that this consultant is not involved with the</p>

²¹ PRONAT is the Panama National Land Administration Program established in 2001. The World Bank financed Land Administration project (the Project) is one of the three projects that constitute the National Land Administration Program. The two other projects are financed by the IDB.

²² In Panama, a *Comarca* refers to an administrative region with a substantial indigenous population, created by specific laws. The *Comarcas* have a semi-autonomous political organization; under the jurisdiction of the national government. There are five such regimes in the country: Kuna Yala (1938), Emberá-Wounan (1983), Madungandi (1996), Ngöbe-Buglé (1997) and Wargandi (2000).

No.	Claim/Issue	Response
	<p>... with the arrival of the new administration... several individuals of Dobbo Yala became Government employees working on the Project.</p>	<p>Project any longer.</p> <p>Management notes that the Bank does not finance the Bonyik hydroelectric project.</p> <p>Management also confirms that three individuals formerly associated with the Dobbo Yala Foundation have been hired as consultants by the Project.</p>
3.	<p>The Leadership of the Naso People</p> <p>In May 2004, the Naso People General Assembly decided to dismiss the then King Tito, and appoint His Majesty Valentín Santana, present King of the Naso People. Several weeks after, the National Assembly rejected the Bill that would create the province of Naso Tjër Di.</p> <p>That is why high ranking PRONAT officials were informed that King Valentín Santana should be respected as legitimate representative of the Naso People. PRONAT officials were also notified that they had to obey the World Bank's operational directives on Indigenous Peoples.</p>	<p>Management notes that there are differing views among the Naso as to what constitutes legitimate leadership. A split occurred among the Naso in 2004, with the result that Tito Santana and Valentín Santana each claim to be the only legitimate King and representative of the Naso People. The Government of Panama continues to recognize Tito Santana and not Valentín Santana as the legitimate King (per resolution issued by the Indigenous Peoples Directorate on April 17, 2005), and the community is divided in its allegiance.</p> <p>In spite of official Government recognition of Tito Santana, Management is of the view that informed participation, consistent with OD 4.20, means that the Project consults with different groups and factions rather than assigning unique legitimacy or representativeness to any one of them. Therefore, upon learning of the concerns expressed by the First Requesters through their letter of December 2007, Management, in its interactions with the Government authorities and Project staff members, regularly stressed the need to consider the views and concerns of both groups.</p> <p>Since 2008, Bank staff have interacted directly, as well as indirectly through intermediaries,²³ with both Tito Santana and Valentin Santana and their supporters, in an effort to understand both of their perspectives and to bring about a resolution to their differences.</p>
4.	<p>The Law of Collective Lands (Law 72 of 2008)</p> <p>... PRONAT supported a bill of law of collective land ownership which was approved by the National Assembly on December 3rd, 2008,... creating a collective lands property regime "in indigenous territories" and providing for other measures.</p> <p>...the President of Panama... approved this bill imposing on the Naso People an uncertain regime of "<i>corregimiento comarcal</i>".</p> <p>...this new law flagrantly and seriously violates the sole and true aspiration of</p>	<p>Management concurs with the First Requesters that a <i>Comarca</i> is the preferred solution to the Naso territorial and administrative aspirations. Management notes that a situation of structural inequality among indigenous groups in Panama exists, where five indigenous groups have the full benefits of a <i>Comarca</i>, and others do not have a specific legal framework recognizing their territorial claims. This is why the Project from its inception supported the submission of a draft law to create a <i>Comarca</i> for the Naso People. Management is disappointed that the draft law was not adopted by the National Assembly on two occasions.</p> <p>Management's view is that the Law of Collective Lands reflects a genuine effort to continue improvements in the situation of Panamanian Indigenous Peoples. Management notes that this Law has the support of other Indigenous Peoples groups. Management considered the Project's support to the consultations for the preparation of the bill of Collective Lands a viable option to</p>

²³ For example, the Bank has frequently interacted with a law firm, Akin Gump, legal representative of Valentin Santana's group.

No.	Claim/Issue	Response
	<p>the Naso people—the creation of a juridical framework that would respect the cultural and all forms of political-traditional life of our Naso people, as well as the natural, archeological and genetic resources in general that we now have and that we have inherited from our ancestors and that we are entitled to: The <i>Comarca</i> Naso Tjër Di.</p>	<p>keep the momentum going, and to improve security of tenure of Indigenous Peoples generally and thus reduce the structural inequality among indigenous groups.</p> <p>Throughout this process, until the bill's approval by the National Assembly on December 3, 2008, it was Management's understanding that adoption of the Law of Collective Lands would not preclude a renewed attempt in the future to create a <i>Comarca</i> for the Naso. With the last minute introduction in the National Assembly of a new Article (Article 17),²⁴ it now appears unlikely that a Naso <i>Comarca</i> will be under consideration in the near future.</p> <p>Management has expressed concern and reservations about the introduction of Article 17 in the Law, and its implication in the constitution of a Naso territory. Management has been seeking clarifications from the Project Coordinator about how the new regime created by Law 72 of 2008 is going to be implemented and the implications of Article 17 (see also Item 5).</p> <p>The Project Coordinator indicated in a communication sent to the Bank on December 10, 2008, after the law was approved, that it is the Government's intent to now place the Naso territory under the administrative and political jurisdiction of the Province of Bocas del Toro. Management is seeking clarifications on how or if this reflects the Naso's aspirations for autonomous management of their territory.</p>
5.	<p>The Charter (<i>Carta Orgánica</i>) Regulating the Naso Territory</p> <p>PRONAT officials, accompanied by the dethroned King Tito Santana, are attempting to impose a Charter which does not have the legal status of a <i>Comarca</i> and has never been consulted upon with the Naso People.</p>	<p>As stated in Item 4 above, a new Article 17, which requires the development of a Charter by the Executive Branch to establish <i>Corregimiento Comarcal Teribe</i>, was included in the Law only in the later stages of the legislative process. Article 17 was not included in the versions of the bill that were discussed at consultation events attended by Bank staff.</p> <p>As such, Management did not have prior knowledge of, nor was in a position to influence, the inclusion and approval of Article 17. Management became aware of the final text of the Law and the introduction of Article 17, on December 8, 2008 after it had been approved by the National Assembly. Immediately afterwards, the Bank requested a clarification from the Project Coordinator (December 9, 2008).</p> <p>Article 17 of Law 72 provides for the preparation of a Charter for the <i>Corregimiento Comarcal Teribe</i>. Management acknowledges that the Project's staff was involved from end of December 2008 to mid-February 2009 in the preparation of this Charter, but neither the Government nor the Project informed the Bank until after the Law was approved about this involvement, in response to a specific request for clarification from the Bank.</p> <p>Given the above, Management agrees with the First Requesters'</p>

²⁴ Article 17 of Law 72 of 2008 instructs the Ministry of Government and Justice, through Executive Decree, to issue a Charter (*Carta Orgánica*) for the *Corregimiento Indígena Comarcal Teribe*. The term *Corregimiento Indígena Comarcal Teribe* refers to a land tenure regime whose precise nature is not yet defined. It is likely to include administrative and territorial aspects.

No.	Claim/Issue	Response
		<p>concern regarding the regime of <i>Corregimiento Comarcal</i> created by Law 72 of 2008 and the Charter for the <i>Corregimiento Indigena Comarcal Teribe</i> in the District of Changuinola in the Bocas del Toro Province.</p> <p>Management notes that once the Bank was informed by the Project about the Approval of the Law, including Article 17, it acted promptly. After receiving the December 10th response to its request for clarifications from the Project Director, concerns remained about how genuine the process of informed consultation had been. Cognisant of the divergences of views among the Naso factions, Management continued to emphasize the need to pursue mediation efforts between Tito Santana and Valentin Santana before proceeding with the consolidation of the Naso Territory. This was conveyed during a meeting between Bank staff and senior Government officials on December 18, 2008. Accordingly, for a second time, the Project offered to facilitate up to three workshops to be attended by both groups (Tito Santana and Valentin Santana) with a view to resolving their differences. Unfortunately, this offer did not result in the meeting of the two factions. In February 2009, the Bank requested another written update about the Naso situation which went unanswered.</p> <p>As soon as Management learned about the First Requesters' objection to the drafting of the Charter mandated by Article 17 of Law 72 of 2008, on March 13, 2009, it requested and received a copy of the draft Charter from the Project officials. Immediately after, on March 18, 2009, Management took the following steps: (i) it requested clarifications from Government on the consultation process that led to the preparation of the draft Charter; (ii) it asked Government not to use Loan proceeds to finance any activities related to the Naso, except those related to the mediation process that had been agreed on earlier; and (iii) it recommended Government not to approve the draft Charter until the Bank had an opportunity to review the requested documentation and exchange views with Government on the matter. In its reply of April 2, 2009 Government signaled its willingness to discuss the issues raised with Bank staff.</p>
6.	<p>Compliance with OD 4.20</p> <p>...we are also disappointed with the World Bank, who has not enforced its operational directives on Indigenous Peoples.</p>	<p>During Project preparation, a comprehensive social assessment was undertaken. This included consultations with different groups, including representatives of Indigenous Peoples. A summary version of the Social Assessment as it relates to Indigenous Peoples was incorporated in Annex 12 of the PAD, which refers to this as an Indigenous Peoples Strategy. Although this strategy contains the key elements of an IPDP, and included a subcomponent specifically targeted to Indigenous Peoples it did not include, for example, a detailed analysis of local indigenous forms of organizations or implementation arrangements.</p> <p>Management acknowledges that no separate or free-standing IPDP in accordance with OD 4.20 was prepared. While a draft Spanish version of the strategy was prepared, neither a final version of this document nor the Social Assessment was disclosed in Spanish in Panama or in English at the Infoshop, except when the PAD became public. Management acknowledges the</p>

No.	Claim/Issue	Response
		<p>importance of this, since the lack of a stand-alone document makes it harder for key stakeholder groups, including the indigenous communities in Panama, to know what rights they have under the Project.</p> <p>In the context of preparing the proposed Additional Financing operation for the Project in 2008, a social assessment and corresponding IPDP were completed and disclosed on the Project's website in December 2008. Management considers that for the ongoing Project this does not meet the full requirements of OD 4.20, because the 2008 Social Assessment and IPDP do not address all the Indigenous Peoples in the Project, including the Requesters. Consequently, Management will support additional work for the Project to finalize this, and to disclose an IPDP meeting Bank policy requirements. This is expected to be completed by August 2009.</p> <p>Management is of the view that with the exception of the requirement to prepare and disclose a stand-alone IPDP as part of the Project preparation; the Project was prepared and supervised in a manner consistent with the objectives of OD 4.20. Actions under the Project that demonstrate this include: (i) requiring that all Project activities be designed and implemented based on informed consultation with all affected indigenous groups, (ii) conveying to Government and the Project the need to continue to promote security of tenure of indigenous territories after the <i>Comarca</i> Law was rejected; (iii) conveying its concern about the implications of Article 17 in Law 72 of 2008; (iv) requesting that no additional Project resources be used for the consolidation of the Naso territories, with the exception of mediation efforts between Tito Santana and Valentin Santana; (v) requesting that the Government not approve the Charter until Management had had a chance to review the Charter and assess its consistency with Bank standards; (vi) engaging directly with different groups and factions including the one represented by the First Requesters; and (vii) emphasizing to the Project the need to consult with Tito Santana and Valentin Santana and their supporters and take their concerns into account.</p>
OP 13.05, Project Supervision		
7.	<p>Bank Response to Concerns</p> <p>... in December 2007...a note was sent to World Bank staff requesting an urgent visit to the area. During the first visit carried out in January 2008, World Bank staff were made aware of the concerns of the Naso People in relation to PRONAT. In March, during [another] visit by World Bank staff to evaluate PRONAT, the Naso waited at the community of Bonyik but no World Bank staff ever arrived. These same concerns [were]</p>	<p>Management notes that in response to the First Requesters' concerns in December 2007, a field visit to the province of Bocas del Toro was organized in January 2008. On January 31, 2008, Bank staff met separately with the two Naso leaders and took note of their concerns. Tito Santana said he wished for a <i>Comarca</i> but in the meantime supported the draft bill of Collective Lands. Valentin Santana's group reiterated its opposition to the draft bill of Collective Lands and its wish for a Naso <i>Comarca</i> Law. Bank staff committed to send a follow-up field mission.</p> <p>In March 2008, Bank staff met first with Tito Santana in his community. The same day, a second meeting with Valentin Santana was arranged by the Project Staff. To attend this meeting, Bank staff traveled 30 minutes on foot and another 30 minutes by</p>

No.	Claim/Issue	Response
	<p>expressed by the Naso at a meeting held later in Panama City. So far, no World Bank staff has responded.</p>	<p>boat. The Bank mission arrived in Bonyik, the agreed meeting place, about 20 minutes late. While the Bank mission was reaching the shore, Valentín Santana's group was leaving, making it impossible for the two parties to meet. Valentín Santana's group saw the Bank's arrival but left before meeting with Bank staff.</p> <p>A few days later, Bank staff invited Valentín Santana's representatives to a meeting in their office in Panama City, where the representatives reiterated the same concerns opposing the draft bill of Collective Lands and supporting the <i>Comarca</i> bill. In response to a call by Valentín Santana's supporters at this meeting to pursue the approval of a <i>Comarca</i> Law, Management noted that actual approval of a Naso <i>Comarca</i> bill is the prerogative of the National Assembly of Panama. Also as a follow-up, the Bank conveyed to Government authorities and Project staff the importance of Tito Santana and Valentín Santana reaching a consensus between themselves, as a basis for moving forward with the consolidation of their territory, with a unified voice.</p> <p>Management notes that since mid-2008, Bank staff have interacted on several occasions with Akin Gump, a law firm retained by the First Requesters, and have informed it of Bank actions to address the First Requesters' concerns. Management was informed that Akin Gump acted as official representative of Valentín Santana's group. In retrospect, Management could also have taken measures to inform the First Requesters directly. Management intends to engage more regularly with the First Requesters to inform them and consult with them about follow-up actions.</p>
	<p>[We] ...request the intervention of the World Bank's Independent Inspection Panel in the case of ... PRONAT. We came to this decision given the flagrant violation of the Panamanian Constitution as well as of the agreement and bilateral treaties on Human Rights and of the Indigenous Peoples and our Ancestral Territories, of which Panama is [a] signatory.²⁵</p>	<p>The objective of the Project is to modernize the land administration system, including priority protected areas and Indigenous Peoples Territories. Management is of the view that this objective is supportive of the importance of human rights as reflected in OD 4.20.</p> <p>Regarding the claim that the Project is in violation of the country's Constitution, Management chooses not to comment on such claim as Panama has its own judicial mechanisms to address this issue.</p> <p>Management understands the seriousness of these claims and will engage as fully as possible to address these concerns. Management notes that to the extent that certain human rights related claims have been subject to consideration in various fora, it is the policy of the Bank not to comment on these processes involving the First Requesters and the Government.</p>

²⁵ Because this claim is in the nature of a conclusion to the other complaints and issues raised, it has been moved to the end of the matrix.

ANNEX 2
CLAIMS AND RESPONSES
SECOND REQUEST FOR INSPECTION (NGÖBE-BUGLÉ)

No.	Claim	Response
	OD 4.20, Indigenous Peoples	
1.	<p>Consultations, Disclosure of Information, and Measurement Methods</p> <p>... [The Second Requesters] denounce the Government of the Republic of Panama and the staff of the World Bank office in Panama in relation to the loan of the Panamanian National Land Administration Program (PRONAT in Spanish), as well as the consulting and information methods, and the system to measure the territory Ngöbe of the Bocas del Toro province, the International Park (World Heritage Site), the Palo Seco Protected Forest, and the Bastimentos National Marine Park.</p>	<p>Management notes that the first time that the Ngöbe-Buglé People brought their concerns about the Project's²⁶ activities in their territories to the attention of Management was in December 2007.²⁷</p> <p>Management acknowledges that some aspects of consultations, disclosure of information, and measurement methods related to the Second Requesters' territories (Annex Areas of the Ngöbe-Buglé²⁸ <i>Comarca</i> in the Bocas del Toro Province,²⁹ as shown in Map 2) were not implemented by the Project staff in accordance with principles of informed participation.</p> <p>A field visit in March 2008 by the Bank verified that consultations had been carried out but identified weaknesses and subsequently recommended improving the consultations, inter alia, in the following areas: (i) use of native language rather than Spanish; (ii) targeting messages at the education level of audience; (iii) ensuring consistency among messages; (iv) ensuring adequate gender representation; and (e) informing the audience of its legal rights in regard to the subject matter.</p> <p>As noted in Item 7 below, subsequent supervision missions in June, July, and October³⁰ 2008 continued to monitor implementation of the agreed actions.</p>
2.	<p>Unmapped Annex Areas of Ngöbe-Buglé Comarca</p> <p>... A proposal for the [delimitation of the Ngöbe-Buglé] annexed areas submitted in 1999 was rejected by the Panamanian government and it was not possible to map out the territories that remained outside the area of Ngöbe-Buglé (mostly known as the area annexed by legislation number 10 of 1997).</p>	<p>The Ngöbe-Buglé Annex Areas indeed were not delimited ("mapped out") in 1999. Management notes that the creation of the Ngöbe-Buglé <i>Comarca</i>, and related Annex Areas, in 1997, and the proposal in 1999 which failed to address Annex Areas, both precede the Project.</p> <p>Management shares the Second Requesters' concern related to the lack of mapping and demarcation of these areas. That is why from its inception, one of the Project's objectives under Subcomponent 3.2 has been to complete the demarcation of the boundaries of the already created Ngöbe-Buglé <i>Comarca</i>, as well as some of the territories outside of the main area, known as Annex Areas, as defined in Law 10 of 1997. Item 3 below describes what the Project has already achieved in terms of the demarcation of the Ngöbe-Buglé <i>Comarca</i> and its Annex Areas.</p>

²⁶ PRONAT is the Panama National Land Administration Program established in 2001. The World Bank financed Land Administration project (the Project) is one of the three projects that constitute the National Land Administration Program. The two other projects are financed by the IDB.

²⁷ An earlier complaint by the Ngöbe-Bugle People was brought to Management's attention in October 2007, but this referred to another Bank-financed project, the GEF, "Rural Productivity and Consolidation of the Atlantic Mesoamerican Biological Corridor Project" (GEF Grant No. TF056628), signed on June 23, 2006.

²⁸ There are different spellings commonly used to refer to the Ngöbe-Buglé People. In this Response, Management uses the spelling used in Law 10 of 1997 that created the Ngöbe-Buglé *Comarca*.

²⁹ Management notes that one of the IDB projects also finances some activities in the Province of Bocas del Toro, including the islands. Unless otherwise noted, the references to PRONAT in this Management Response refer only to those activities financed by the World Bank Loan.

³⁰ The objective of the October 2008 mission was primarily to prepare the Additional Financing.

No.	Claim	Response
3.	<p>Land vs. Territory</p> <p>Practically since that moment [2001], this Program has violated the indigenous land rights, since PRONAT's objective is to title land, not territory.</p> <p>Also, only housing areas are being recognized as annexed areas, and not the whole area used by our communities for materials, medicines, craft items, workshops and other production activities.</p>	<p>Management would like to clarify that the Project, from its inception in 2001, has had as one of its specific objectives the consolidation of the territories of Indigenous Peoples, including the Ngöbe-Buglé <i>Comarca</i>.</p> <p>Management notes that the Project operates with the concept of territory as it relates to Indigenous Peoples' territorial claims. The Project's objective is "to modernize the land administration system, including priority protected areas and Indigenous Peoples territories". Under Subcomponent 3.2, the Project's specific goal is the "establishment and consolidation of indigenous territories ..."</p> <p>To date the Project has already achieved the demarcation of approximately 1,000 linear kilometers (of a total of approximately 1,300 linear kilometers) of territorial boundaries for the main area of the Ngöbe-Buglé <i>Comarca</i>. The Project has also demarcated the territorial boundaries of two Annex Areas in the Province of Chiriquí and four Annex Areas in Veraguas.</p> <p>For the Annex Areas in Bocas del Toro, the Project agreed in February 2007 with Ngöbe-Buglé leaders: (i) to initiate the delimitation of the 15 Annex Areas included in Article 2 of Law 10 of 1997; and (ii) to include the <i>trabajaderos</i> (i.e., those complementary areas used for productive and working activities) in addition to housing areas.</p>
4.	<p>Encroachment on Indigenous Lands</p> <p>The lack of territorial protection has allowed tourism, mining and hydroelectric enterprises to speculate with our land which is shamelessly given away by the national authorities by way of Law number 2 of 2006 on concession and titling of islands and coasts and the concession of 6,215 hectares of rural area of Valle Risco, a Ngöbe territory given by ANAM for the construction of the hydroelectric project Chan 75.</p>	<p>Management acknowledges the Second Requesters' concerns about the pressures caused by growth and development activities on their territories. Management would like to clarify that the Project was not involved in the drafting or approval of Law 2 of 2006, or the granting of related concessions in the area.</p> <p>Management notes that one of the Project's key objectives—to support the "establishment and consolidation of indigenous territories" and improve overall land tenure security in the region—is intended to address the concern about these pressures.</p> <p>While some progress was made in Subcomponent 3.2 before 2005, such as the demarcation of the core area of the Ngöbe-Buglé <i>Comarca</i>, slow initial implementation of the Project due to a hiatus of relations between the Bank and the Government from 2001 to 2004 eventually required: (i) the reestablishment of a more productive dialogue on Project issues with the newly elected Government in 2004; and (ii) the restructuring of the Project in 2006 with the aim of accelerating implementation.</p> <p>The Project has informed the Bank that the two Annex Areas (Valle de Risco and Nance de Risco) located in the region of Valle de Risco had chosen not to be annexed to the Ngöbe-Buglé <i>Comarca</i> (see Map 2) and indicated their willingness to form part of a <i>Corregimiento</i>. During the March 2008 mission, the community of Valle de Risco had expressed in writing the desire not to be annexed to the <i>Comarca</i>, while the community of Nance de Risco was undecided. On April 19, 2008, leaders from the community of Nance de Risco sent a letter to the Project categorically rejecting being an Annex Area. These communities also questioned the consultation process, and noted their preference for being part of a <i>Corregimiento</i> rather than a Ngöbe-</p>

No.	Claim	Response
		Buglé annexed area. Given the doubts expressed by the Second Requesters about the adequacy of the consultations with regard to the decision to be annexed to the <i>Comarca</i> , on April 7, 2009, Management requested the Government to submit a detailed report on the consultations process before legalization of the Annex Areas is completed.
5.	<p>Law 72 of 2008</p> <p>...the Government of Panama and PRONAT promoted the creation of the collective lands bill which was approved by the National Assembly of Deputies on December 3, 2008... Toward the end of December... President of Panama approved this law [law 72] which institutes a regime of collective community land rights and specifically forbids the creation of the annexed areas.</p> <p>... this new law [law 72] flagrantly and very seriously violates the sole and true aspiration of the communities of the annexed areas— the creation of a juridical framework where the culture and all forms of political life of the Ngöbe-Buglé people are respected</p> <p>[A] Deputy ...submitted to the national assembly a bill in which the communities designated as annexed areas by Law number 10 of March 7, 1997, become national areas.</p>	<p>Management's view is that the Law of Collective Lands reflects an effort to improve the situation of Panamanian Indigenous Peoples. Management notes that this Law had the support of other indigenous groups. Management concurred with the Project's support for the consultation process related to the Law of Collective Lands.</p> <p>As Law 72 of 2008 does not mention the Annex Areas of the Ngöbe-Buglé <i>Comarca</i>, nor does it supersede Law 10 of 1997, it is Management's understanding that Law 72 of 2008 is not applicable to the Annex Areas of the Ngöbe-Buglé <i>Comarca</i>. Therefore, based on the information available, Management understanding is that this Law would not preclude the aspirations of Annex Area communities to have a legal framework in which their culture and all forms of political life are respected.</p> <p>Nevertheless, considering the importance of the Second Requesters' claim related to Law 72 of 2008, on April 7, 2009 Management requested additional clarifications from the Government as to how it intends to apply this Law to the Ngöbe-Buglé Annex Areas in the context of the Project's implementation, and in relation with the recently approved Law 18 of 2009. Management awaits a response to this request and will follow up if a response is not promptly forthcoming.</p> <p>Management understands that the Second Requesters are referring to Law 18 of 2009. Although the Second Requesters refer to a bill submitted to the National Assembly, Management learned on March 30, 2009 that that Law was actually promulgated on February 26, 2009 and published on March 4, 2009. Management is not aware of any information indicating that the Project promoted the Law. Management has just recently learned that this Law creates <i>Corregimientos</i> in the Chiriquí Grande and Changuinola districts of the Bocas del Toro Province, which may have an impact on the status of certain Ngöbe-Buglé Annex Areas. Accordingly, on April 7, 2009, Management requested clarifications from the Government of Panama on the Law's implications for the implementation of the Project in these areas.</p>
6.	<p>Summary of Compliance with OD 4.20</p> <p>... the World Bank did not enforce its operational policies on Indigenous Peoples.</p>	<p>During Project preparation, a comprehensive social assessment was undertaken. This included consultations with different groups, including representatives of Indigenous Peoples. A summary version of the Social Assessment as it relates to Indigenous Peoples was incorporated in Annex 12 of the PAD, which refers to this as an Indigenous Peoples Strategy. Although this strategy contains the key elements of an IPDP, and included a subcomponent specifically targeted to Indigenous Peoples it did not include, for example, a detailed analysis of local indigenous forms of organizations or implementation arrangements. Management acknowledges that no separate or free-standing</p>

No.	Claim	Response
		<p>IPDP in accordance with OD 4.20 was prepared. While a draft Spanish version of the strategy was prepared, neither a final version of this document nor the Social Assessment was disclosed in Spanish in Panama or in English at the Infoshop, except when the PAD became public. Management acknowledges the importance of this, since the lack of a stand-alone document makes it harder for key stakeholder groups, including the indigenous communities in Panama, to know what rights they have under the Project.</p> <p>In the context of preparing the proposed Additional Financing operation for the Project in 2008, a social assessment and corresponding IPDP were completed and disclosed on the Project's website in December 2008. Management considers that for the ongoing Project this does not meet the full requirements of OD 4.20, because the 2008 Social Assessment and IPDP do not address all the Indigenous Peoples in the Project, including the Requesters. Consequently, Management will support additional work for the Project to finalize this, and to disclose an IPDP meeting Bank policy requirements. This is expected to be completed by August 2009.</p> <p>Management agrees with the Second Requesters that the Project has not fully demonstrated the principle of informed participation of the Ngöbe-Buglé in some of the Project-related activities. The areas where the Project's approach was found lacking relate to the consultations, disclosure of information, and measurement methods related to the Annex Areas. Management submits, however, that when it discovered these gaps during the January and March 2008 missions, it recommended a number of measures to the Project to address them and, as described in item 7, followed up with three supervision missions to ensure consistency with the Bank's policy. Management is taking the additional step of requesting that the Project submit the final report on the consultations and work done in the Annex Areas of the Ngöbe-Buglé <i>Comarca</i>.</p>
	OD 13.05, Project Supervision	
7.	<p>Bank Response to Concerns</p> <p>... at the request of the communities of the annexed area and isles of the Bocas del Toro province, a first meeting with World Bank resident staff in Panama was held in the PRONAT offices in the town of Changuinola. In this meeting, we expressed our concern to the WB staff and to the Panamanian government about PRONAT's negligence and irregularities which directly affect the land rights of the Ngöbe communities of the Bocas del Toro and annexed areas that remained outside the limits of the region of Ngöbe-Buglé. A commitment to evaluate the program on the bases of</p>	<p>Management agrees with the Second Requesters that on January 31, 2008 Bank staff met with the Second Requesters in Bocas del Toro and took note of their concerns regarding the Project. At the meeting, the Second Requesters raised several concerns, including some unrelated to the Project or activities supported by the Bank. Regarding the Project, their main concerns were related to the consultation process and the land delimitation process in the Annex Areas.</p>

No.	Claim	Response
	<p>our request was obtained during the meeting.</p> <p>... during a second meeting held on the island of Bocas del Toro in January 2008, a request from the inhabitants of the Palo Seco Park and Archipelago, World Bank staff resident in Panama was informed that the communities would report PRONAT's irregularities to the Executive Board in Washington. World Bank staff resident in Panama asked us not to do it and promised to attend the second Congress of the annexed area to be held on March 2, 2008 in order to provide an answer to our request. No World Bank staff attended the congress and so far we have received no response.</p>	<p>Management notes that none of the four Bank staff members present at this second meeting that same day recall asking the Second Requesters to refrain from sending a complaint to the Bank's Executive Board or anyone else in Washington. While Bank staff expressed willingness and interest in continued meetings and interaction, to Management's recollection, Management did not receive further information related to the details of the event. Bank staff present at the meeting do not recall having committed to attend the referenced congress, nor does Management recall receiving further information related to details of the congress.</p> <p>Nevertheless, Management notes that it followed up on the Second Requesters' concerns. From March 3 to 14, 2008 a Bank mission—accompanied by the Ngöbe-Buglé General Chief (<i>Cacique</i>) and the two <i>Caciques</i> for the Annex areas—visited 9 out of the 15 Annex Areas in the Bocas del Toro Province to assess the work being undertaken by the Project in these areas. The mission confirmed that the Project had carried out consultations in the areas, but also identified several weaknesses in the consultation processes. The mission also noted the lack of awareness by the Project staff of the Project's Social Assessment and Indigenous Peoples' strategy. The mission made nine specific recommendations and asked the Project staff to prepare a Consultation Plan.</p> <p>A subsequent supervision mission in June carried out a comprehensive review of the entire subcomponent related to Indigenous Peoples territories. The Bank mission agreed with Project staff on the preparation of an action plan and a consultation plan. The action plan included, inter alia, land tenure studies, conflict resolution activities, as well as other activities foreseen in this subcomponent. The consultation plan was to improve the quality of the consultations.</p> <p>At the July 2008 supervision mission, the Project presented to Bank staff an action plan for the aforementioned activities, a timetable and a budget for completing implementation of this subcomponent. The plan also contained provisions related to consultations. The supervision mission was informed that the delimitation of 14 out of 15 Annex Areas in the Ngöbe-Buglé Comarca had been completed. Based on the information provided by Project staff at the time, there was no reason to believe that the delimitations of the Annex Areas did not meet beneficiaries' expectations.</p> <p>During a subsequent mission in October 2008, whose main focus was the preparation of an Additional Financing operation, Project staff informed the mission that they were following up with the plans (related to Subcomponent 3.2 for Indigenous Peoples' territories) agreed to during the July 2008 mission. Considering the full range of issues discussed with Government for the Additional Financing, the October 2008 mission had no further discussion on the delimitations of the Annex Areas. In retrospect, Management</p>

No.	Claim	Response
	<p>Such PRONAT actions violate our land occupation rights, our human rights and agreements and international treaties of which Panama is a part, as well as the World bank's strategic and operational policies on Indigenous Peoples.</p> <p>This case was denounced to the Supreme Court of Justice, the Inter American Commission on Human Rights, and to the United Nations Rapporteur on Indigenous Peoples without any statement from PRONAT on the legal situation of this territory. Instead, ANAM has said that this is a protected area and Ambassador Aristides Royo of the OAS, in his statement to the Inter-American Commission on Human Rights, stated that we have no rights over this land.</p>	<p>acknowledges that this was a missed opportunity and therefore has taken the additional step of requesting that Government authorities submit a report on the consultations and work done in the Annex Areas of the Ngöbe-Buglé Comarca.</p> <p>Management notes that since three <i>Caciques</i> accompanied the field visits in March 2008, Bank staff assumed that the <i>Caciques</i> would inform their constituents about the substance of the Bank mission. In retrospect, Management acknowledges that it could also have informed the Second Requesters directly. Management will engage more regularly with the Second Requesters to inform them and consult with them about follow-up actions.</p> <p>As noted previously, the objective of the Project is to modernize the land administration system, including priority protected areas and Indigenous Peoples Territories. Management is of the view that this is supportive of the importance of human rights as reflected in OD 4.20.</p> <p>Management understands the seriousness of these claims and will engage as fully as possible to address these concerns. Management notes that to the extent that certain human rights related claims have been subject to consideration in various fora, it is the policy of the Bank not to comment on these processes involving the Second Requesters and the Government.</p>

**ANNEX 3
CHRONOLOGY OF
KEY PROJECT PREPARATION AND IMPLEMENTATION EVENTS**

May 13, 1999	Project Concept Note Review
December 10, 1999	Preparation Meeting
January 16-27, 2000	Pre-Evaluation Mission
March 21-23, 2000	Preparation Mission
April 10-18, 2000	Preparation Mission
September 10-15, 2000	Joint Evaluation and Preparation Mission (IBRD and IDB)
November 21, 2000	Decision Meeting
November 21, 2000	Appraisal Mission
December 14, 2000	Negotiations
January 16, 2001	Board Approval. (Original Closing Date: September 30, 2006)
April 2, 2001	Signature of the Loan
July 19, 2001	Effectiveness
August 12-16, 2002	Supervision Mission
April 27 – May 2, 2003	Joint Supervision Mission (IBRD and IDB)
October 6-10, 2003	Supervision Mission
October 14-18, 2004	Mid-Term Evaluation Mission
September 2004	New Administration of President Martín Torrijos
November 15, 2004	Supervision Mission
May 23-27, 2005	Supervision mission
June 20-24, 2005	Supervision Mission
October 20, 2005	Formal Request from Government to Restructure the Project
November 14-18, 2005	Supervision Mission
April 11, 2006	Restructuring Approval by the Board (first order)
May 23-25, 2006	Supervision Mission
June 23, 2006	Effectiveness of the Restructuring (New closing date of December 31, 2009)
December 18-22, 2006	Supervision Mission
March 5-9, 2007	Supervision Mission
July 13-18, 2007	Supervision mission
December 7-21, 2007	Supervision Mission

Panama

January 30-February 2, 2008	Supervision Mission, including Visit to Bocas del Toro Province and Meeting with the First and Second Requesters
March 3-14, 2008	Supervision Mission, including Visit to Bocas del Toro Province and Meeting with the First and Second Requesters
June 8-13, 2008	Supervision Mission
July 14-18, 2008	Supervision Mission
September 9, 2008	Formal Request from Government for an Additional Financing
October 5-10, 2008	Preparation Mission for the Additional Financing.
December 18, 2008	Management informs Government of its Decision to put Preparation of Additional Financing on hold
February 16-20, 2009	Supervision Mission of Component 2, including Field Visit
March 11, 2009	Inspection Panel Registers the First Request
March 20, 2009	Inspection Panel Registers the Second Request

ANNEX 4
CHRONOLOGY OF BANK AND PROJECT ENGAGEMENT WITH THE NASO PEOPLE

March 2001 to June 2004	Project supports workshops, consultations and studies for preparation of Naso Comarca Bill.
October 2002	Naso Comarca Bill is presented to Commission for Indigenous Affairs of the National Assembly.
June 4, 2004	Note of National Directorate for Indigenous Policy recognizing Tito Santana as the maximum authority of the Naso Teribe People.
June 24, 2004	National Assembly votes on Naso Comarca Bill, which fails to be approved.
September 6, 2004	A new Bill for creation of the Naso Comarca is presented to the National Assembly (Bill 19).
September 2004 to end 2006	Project supports delimitation and conflict resolution activities with Tito Santana and Valentín Santana, in support of the Naso Comarca Bill. Delimitation process is then interrupted because of internal conflicts.
April 17, 2005	Note of National Directorate for Indigenous Policy recognizing Tito Santana as the maximum authority of the Naso Teribe People.
End of 2005	Discussion of the Naso Comarca Bill 19 is suspended by the National Assembly.
April 2007	President creates a High Level Commission to start dialogue with indigenous leaders on land and social issues.
November 2, 2007	ACD writes to the Bank to express its concerns about: (i) non-approval of the Naso Comarca Bill and (ii) Government refusal to recognize Valentín Santana.
December 6, 2007	First Requesters write to the Bank <i>inter alia</i> about Project activities with the Naso and request an urgent World Bank visit to the area.
January 15, 2008	Bank informs Government that it will visit the area in January.
January 30, 2008	Tito Santana asks the Bank to communicate only with him.
January 30 – Feb. 2, 2008	Bank Supervision Mission to Bocas del Toro meets with First Requesters and Tito Santana’s group.
March 7, 2008	Bank Supervision to Bocas del Toro meets with Tito Santana’s group but cannot meet with First Requesters.
March, 13, 2008	Bank staff meets some of the First Requesters in Bank Office in Panama City.
April to July 2008	Bank staff and Akin Gump meet twice and exchange communications about the Project.
May 2, 2008	Tito Santana complains to the Bank that it is not interacting only with him as the sole official authority of the Naso People.
May 27, 2008	Letter from representative of the Bri Bri people to the Project pressing for establishment of their Collective Territory.
June 8-13, 2008	Bank Supervision Mission agrees with the Project on an Action Plan to facilitate mediation between the two Naso factions.
July 11, 2008	Bank staff meets with Akin Gump in Washington DC and agrees on importance for the Bank and Akin Gump to promote such a mediation

Panama

	process.
July 14, 2008	Project offers mediation facilitated by Caritas Pastoral Social to Tito Santana and Valentín Santana.
August 21, 2008	Project proposes to Tito Santana and Valentín Santana to meet in Changuinola to pursue dialogue for creation of the Comarca.
September 9, 2008	After various interactions with Project and Bank, Akin Gump proposes to Project (copying Bank) mediation facilitated by an OAS expert.
October 5, 2008	First Requesters inform the Bank and the Project that they oppose the Collective Lands Law and propose mediation facilitated by an OAS expert.
October 16, 2008	Tito Santana complains to the Bank that it is not interacting only with him as the sole official authority of the Naso People.
November 6, 2008	Akin Gump requests support from the Government (copying the Bank) for mediation facilitated by an OAS expert.
November 17, 2008	Akin Gump meets the Bank in Panama City and reiterates Valentín's wish for a Comarca.
November 25, 2008	Akin Gump asks Management for an urgent meeting to discuss its concerns with the Project.
December 3, 2008	National Assembly approves Collective Lands Law.
December 5, 2008	Project sends the Bank a copy of Collective Lands Law approved on Dec. 3, 2008.
December 9, 2008	Bank asks for clarifications about Article 17.
December 10, 2008	Project Director sends the Bank clarifications about Law 72 and its Art.17.
December 11, 2008	Bank staff meets with Akin Gump to discuss its concerns.
December 18, 2008	Bank staff meets Project Authorities to: (i) inform about suspension of Additional Financing; and (ii) request continuation of the mediation
December 22, 2008	Project offers to finance workshops for Tito Santana and Valentín Santana to facilitate conciliation.
December 30, 2008	Collective Lands Law is published in the Official Gazette.
December 25, 2008 to mid-February 2009	Project facilitates consultation workshops for preparation of Charter.
March 11, 2009	Inspection Panel registers First Request, sent on February 25, 2009.
March 18, 2009	Management asks Government not to approve Charter before it has possibility to exchange views about its preparation process.
April 2, 2009	Government answers positively to Bank request.

ANNEX 5

CHRONOLOGY OF BANK AND PROJECT ENGAGEMENT WITH THE NGÖBE-BUGLÉ PEOPLE

2004-2005	First phase of the demarcation of the Ngöbe-Buglé Comarca: demarcation of limits within the Province of Chiriquí (509 km).
2006-2007	Second phase of the demarcation of the Ngöbe-Buglé Comarca: demarcation of limits within the Province of Veraguas (512 km).
2007 to present	Third phase of the demarcation of the Ngöbe-Buglé Comarca: demarcation of 160 km to date within the Province of Bocas del Toro (67 km to be demarcated).
October 2006	Agreement among Project staff, co-implementing agencies, and representatives of the Ngöbe-Buglé People to address situation of Annex Areas in Bocas del Toro.
February 8, 2007	Agreement among Project staff, co-implementing agencies, and representatives of the Ngöbe-Buglé People to initiate work in Annex Areas and to include trabajaderos.
Mid-2007 to end 2008	Project carried out consultations in the 15 Annex Areas, that led to their delimitation and presentation of resolutions of whether they desire or not to be part of the Ngöbe-Buglé Comarca by each Annex Area.
November 2, 2007	ACD informs Bank about its concerns regarding negative impact of private development projects on the Ngöbe-Buglé territories.
December 6, 2007	Second Requesters write to the Bank <i>inter alia</i> about Project activities within the Annex Areas and ask for an urgent Bank visit to the area.
January 15-16, 2008	Bank informs Government and the Second Requesters that it will visit the area in January.
January 30 - February 2, 2008	Bank Supervision Mission to Bocas del Toro meets with Second Requesters accompanied by Ngöbe-Buglé General Cacique.
February 14, 2008	General Cacique asks Bank to communicate directly with him.
March 3, 2008	Bank informs Ngöbe-Buglé General Cacique that it recognizes the traditional authorities but must hear all groups.
March 3-14, 2008	Bank staff participates as observer in Project visits and consultations in 9 Annex Areas (5 on the islands and 4 on the continent).
April and May 2008	ACD and Project exchange several letters (copied to Bank) in which they disagree on delimitation process of Valle de Risco and Nance de Risco.
June 8-13, 2008	Bank Supervision Mission carries out detailed implementation review of Component 3.2 and asks for an action plan for Annex Areas.
July 14-18, 2008	Project presents action plan to complete work in Annex Areas.
October 5-10, 2008	Preparation Mission for Additional Financing. Project informs Bank that July action plan is being implemented.

Panama

March 20, 2009 Inspection Panel Registers Second Request received on February 25, 2009.
April 7, 2009 Management asks Government not to legalize Annex Areas before
Management has possibility to exchange views about delimitation process.

ANNEX 6

LIST OF LAWS AND EXECUTIVE DECREES MENTIONED IN THE MANAGEMENT RESPONSE

Constitution of the Panamanian Republic.

Law No.10 of 1997 “By which the Ngöbe-Buglé Comarca is created and other measures are taken.”

Executive Decree No. 194 of 1999, “By which the Administrative Organic Charter of the Ngöbe-Buglé Comarca is adopted.”

Executive Decree No. 124 of 2001, “By which the structure of the National Land Administration Program (PRONAT) is established and various functions are designated.”

Law No. 2 of 2006, “Which regulates concessions for tourism investment and the alienation of insular territory for purposes of its use for tourism, and issues other provisions.”

Law No. 24 of 2006, “Which declares that the land regulation and mass titling activities executed by the State are matters of public order and social interest, and adopts other provisions.”

Executive Decree No. 228 of 2006, “Which regulates Law 24 of July 5, 2006 which declares that the land regulation and mass titling activities executed by the State are matters of public order and social interest, and adopts other provisions.”

Law No. 72 of 2008, “Which establishes the special procedure for the allocation of collective ownership of lands of indigenous peoples who are not within the Comarcas.”

Law No. 18 of 2009, “Which creates corregimientos in the Districts of Chiriquí Grande and Changuinola in the Province of Bocas del Toro.”

ANNEX 7.1

UNOFFICIAL TRANSLATION OF LAW 10 OF 1997

G.O. [Official Gazette] 23242

**LAW No. 10
of March 7, 1997**

**WHEREBY THE NGÖBE-BUGLE COMARCA IS CREATED AND OTHER
MEASURES ARE TAKEN**

THE LEGISLATIVE ASSEMBLY

DECREES:

Chapter I

Creation and Delimitation

Article 1. The Ngöbe-Bugle Comarca is created, in accordance with the Political Constitution and national laws, as a special political division in the territory of the Republic of Panama, formed by three large regions extending over part of the continental and insular portion of the provinces of Bocas del Toro, Chiriquí and Veraguas, and its organization and operation are subject to the Political Constitution, the Law and the Organic Charter.

These regions are divided into districts and *corregimientos comarcales*, whose organization, administration and operation are subject to the special regime established in this Law, to the Organic Charter and to the Political Constitution.

Article 2. The Ngöbe-Bugle Comarca is constituted by the land area contained within the following limits:

[Section not translated, per instructions.]

ANNEXED AREAS IN THE PROVINCE OF BOCAS DEL TORO

The annexed areas in the province of Bocas del Toro are constituted by the communities inhabited by over 300 indigenous persons, and include the populations of La Gloria, Milla Siete y Medio, Junquito (corregimiento of Changuinola); Nuevo Paraíso, Valle Riscó, Nance de Riscó, Río Oeste, Miraflores, Quebrada Pastor (corregimiento of Almirante); Yorkín (corregimiento of Guabito); Salt Creek (corregimiento of Bastimentos); Isla Tigre, Chacol, Cayo de Agua (corregimiento of Punta Laurel); and San Cristóbal (corregimiento of Bocas del Toro).

These communities or populations defined as annexed areas shall be delimited by the Agrarian Reform, the National Commission on Boundaries, the Electoral Court, the municipality to which they currently belong, and by two representatives of the Regional Congress.

Paragraph. The institutions shall be granted a period of no more than twenty months to conduct the corresponding delimitations, which must be submitted by the Executive Agency to the Legislative Assembly for its approval.

[Section not translated, per instructions.]

Article 3. The boundaries of the regions of the Ngöbe-Bugle Comarca shall be defined by taking into consideration their location in both the continental and insular areas in the provinces of Bocas del Toro, Chiriquí and Veraguas.

The boundaries of this Comarca and those of each region shall be defined on site by the Agrarian Reform Bureau of the Ministry of Agricultural and Livestock Development and the National Commission on Boundaries, with the collaboration of the National Bureau of Indigenous Policy of the Ministry of Governance and Justice, a representative of the respective Regional Congress, a representative of the Inter-provincial Committee for the Defense of the Lands of Peasants and Farmers—Chiriquí and Veraguas (CIPTCP), the Electoral Court, the National Bureau of Cadastre and the Department of Census and Statistics of the Office of the Comptroller General of the Republic, in accordance with the areas and conditions indicated in this Law, for each of the three regional polygons. The physical definition of the boundaries of the Comarca and of the territories and communities shall be conducted in a period of no more than thirty months from this Law's date of effectiveness, and in accordance with land tenure censuses conducted by the Agrarian Reform Bureau of the Ministry of Agricultural and Livestock Development for the preparation of this Law.

Article 4. The communities located in continental and insular lands of the provinces of Bocas del Toro, Chiriquí and Veraguas, which are described in the boundaries established for the Comarca, shall form part of the special political division of the Ngöbe-Bugle Comarca as annexed areas.

Article 5. The current districts of Bocas del Toro and Chiriquí Grande, in the province of Bocas del Toro; Remedios, San Félix, San Lorenzo and Tolé, in the province of Chiriquí; and Cañazas and Las Palmas, in the province of Veraguas shall continue as such and shall encompass land areas and corregimientos not included within the Comarca.

The corregimientos that form the current districts of Bocas del Toro, Chiriquí Grande, Tolé, Remedios, San Félix, San Lorenzo, Las Palmas and Cañazas, which by reason of the new delimitation remain within the Ngöbe-Bugle Comarca, shall be incorporated in the new jurisdictions of the administrative districts that are constituted.

Paragraph. The land surface that is separated from the current corregimientos, by reason of the new delimitation, may be constituted as a new corregimiento or may join the jurisdiction of any of the closest corregimientos located on both sides of the boundary of the Ngöbe-Bugle Comarca.

Article 7. From the date of this Law's effectiveness, the relevant agencies are authorized to conduct the administrative and electoral reorganization of the jurisdictions, the comarca regions and communities or annexed areas of the Comarca, in a period of no more than twenty four months. The positions subject to popular election shall be filled in accordance with provisions in the Political Constitution and the Electoral Code.

In no case shall this reorganization decrease the number of current legislators of the provinces of Bocas del Toro, Chiriquí and Veraguas. The regrouping of corregimientos and populations for the Comarca's establishment in the respective provinces must guarantee the election of the number of legislators who correspond to the Comarca.

Article 8. In order to comply with the comarca organization and delimitation, the State shall include in the General Budget of the State the necessary budget items.

Chapter III

Land Ownership Regime

The lands delimited under this Law constitute the collective property of the Ngöbe-Bugle Comarca, with the objective of achieving the cultural, economic and social well-being of its population; thus, private appropriation and transfer of such lands under any title is prohibited. The means of transmission, acquisition and modalities of use and enjoyment of ownership shall be conducted in accordance with the collective rules and practices of the Ngöbe-Bugle people.

Existing property titles and rights of possession, certified by the National Agrarian Reform Bureau, are recognized. Persons who hold such rights of possession may acquire ownership titles on these lands.

Paragraph 1. Only those properties that are registered in the respective inventory conducted by the National Agrarian Reform Bureau shall have the status of possessions in these lands.

Paragraph 2. Non-inventoried properties in the corregimiento of Santa Catalina, district of Bocas del Toro, province of Bocas del Toro, for the preparation of this Law, may be registered by the Agrarian Reform in a period of no more than six months, if their possessors request the recognition of the right of possession.

Article 10. The sale of private properties, as well as of the improvements existing within the Comarca, may be conducted provided that first choice is offered to the Ngöbe-Bugle Comarca. For such purposes, the offer must be sent in writing to the corresponding comarca mayor, who will have up to ninety days to accept or reject it, and an additional ninety days to formalize the transaction. If this right of choice and perfecting the transaction is not used, the person offering the property shall be authorized to sell to third parties but at a price not lower than that offered to the Comarca.

If the private property is acquired by a third party, this new owner shall agree to fulfill the rules established in this Law. Any title or right of possession obtained that is contrary to the provisions in this Law shall be void.

Article 11. Rights of possession shall be transferrable due to death, and the heirs should continue working on or inhabiting the land so that their rights can be recognized, through a procedure submitted to the Agrarian Reform, and sent to the comarca mayor and the area's traditional comarca authorities.

The transfer of the heirs' rights of possession due to acts among the living shall be subject to the right of first choice in favor of the Comarca, established in this Law.

Paragraph. The voluntary abandonment, without pressure or justified cause, of the use of lands with rights of possession for a period of more than two years shall allow these lands to be claimed so that they can be incorporated for the collective use of the Ngöbe-Bugle Comarca. The traditional authority shall make this request to the corresponding comarca mayor, who will submit it to the Agrarian Reform which will resolve it subject to investigation, with transfer to those affected. Once this claim is settled favorably, those lands will form part of the collective property of the Ngöbe-Bugle Comarca, subject to compliance with legal formalities. The Organic Charter shall establish said procedures.

Article 12. The State and the indigenous authorities shall guarantee and respect the right of use and enjoyment of private lands, indigenous and non-indigenous rights of possession, as well as

collective ownership, within the Ngöbe-Bugle Comarca, and shall promote peaceful coexistence within and outside this jurisdiction.

Article 13. Any real estate property, acquired through purchase, barter, donation or incorporation by the Comarca municipalities, within the Ngöbe-Bugle Comarca, shall form part of the collective property of this Comarca, following the procedures established in the Law.

Article 14. The regime for the use or enjoyment of lands slated for collective use by the inhabitants of the Ngöbe-Bugle Comarca shall be regulated in the Organic Charter, with equal rights, following the rules established in the Political Constitution and in accordance with the traditions of the Ngöbe-Bugle people.

Article 15. The traditional indigenous authorities shall duly administer the beneficial use of collective lands, in accordance with the procedures established in the Organic Charter, for the benefit of all residents of the Ngöbe- Buglé Comarca, with equal opportunities for all.

Article 16. The State shall recognize the property titles and rights of possession of all indigenous persons of the Ngöbe-Bugle ethnic group, residing in the area, who are outside the Comarca's boundaries established in accordance with current legal provisions and in accordance with the land tenure inventory conducted by the Agrarian Reform for the preparation of this Law.

Chapter III Governance and Administration

Article 17. The State recognizes the existence of the General Congress of the Comarca as the chief agency for the ethnic and cultural expression and decision making of the Ngöbe-Bugle people. It also recognizes the Local Comarca Congresses for conserving and strengthening the traditions, languages, cultures, unity and integrity of their inhabitants, for economic and social development. Their organization and operation shall be governed by the rules stemming from the Political Constitution, the Law and the Organic Charter.

Article 18. The decisions and resolutions stemming from the Congresses must be subject to the constitutional principles and current laws of the Republic, compliance with which is common for all Panamanian citizens. In the case of violations of the rights of third parties, such decisions may be appealed by those affected, in accordance with the legal rules established in the law and whose procedure must be established in the Organic Charter.

Paragraph. The Organic Charter shall establish the manner in which the General, Regional and Local Congresses will operate and be organized, as well as the manner in which their leaders are elected. Likewise, the Organic Charter shall establish, adjusted to the Constitution and the laws of the Republic, the duties, functions and rights of comarca and elected traditional authorities.

Article 19. The General Congress may appoint permanent or special commissions and these shall safeguard the development of the Ngöbe-Bugle community. The Organic Charter shall regulate their operation.

Article 20. In addition to the General Congress and the Regional Congresses, the Comarca Communication Council shall operate in the Comarca; it shall promote, coordinate and reconcile the activities that are aimed at the integrated development of the Comarca and shall serve as a consultation agency, in accordance with articles 252 and 253 of the Political Constitution.

Article 21. Upon the effectiveness of this Law, the General Congress and the Regional and Local Congresses shall reorganize their traditional administrative authorities, as stipulated in the present Law.

The General Congress shall have a period of no more than two years to determine the term of their respective authorities.

Article 22. The Comarca Coordination Council shall be composed of the corregimiento representatives, the comarca governor, the general chief, the three regional chiefs, the president of the General Congress and the presidents of the Regional Congresses, with voting rights. The following will participate only with the right to speak but not to vote:

1. The representatives of ministries and of autonomous and semi-autonomous State institutions.
2. The legislators of electoral jurisdictions who, as mandated by the Law, were elected in the jurisdictions of the Ngöbe-Bugle Comarca.

Article 23. The Organic Charter shall create Regional Coordination Councils, with the function of participating in the preparation of the region's integrated development plans and in the promotion, evaluation, formulation and implementation of programs.

Article 24. The State recognizes the following traditional authorities of the Ngöbe-Bugle Comarca:

1. The general chief [cacique]
2. The regional chief [cacique]
3. The local chief [cacique]
4. The immediate chief [jefe]
5. The community spokesperson

Their functions shall be those stipulated in the Political Constitution, the Law and the Organic Charter.

Article 25. The Comarca's maximum traditional authority is the general chief, who will have two alternates, elected by the General Congress, through a democratic popular vote, for a period of six years. This election shall be conducted by the General Congress, according to the democratic procedures established in the Organic Charter, based on procedural rules and in accordance with principles established in the Political Constitution.

Likewise, regional and local chiefs shall be elected by their respective Regional and Local Congresses. The Electoral Court shall supervise the elections.

Article 26. Both the general chief and the regional and local chief may be reelected, and may be removed from their positions when they commit duly proven violations to the Organic Charter and the laws of the Republic, or when they commit crimes or misdemeanors clearly defined in the Law.

Paragraph. In the case of temporary or definitive suspension of a traditional authority, the first alternate shall assume the position, as established in the Organic Charter.

Article 27. The general chief's functions and duties are:

1. To coordinate and collaborate with national government and traditional authorities to harmoniously carry out his functions within the Comarca.
2. To represent the Ngöbe-Bugle people and the Comarca.
3. To present a report on his administration to the General Congress.
4. To coordinate, jointly with regional agencies and state and traditional authorities, activities and programs to benefit the communities.
5. To attend the General Congress.
6. To seek peaceful coexistence and understanding between citizens and communities.
7. Any other duty assigned to him by the Organic Charter, in line with the traditions and customs of the population, and that benefits the sustainable economic, cultural, social and moral development of the Ngöbe-Bugle people.

Article 28. In each region there will be a regional chief and two alternates, who will be elected democratically by the corresponding Regional Congress. The regional chief will be the maximum traditional authority of his respective region. The Organic Charter shall establish his functions, as well as coordination and collaboration with the other authorities.

Article 29. The traditional authority of the comarca district is called the local chief, who will be elected democratically, along with two alternates, by the Local Congress.

Article 30. The general chief, the regional and local chiefs of the Ngöbe-Bugle Comarca are the traditional authorities within their respective jurisdictions, and their decisions may be appealed to the higher ranking authority and to the General Congress, in accordance with stipulations in the Organic Charter.

Article 31. The traditional authority of the corregimiento is called the immediate chief who shall be appointed by the local chief from a short-list presented by the spokespersons of the corregimiento's communities. His functions shall be established in the Organic Charter.

The immediate chiefs may be removed by the local chief, subject to consultation with the respective spokespersons.

Article 32. Spokespersons shall be elected by the communities and may be appointed by the corregidor to carry out the functions of regidores. Their functions shall be those indicated in the Organic Charter.

Article 33. In the Ngöbe-Bugle Comarca, there will be a comarca governor, freely appointed and removed by the Executive Agency, who shall represent the President of the Republic and the Executive Agency, with the same functions that, currently and in the future, provincial governors have, provided that they are compatible with the present Law.

Article 34. The functions of the comarca governor are:

1. To represent the Executive Agency at comarca level.
2. To present to the central government the Comarca's needs, and thus coordinate with traditional and elected authorities as well as with corresponding State institutions.
3. To inform the General Congress and the Regional Congress, as well as the Executive Agency, about his activities.
4. To coordinate with the general chief, regional chiefs and presidents of congresses.
5. To contribute to the preparation of the budget and to coordinate, guide, reconcile, aid and ensure that works and programs that promote integrated development are conducted, as

well as the healthy coexistence of the population among themselves and between national government staff and traditional and elected authorities.

6. Other functions that the Law specifies for provincial governors.

Article 35. The budget of the Ministry of Governance and Justice shall consider a budget item for the payment of the salaries of the comarca governor, the general chief, the regional chiefs and the local chiefs of the Comarca, according to their ranking, understanding that alternates will only receive such salary in the periods when they legally occupy the official positions of their superiors.

Paragraph. The State shall provide the resources for the functioning of the comarca government as well as the staff required, and the resources for the payment of salaries considered in this Law or that in the future may be considered necessary, for the proper functioning of the Comarca.

Article 36. In each comarca district there will be comarca mayor, head of the Comarca's municipal administration, who shall be elected by direct popular vote for a period of five years. The State shall provide him with technical assistance through the National Bureau of Local Governments of the Ministry of Governance and Justice, for the proper municipal administration of the Comarca.

Article 37. The comarca districts shall observe the municipal fiscal regime of the Republic and carry out the municipal administration system in the Organic Charter, in accordance with the Political Constitution and other laws of the Republic.

Article 38. The Comarca Municipal Council is the autonomous political organization of the Ngöbe-Bugle community and will have the functions established by the Constitution and the laws of the Republic for municipal councils. It shall be composed of the district's corregimiento representatives, who will have voting rights; but the comarca mayor, the local chief, the comarca treasurer, the president of the Regional Congress, the regional chief and the president Local Congress may speak but will not have voting rights.

Article 39. In the Comarca, where there are populations of indigenous and non-indigenous ethnic groups, a Peace and Reconciliation Committee is created at regional and local level, composed of a representative chosen by each ethnic group or population group: one by each ethnic group, and one by the non-indigenous population.

The Peace and Reconciliation Committee shall have the mission of promoting recognition of and respect for the rights of each population group within the Comarca. The Organic Charter shall regulate the procedure to be followed.

Chapter IV Administration of Justice

Article 40. The Judicial Agency and the Office of the Attorney General [Ministerio Público] shall create in the Comarca the courts, government attorney's offices [fiscalías] and positions [personerías] needed for the administration of justice. Their organization, operation and appointment of personnel shall be subject the current legal provisions.

The administration of justice in the Comarca shall be conducted in accordance with the Political Constitution and the Law, taking into account the cultural situation of the area and in accordance with the principle of healthy criticism.

Article 41. The Comarca authorities shall cooperate with judicial and police authorities in the investigation of crimes, misdemeanors and other violations of the Law.

Chapter V Economy

Article 42. The national government shall annually guarantee, under the General State Budget, the necessary budget items for the proper administration, investment and integrated development of the Ngöbe-Bugle Comarca, which shall be channeled through State institutions with the collaboration of the General, Regional and Local Congresses, and these budget items shall be used according to the plans and programs prepared by the corresponding government authorities, in coordination with indigenous authorities.

The Ministry of Planning and Economic Policy shall design and develop economic self-management policies, and seek financial resources for community development.

It will also prepare the methodology for the preparation of documents that generate projects and are channeled through the General State Budget. The Office of the Comptroller General of the Republic shall oversee the correct use of State resources in the Comarca.

Article 43. The Ngöbe-Bugle Comarca, through the relevant agencies, shall plan and promote sustainable integrated development projects in the communities, with the proper inter-institutional coordination. For these purposes, the State shall provide technical and financial assistance, and the means for marketing and commercializing agricultural, industrial, handicraft production, tourism, etc. will be created.

Article 44. The inhabitants of the Comarca shall receive special consideration from credit agencies in order to carry out credit operations or receive subsidies. The State shall create mechanisms to facilitate the most effective way for the Comarca's producers to obtain credit from public financial entities, through the establishment of forms that are effective for both parties. Likewise, the Comarca may channel resources through credit entities that offer favorable conditions for their self-management projects. The Comarca's districts may also receive grants for any public or private entity, whether an individual or corporation, national or foreign, for the operation of integrated or community development projects. These grants are deductible from the income tax. The Organic Charter shall develop the corresponding procedures.

Article 45. Each ministry or autonomous or semi-autonomous entity may create bureaus or agencies for providing services and for executing budgets or projects, with the aim of promoting sustainable development through activities or programs that are carried out in the Ngöbe-Bugle Comarca, taking into account the multicultural situation of the Comarca.

Article 46. A Commission is created at the highest level for the planning and promotion of the integrated development of the Comarca, with the representation of ministries and state entities, as well as the presidents of Regional Congresses, regional comarca chiefs and the comarca governor, who will seek the most favorable means of achieving the population's participation in the integrated development plans of the Panamanian nation, taking into account their cultural diversity, in accordance with stipulations in the Political Constitution and the Law.

Chapter VI Natural Resources

Article 47. The State is obliged to guarantee adequate compensation, seeking the improvement of the quality of life of those affected, if populations or persons must be moved or relocated due to development plans or projects. In such cases, the necessary consultation, communication and participation mechanisms will be promoted among the Comarca's authorities and the population.

Article 48. The exploration and use of natural resources, salt works, mines, waters, quarries, and mineral deposits of all sorts that are found in the Ngöbe-Bugle Comarca may be carried out under the execution of industrial, agricultural, tourism, mining and energy, and roads development plans and projects, and communications or other projects that benefit the country, in accordance with provisions in the national legislation.

In these cases, the State and the concessionaire shall develop a dissemination program, so that indigenous authorities and communities are informed and may voluntarily present their viewpoints on such projects, which must ensure the population's rights in benefit of and in compliance with the principles of sustainable development and ecological protection, seeking their participation.

In cases where extraction or use is feasible, a prior environmental impact study shall be required, and must include the social impact, taking into consideration the cultural features of the affected population. The result of the study must be presented to the relevant authority, who will give a copy to the indigenous authorities, through the Comarca Coordination Council, so that they can present their observations in a period of no more than thirty days.

Labor relations between the concessionaires for the extraction or use of natural resources and the workers shall be governed by provisions in the Political Constitution and in current labor laws.

Article 49. A tourism development commission is created in each of the Comarca's regions for the preparation of the sustainable tourism development plan and the supervision of project execution, in order to develop areas with tourism development potential. This Commission shall be composed of the Panamanian Institute of Tourism, which will coordinate it, three representatives of the national government, the president of the Regional Congress, the mayor of the comarca district, the corregimiento representative, the regional chief of the respective area, the president of the General Congress and the governor of the Comarca.

Without prejudice to the rights of the Comarca and its inhabitants, according to the present Law and with the objective of promoting investment, a sustainable tourism development zone is created, extending 2000 meters from the coast to the mainland along the entire coast.

The tourism development commission, through the Panamanian Institute of Tourism, is authorized to approve concessions to private companies for tourism investment within the sustainable tourism development zone, for the term established by Law 8 of 1994. Before the concession is approved, the rights of the indigenous communities must be assured and guaranteed.

The resources that are generated under the granted concession will go directly to the respective municipalities and will be invested in works of general interest. The conditions and benefits of the concession will be developed in the Organic Charter.

Paragraph. For purposes of tourism or ecotourism development, the tourism development commission, in coordination with the respective Comarca Municipal Council, may create municipal tourism development zones, in accordance with provisions in the present Law.

Article 50. In addition to legal and constitutional powers, the National Institute of Renewable Natural Resources is also responsible, with the effective participation of the Comarca's authorities, for overseeing the conservation and rational use of renewable natural resources such as the flora or forest cover, soils, fauna and ground and surface waters within the Comarca.

Paragraph. There shall be no industrial development of the resources to which this article refers without the prior authorization of the National Institute of Renewable Natural Resources which shall coordinate, together with the Comarca's authorities, the conservation of the corresponding resources and shall elicit their cooperation to avoid plundering.

Article 51. The Bureau of Marine Resources of the Ministry of Commerce and Industry, together with the Comarca's authorities, is responsible for overseeing the conservation and rational use of marine and lake resources that lie within the Comarca's jurisdiction, in accordance with existing regulations.

Chapter VII Archeological Sites and Objects

Article 52. The cultural heritage of the Ngöbe-Bugle people includes the archeological sites and objects, historical documents and other movable or immovable property that are testimonies to their past and their ancestors and that are found in the area of the Comarca, which shall be subject to the custody of the Comarca's authorities, in coordination with the National Institute of Culture. For this purpose, research shall be promoted and museums or agencies shall be created within the Comarca to allow the preservation, protection, exhibition and recovery of the historical values of the Ngöbe-Bugle people or of any other culture.

Chapter VIII Culture, Education and Health

Article 53. The languages, cultures, traditions and customs of the Ngöbe-Bugle people are recognized; these shall be conserved and disseminated by relevant special agencies that will be created for this purpose and in which the Ngöbe-Bugle population shall participate.

Article 54. Bilingual-intercultural education shall be carried out in the Comarca, in accordance with provisions in Law 34 on Education, planned, organized and conducted by the Ministry of Education in coordination with relevant agencies, specialized educational entities and the Comarca's authorities.

Article 55. The State, through the Ministry of Health, shall conduct special programs in the Comarca in order to ensure the health of the Ngöbe-Bugle population, social assistance, comprehensive community, children's and family health plans, as well as activities for nutritional development that respond to the needs and unique features of local communities. For this purpose, it will provide economic resources, including a special budget, and will create the necessary agencies, without undermining the unique culture, customs and traditions.

The knowledge, innovations and practices of traditional medicine shall be respected, recognized, preserved and maintained.

In cases of epidemics or the emergence of any threat to public health, the Ministry of Health must take the necessary measures aimed at recovering or protecting health, for which it will have the cooperation of the Comarca's authorities.

For the proper execution of these programs, the Ministry of Health shall have the cooperation of other State institutions.

Chapter IX Electoral Jurisdictions

Article 56. For purposes of representation in the Legislative Assembly, electoral jurisdictions shall be created. For the representation of Comarca districts and the Comarca Municipal Councils, the corresponding reorganization shall be conducted in the Ngöbe-Bugle Comarca, subject to provisions in articles 141, 222 and 238 of the Political Constitution and the procedures established in the Electoral Code.

The Electoral Court shall conduct the corresponding study and propose the corresponding legislation, in coordination with the Executive Agency.

Chapter X Temporary Provisions

Article 57. Mayors and corregimiento representatives of the administrative districts created by this Law, and legislators shall be elected by direct vote in the next popular elections, and shall begin to carry out their duties from the date of the corresponding new constitutional period; meanwhile, the authorities, representatives and legislators currently elected in said jurisdictions shall continue to act and carry out their duties.

Chapter XI Final Provisions

Article 58. Escudo de Veraguas Island, which is part of the historic heritage of the Republic of Panama, may not be the subject of private appropriation.

Article 59. Without prejudice to stipulations in the current legislation, a 50-meter land strip will be assigned, within the Comarca's boundaries, on both sides of the oil pipeline, and a 100-meter strip on both sides of the Chiriquí Grande-Gualuca highway that will be allocated for its maintenance; and a 250-meter land strip for the construction of the road that will link Chiriquí Grande and Almirante, which will be determined on the basis of a study by the Ministry of Public Works and the Comarca's authorities. Likewise, the use of sources of rock material, hardpan, clay, sand or any other material needed for the construction and maintenance of public use works shall be guaranteed, subject to authorization by the Ministry of Public Works, at the site where they exist, even outside the reserved strip to which this article refers.

Prior to the construction of this road, an environmental impact study must be conducted, approved by the National Institute of Renewable Natural Resources and by the Comarca's authorities. The Executive Agency, through a decree, shall regulate the non-allocation of lands that are needed for the protection of the indigenous communities residing in the area.

Panama

The same criteria shall be used for the construction of any other means of communication in the Comarca.

Article 60. The present Law shall be developed and regulated through the Organic Charter, which shall be prepared by the Ministry of Governance and Justice, together with the Ngöbe-Bugle General Congress, and the different cultural groups residing in the Comarca shall be represented, for approval through a decree by the Executive Agency.

Article 61. This Law repeals Law 18 of 1934, Law 27 of 1958, as well as Resolution No. 120 of August 9, 1984 by the Ministry of Agricultural and Livestock Development and other laws and provisions not applicable to it; it is a public order and of social interest and it shall become effective upon the date of its enactment.

TO BE COMMUNICATED AND ENFORCED

Approved in the third debate at Justo Arosemena Palace, Panama City, on the 28th day of the month of January of one thousand nine hundred ninety seven.

The President
César A. Pardo R.

The General Secretary
Víctor M. de Gracia M.

NATIONAL ASSEMBLY, REPUBLIC OF PANAMA

ANNEX 7.2

UNOFFICIAL TRANSLATION OF LAW 72 OF 2008

LAW 72
of December 23, 2008

Which establishes the special procedure for the granting of collective ownership of lands of the indigenous peoples who are not within comarcas

THE NATIONAL ASSEMBLY
DECREES:

Chapter I
General Provisions

Article 1. The objective of this Law is to establish the special procedure for the free granting of collective ownership of lands traditionally occupied by indigenous peoples and communities, in compliance with article 127 of the Political Constitution of the Republic of Panama.

Article 2. For the purposes of this Law, the following terms shall be understood in this manner:

1. *Indigenous peoples.* Human groups that descend from populations in the country or in a geographic region to which the country belonged from the era of conquest or of colonization or of the establishment of the current state borders and that, whatever their legal status may be, conserve their own social, economic, cultural, linguistic and political institutions.
2. *Traditional occupation.* Tenure, use, conservation, management, possession and usufruct of the lands of the indigenous peoples defined in this article, transmitted from one generation to another.

Article 3. The title of collective ownership of lands guarantees the economic, social and cultural well-being of the persons who inhabit the indigenous community. To achieve these ends, the traditional authorities will maintain close collaboration with municipal, provincial and national authorities.

Chapter II
Procedure for Recognition and Granting of Collective Lands

Article 4. The State, through the National Bureau of Agrarian Reform of the Ministry of Agricultural and Livestock Development, shall recognize the lands traditionally occupied by the indigenous peoples and shall grant to them the title of collective ownership, according to the procedure established in the present Law.

Article 5. For the purposes of the granting of collectively owned lands, the authorities of the indigenous peoples and communities shall present the respective request, either individually or jointly. The National Bureau of Agrarian Reform shall address promptly and give priority to granting the respective collective title to the community, represented by its traditional authorities.

Article 6. The request for the collective title must be accompanied by the following documents:

1. The plan or sketch of the area that is the subject of the request.
2. The certification by the Office of the Comptroller General of the Republic of the community's population census.
3. The certification by the National Bureau of Indigenous Policy of the Ministry of Governance and Justice, of the existence of the requesting community or communities, based upon prior reports and studies.

The respective State institutions shall issue the indicated documents in a period of no more than thirty days and for free.

Article 7. The National Bureau of Agrarian Reform shall immediately admit the request that complies with the statements in the above article, order the in situ inspection subject to notification of the requestors, and facilitate the paperwork necessary for the recognition of collective ownership envisaged in the present Law.

Article 8. The National Bureau of Agrarian Reform shall resolve cases of opposition to the request for granting the title of collective land ownership. In these cases, the National Bureau of Agrarian Reform shall first hold a conciliatory hearing in order to reach a friendly agreement. Should the opposition to the request for a collective land ownership title subsist, it shall resolve the matter in accordance with the laws. The resolution issued allows the recourse of reconsideration and appeal to the Ministry of Agricultural and Livestock Development, which utilizes the governmental route.

Article 9. Once the corresponding paperwork has been completed, the National Bureau of Agrarian Reform shall issue the title of collective land ownership to the indigenous group, which is indefeasible, non-transferrable, non-attachable and inalienable.

Article 10. The allocations that are made in accordance with this Law shall not jeopardize existing property titles and the rights of ownership certified by the National Bureau of Agrarian Reform.

Chapter III Final Provisions

Article 11. The mechanism of community conciliation and mediation is instituted to resolve the conflicts that may arise over titles granted in accordance with the present Law and current laws related to the matter.

The Central or Municipal Government is responsible for the creation of community conciliation and mediation centers that may be necessary to promote the peaceful solution of conflicts in the collective lands that are granted.

Article 12. In the case of usurpation or invasion of lands recognized through the title of collective ownership, the relevant authorities must enforce the ownership rights of such areas.

Article 13. The National Environmental Authority shall coordinate with the traditional indigenous authorities of each community on the actions and strategies to execute a plan for the sustainable use of natural resources and community development, in the case that the lands are recognized as part of the National System of Protected Areas.

Article 14. Governmental and private authorities shall coordinate with traditional authorities on the plans, programs and projects that are carried out in their areas, in order to ensure the free, prior and informed consent of the indigenous peoples and communities.

Article 15. The Executive Agency, under the Ministry of Governance and Justice, through an executive decree, shall recognize the traditional form of organization, the culture and the authorities of the indigenous peoples who hold titles of collective land ownership, and it shall establish procedures for coordination between these and elected or appointed national authorities.

Article 16. The State shall allocate the necessary funds for the delimitation of the collective lands that are granted in compliance with the present Law.

Article 17. The Ministry of Governance and Justice, through an executive decree, shall adopt the Organic Charter of the Teribe Comarca Indigenous Corregimiento of the Changuinola District in the province of Bocas del Toro.

Article 18. The Executive Agency shall regulate the procedure for the application of the present Law.

Article 19. This Law shall become effective on the date of its enactment.

TO BE COMMUNICATED AND ENFORCED

Bill 411 of 2008 approved in the third debate at Justo Arosemena Palace, Panama City, on the 3rd day of the month of December of the year two thousand eight.

The President,
(signed)
Raúl Rodríguez-Araúz

The General Secretary
(signed)
Carlos Smith S.

NATIONAL EXECUTIVE AGENCY, OFFICE OF THE PRESIDENT OF THE REPUBLIC,
PANAMA, REPUBLIC OF PANAMA, DECEMBER 23, 2008

(signed)
Martín Torrijos Espino
President of the Republic

(signed)
Dilio Arcia Torres
Minister of Governance and Justice

ANNEX 7.3

UNOFFICIAL TRANSLATION OF LAW 18 OF 2009

LAW 18
of February 26, 2008

**Which creates corregimientos in the districts de Chiriquí Grande
and Changuinola in the Province of Bocas del Toro**

THE NATIONAL ASSEMBLY

DECREES:

Article 1. The following are created in the province of Bocas del Toro: in the district de Chiriquí Grande, the corregimiento of Bajo Cedro, separated from the corregimiento of Punta Róbaló, and in the district de Changuinola, the corregimiento of Nance de Riscó, separated from the corregimiento of Valle de Riscó, the corregimiento of Valle de Agua Arriba, separated from the corregimiento de Almirante, the corregimiento of Las Delicias, separated from the corregimiento de Las Tablas, the corregimiento of Cochigró and the corregimiento of La Gloria, separated from the corregimiento of El Empalme, whose boundaries are determined in this Law.

Article 2. The heading is modified and number 6 is added to article 18 of Law 5 of 1998, as follows:

Article 18. The district of Chiriquí Grande is divided into six corregimientos, i.e.: Chiriquí Grande (capital), Miramar, Punta Peña, Punta Róbaló, Rambala and Bajo Cedro.

The capital of the district of Chiriquí Grande is the town of Chiriquí Grande.
The boundaries of the corregimiento de Chiriquí Grande are the following:

6. Corregimiento of Bajo Cedro
 - a. With the corregimiento of Punta Róbaló:
From the mouth of Vaca de Leche creek on the Laguna of Chiriquí, upstream along this creek to where it crosses the line that demarcates the Ngöbe-Buglé Comarca in the Comarca District.

Article 3. The capital of the corregimiento of Bajo Cedro shall be Bajo Cedro and the communities that form it are: Bajo Cedro (capital), Valle Sarón, Puente de Río Auyama, Escobal, La Garza, Loma Venado and La Conga.

Article 4. The corregimiento of Punta Róbaló shall be formed by the communities and populations that have not been separated from its district in accordance with the present Law.

Article 5. The political-administrative boundaries of the corregimiento of Valle de Agua Arriba are:

1. With the corregimiento of Almirante:
From a point with coordinates UTM355650m and 1023900m in the archipelago of Bocas del Toro, in a straight line westward to the mouth the Oeste river in the Bahía de Ambrosia; this river continues to a point with coordinates UTM346154mE and 1023114mN on the bridge of said river; from there, continuing along Almirante Ridge until meeting the source of Santos creek, downstream along this creek to where it empties into the Oeste river, continuing along this river to a branch of the Oeste river, heading

- upstream along this branch of the river to its source, a point with coordinates UTM338200mE and 1027100mN.
2. With the corregimiento of Cochigró:
From the source of the Oeste river on Riscó Ridge, in a straight line northward to the source of a branch of the Oeste river, at a point with coordinates UTM338200mE and 1027100mN.
 3. With the corregimiento of Valle de Riscó:
From the source of the Oeste river on Riscó Ridge, continuing along this entire ridge to the boundary with the district of Bocas del Toro, until reaching a point with coordinates UTM355650mE and 1023900mN in the archipelago of Bocas del Toro.

Article 6. The capital of the corregimiento of Valle de Agua Arriba is Valle de Agua Arriba and the communities that form it are: Nueva Estrella, Quebrada Pastor, Quebrada Pitti, Loma Azul, Valle de Agua Arriba (capital), Valle de Agua Abajo, Quebrada Cacao, Resource, Río Oeste Abajo, Río Oeste Arriba and Valle de La Perla.

Article 7. The corregimiento of Almirante shall be formed by the communities and populations that have not been separated from its district in accordance with the present Law.

Article 8. The political-administrative boundaries of the corregimiento of Nance de Riscó are:

1. With the corregimiento of Cochigró:
From elevation 1789m, continuing in a straight line southeastward to elevation 1578m; from there continuing in a straight line to the headwaters of Boca Chica creek; following this creek downstream to where it empties its waters into the Changuinola river; from this point following this river upstream to where the Riscó river empties its waters into it.
2. With the corregimiento of Valle de Riscó:
From where the Riscó river empties its waters into the Changuinola river, upstream along the Riscó river to where it receives waters from an unnamed creek, heading upstream along this creek to where it is crossed by the road that leads from the community of Manchuído or Quebrada Pluma to Charco La Pava, then continuing along this road until reaching the Changuinola river, heading upstream along this river to where the Culubre river receives its waters, moving upstream along the latter river to where it receives waters from an unnamed creek, following upstream along this creek to its source, from there in a straight line to elevation 1067m, from this elevation heading in a straight line southeastward to the source of an unnamed creek, downstream along this creek to where it empties its waters into the Estrellita river, from this junction heading in a straight line southeastward to where an unnamed creek joins Montezuma creek, continuing along this unnamed creek to its source, from there in a straight line southwestward to where an unnamed creek empties its waters into the Playita river, upstream along this river to its source, from this point in a straight line eastward to a point with coordinates TM329400mE and 983075mN in the Central Cordillera, the boundary between the provinces of Bocas del Toro and Chiriquí.
3. With the corregimiento of El Teribe:
From elevation 1789m where the waters divide, continuing along said divide, passing elevations 2000, 2069, 2197, 2485, 2693, 2955 and 3200m, until crossing the international border with the Republic of Costa Rica.

Article 9. The capital of the corregimiento of Nance de Riscó shall be Nance de Riscó and the communities that form it are: Nance del Riscó, Boca Chica, Bajo La Esperanza, Changuinola Arriba, Charco La Pava, Valle Rey, Culubre Arriba, Culubre Abajo, Guayacán, Ceiba, Valle Libre, Bajo Gavilán, Guayabal and Alto Romero.

Article 10. The corregimiento of Valle de Riscó is formed by the communities and populations that have not been separated from its district in accordance with the present Law.

Article 11. The political-administrative boundaries of the corregimiento of Las Delicias are:

1. With the corregimiento of Las Tablas:
From a point with coordinates UTM 3023673mE and 1061040 on the banks of the Sixaola river, in a straight line to Loma de Tigre, from there in a straight line southwestward to the road that leads from the community of El Valle de Sinostre to the community of Agua de Salud; continuing along this road to a point with coordinates UTM301350mE and 1055500mN, from there following the divide between the Sibube and Inche rivers, until reaching the source del San San river.
2. With the corregimiento of El Teribe:
From the source of the San San river, continuing in a straight line southeastward to elevation 698m; from here continuing in a straight line southward to the source of the Boroni river, continuing along the divide to where Yorkin creek empties its waters into the Teribe river; following the Teribe river upstream to the intersection with the international border with the Republic of Costa Rica.

Article 12. The capital of the corregimiento of Las Delicias is Las Delicias and the communities that form it are: Las Delicias Arriba, Las Delicias Abajo, Guaba de Yorkin, Agua de Salud, Palmita, Dakles, Namuwuoki, El Valle de Sinostre, Santa Clara, Sibube, Sibube Adentro, Sinostre, Soroy, Yorkin and Alto Yorkin.

Article 13. The corregimiento of Las Tablas is formed by the communities and populations that have not been separated from its district in accordance with the present Law.

Article 14. The political-administrative boundaries of the corregimiento de Cochigró are:

1. With the corregimiento of La Gloria:
From where the Teribe river empties its waters into the Changuinola river, in a straight line southeastward to an unnamed creek that crosses Selvira creek, upstream along this unnamed creek to its source. From there heading in a straight line southwestward to elevation 196m on Sursuba Ridge, continuing along this ridge to a point with coordinates UTM 338375mE and 10278mN, from there heading in a straight line northeastward to the source of a branch of Banano creek, downstream along this creek to where it meets Banano creek, and heading upstream along this creek to its source.
2. With the corregimiento of Teribe:
From where the Teribe River empties its waters into the Changuinola River, continuing upstream along this river to where Sori creek flows into it, following upstream along this creek to its source and from there following along the divide of the Bonyic river watersheds and Cochigró, El Guabo and Boca Chica creeks, passing by the Kankintú, from there continuing along this boundary line to the mouth.
3. With the corregimiento of Punta Róbal:
 - a. With the corregimiento of Miramar:
From the mouth of Pavón creek on the Laguna de Chiriquí, following upstream along this creek until meeting the Comarca's boundaries.
 - b. Corregimiento of Bajo Cedro:
From the mouth of Vaca de Leche creek on the Laguna de Chiriquí, moving upstream along this creek to where it crosses the line of demarcation of the Ngöbe-Buglé Comarca in the Kankintú comarca district, from there continuing along this line of demarcation to the mouth of the Auyama river on the Laguna de Chiriquí, heading from there in a

- straight line eastward to a point with coordinates UTM 355650mE and 1023900mN and elevations 1221m and 1485 to elevation 1789m on the boundaries of the corregimiento of Nance de Riscó.
4. With the corregimiento of Nance de Riscó:
From elevation 1789m, heading in a straight line southeastward to elevation 1578m, from there continuing in a straight line to the headwaters of Boca Chica creek, following this creek downstream to where it empties its waters into the Changuinola river, from this point following along this river upstream to where the Riscó river empties its waters into it.
 5. With the corregimiento of Valle de Riscó:
From where the Riscó river empties its waters into the Changuinola river, continuing in a straight line northeastward to the source of the Oeste river on Riscó Ridge.
 6. With the corregimiento of Valle de Agua Arriba:
From the source of the Oeste river on Riscó Ridge, heading in a straight line northward to the source of a branch of the Oeste river, a point with coordinates UTM338200mE and 1027100mN.
 7. With the corregimiento of Almirante:
From the point with coordinates UTM338200mE and 1027100mN, continuing in a straight line northward to a point with coordinates UTM338375mE and 1027850mN.

Article 15. The capital of the corregimiento of Cochigró is Cochigró and the communities that form it are: Cochigró, Buena Selva, Sori Arriba, Sori Abajo, El Guaba, Quebrada Puerco, La Mina, Sursuba, Corriente Grande, Boca Chica, Venado and Cableria.

Article 16. The political-administrative boundaries of the corregimiento of La Gloria are:

1. With the corregimiento of Changuinola:
From the mouth of the Changuinola river on the Caribbean Sea, heading upstream along this river to where it joins the waters of Banano creek.
2. With the corregimiento of El Empalme:
From where Banano creek joins the Changuinola river, continuing upstream along this creek to its source, from there heading in a straight line northwestward to a point with coordinates UTM335312mE and 1038815mN at the entrance to the community of Loma Bonita, from this point continuing in a straight line southwestward to the source of an unnamed creek, heading downstream along this creek to where it empties its waters into the Changuinola river, continuing along this river to where the Teribe river empties its waters into it.
3. With the corregimiento of Cochigró:
From where the Teribe river empties its waters into the Changuinola river, in a straight line southeastward to an unnamed creek that crosses Selvita creek, continuing upstream along this unnamed creek to its source. From there, continuing in a straight line southwestward to elevation 196m on the Sursuba Ridge, continuing along this ridge to a point with coordinates UTM338375mE and 1027850mN, from there continuing in a straight line northwestward to the source of a branch of Banano creek, heading downstream along this creek to where it joins Banano creek, continuing upstream along this creek to its source.
4. Corregimiento of Almirante:
From the source of Banano creek, in a straight line northeastward to the source of the Banano river, continuing downstream along this river to its mouth at the Bahía de Almirante.

Article 17. The capital of the corregimiento of La Gloria is La Gloria and the communities that form it are: La Gloria (capital), Milla 7 1/2, Milla 10, Quebrada Banano, La Esperanza, Loma Brava, Loma Bonita, Loma Muleto, Junquito, Valle Junquito, Bella Vista, Alta Vista, Boca de Junco and San Juan.

Article 18. Article 6 of Law 1 of 1982 thus reads:

Article 6. The district of Changuinola is divided into twelve corregimientos, i.e.: Changuinola (capital), Almirante, Guabito, El Teribe, Valle de Riscó, El Empalme, Las Tablas, Valle de Agua Arriba, Nance de Riscó, Las Delicias, Cochigró and La Gloria. The district's capital is the community of Changuinola.

Article 19. The corregimiento of El Empalme is formed by the communities and populations that have not been separated from its district in accordance with the present Law.

Article 20. The Ministry of Governance and Justice, the Ministry of Economy and Finance, as well as the National Institute of Statistics and Census of the Office of the Comptroller General of the Republic should provide advice to the municipalities of Chiriquí Grande and Changuinola in the province of Bocas del Toro, on all matters concerning the organization, operation and administration of these new corregimientos.

Article 21. The election of representatives of the new corregimientos that are created by virtue of this Law shall take place in the 2014 election period, in accordance with the provisions of electoral legislation. However, the corregimiento representatives and the police authorities of the corregimientos subject to separation shall continue exercising their duties until such election takes place.

Article 22. This Law modifies article 6 of Law 1 dated October 27, 1982 and the heading of article 18 of Law 5 dated January 19, 1998, and adds number 6 to article 18 of Law 5 of January 19, 1998.

Article 23. This law shall become effective upon its enactment.

TO BE COMMUNICATED AND ENFORCED

Bill 464 of 2008 approved in the third debate at Justo Arosema Palace, Panama City, on the 31st day of the month of December of the year two thousand eight.

The President
(signed)
Raúl E. Rodríguez Araúz

The General Secretary
(signed)
Carlos José Smith S.

NATIONAL EXECUTIVE AGENCY, OFFICE OF THE PRESIDENT OF THE REPUBLIC,
PANAMA, REPUBLIC OF PANAMA, February 26, 2009

(signed)
MARTIN TORRIJOS ESPINO
President of the Republic

(signed)
DILIO ARCIA TORRES
Minister of Governance and Justice