

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

Mr. Enrique Iglesias, President
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Dear President Iglesias:

As the Inter-American Development Bank prepares to finalize its Draft Operational Policy on Indigenous Peoples, I would like to take this opportunity to express my grave concerns about the process. To date, the IDB has only scheduled one on-site consultation to discuss the actual draft of the Operational Policy, which was recently held August 21-22, 2005 in San Jose, Costa Rica. Although a prior round of consultations was organized last year, those consultations focused exclusively on the profile of the policy. The current draft of the Operational Policy differs significantly from the profile. It is extremely disappointing that, as of yet, no additional consultations have been planned to give indigenous representatives and organizations ample opportunity to engage in meaningful dialogue with the IDB about the substance of the recently published draft of the policy.

Given that only one consultation was to be held, the Indian Law Resource Center contacted the Indigenous Peoples and Community Development Unit to register for the consultation. We were informed by Mr. Carlos Perafán, acting as Interim Chief of the Indigenous Peoples Unit, that the Indian Law Resource Center could not participate because the Center was not considered to be a grassroots indigenous organization based in a borrower country. The Indian Law Resource Center exchanged correspondence with the Unit, requesting an explanation about what criteria were being used to select participants; how such criteria were chosen; and why such criteria were not documented publicly (see attached letters from the Center). Given that the Indian Law Resource Center is an indigenous organization founded and directed by indigenous peoples, and has been active at the IDB regarding indigenous rights for many years- including as legal counsel for indigenous nations in borrowing countries-, we felt that we were entitled to participate in the consultation and to receive a detailed response to our questions.

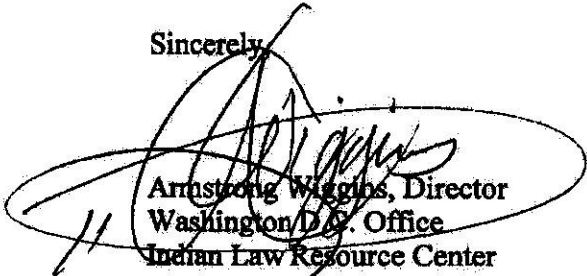
Since we did not receive any satisfactory answers (see attached letter from Mr. Perafán), the Indian Law Resource Center attended the consultation in San Jose, Costa Rica against the instructions of the Unit. We continue to be extremely concerned about the manner in which indigenous

representatives and organizations that did not receive a direct invitation from the IDB, were excluded from the process. Since information was not publicly available about the consultation, indigenous representatives who may have had a desire to participate were denied the possibility of attending. By failing to make information available in a public and transparent manner, and by restricting participation to only those representatives that were hand-selected by the IDB, it seems that the Unit was seeking to control or manipulate the consultation and its outcome. We strongly object to such practices and would like to hear from yourself and other IDB officials regarding the manner in which the consultation was organized, and why the Indian Law Resource Center's participation was denied. We are not aware of other situations in which the IDB has restricted participation in its consultations to groups that are only selected by the IDB to attend, or to organizations from borrower countries. Such restrictions seem undemocratic and arbitrary.

The IDB's Operational Policy on Indigenous Peoples merits close scrutiny, as it is the first policy of its kind to be adopted by the Inter-American Development Bank. As written, the current draft policy does not fully safeguard indigenous peoples' customary rights to their lands, territories, and natural resources as guaranteed under international human rights law. In addition, the policy lacks clear language that delineates when the safeguards will be triggered, under what conditions, and how they are to be operationalized. Indigenous representatives and organizations deserve sufficient time to study the current draft of the policy and its implementation mechanisms, and to engage in a meaningful dialogue with IDB officials about their concerns. Without a strong policy, indigenous peoples' lands and territories stand to be severely threatened by future IDB activities and projects.

We look forward to your response regarding the manner in which the Center's request to participate in the consultation was handled by the Unit. We also look forward to hearing about how the IDB will ensure that all interested indigenous representatives and organizations will be able to participate fully and effectively in the finalization of the policy.

Sincerely,



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