

AIDSESEP

Letter n. -2010-AIDSESEP

Lima, September 9, 2010

Mr. Antonio Brack Egg

Minister of the Environment

Re: Opinion of the second draft of the Readiness Proposal (RPP) of Peru for the Forest Carbon Partnership Facility (FCPF)

Dear Sir,

It is a pleasure for me to greet you on behalf of the indigenous peoples of the Amazon and with this letter I wish to share our opinion on the second draft of the FCPF R-PP for Peru and the deep concern of the indigenous peoples of our Amazon as regards the ongoing FCPF process in Peru. We already conveyed our points to the World Bank in Guyana last June and to your office with a letter N. 274-2010-AIDSESEP.

We wish to inform that AIDSESEP has taken part in some discussion groups on the REDD Readiness document (so-called R-PP), together with public officials and NGOs. We hereby state that in the brief period of time in which we have monitored the process, we found this to be an unpleasant experience. The whole of AIDSESEP demands (new communities, enlargements, communal and territorial reserves) have not been taken on board, thereby bringing evidence of the fact, interests and contradictions of REDD.

Once more, we take note that MINAM's insistence in indigenous participation is not consequent: only part of what we said has been considered and - if so - this was done in an erroneous manner, misrepresenting an information process as consultation. This was giving the impression of having engaged indigenous peoples in the REDD process, up until euros and dollars arrive, and then state bureaucracy and its allies in the conservative environmental circles will sideline us and spend their REDD millions to give a job to the same old friends.

Just to give an example: the R-PP includes projects for less than 17 million USD, and not a cent to solve the pending issue of regularization of titling of indigenous lands. (new communities, enlargements, communal and territorial reserve) and this will be a source of conflicts created by overlapping REDD contracts.

For this reason we are sending hereby a detailed commentary quoting original text and specific pages, to make it easier for you to identify the comments related to the specific parts of the R-PP document:

1. 1. As it stands now, the draft Forest and Forest Fauna law currently being debated in 2 Commissions of the Congress of the Republic under N.04141/2009-PE, (thus ignoring the Commission of Andean, Amazon, and Afro-peruvian peoples, environment and ecology) will NOT improve "*forest governance*" (pages 4, 65), nor will it improve the political level of the Directorate for Forests and Forest Fauna. It will rather abandon more than 12 million hectares of forests of indigenous peoples to their fate, giving preference to forestry concessions, plantations (biofuels), tourist concessions, etc that together with the legislation for the change of use of soil to permanent production (Supreme Decree N. 017-2009-AG) represent in practice new modalities of "*latifundio*" in the Amazon;

2. 2. The draft R-PP document does not clearly specify that one of the root causes of deforestation and degradation (page 5; page 50) is the illegal and indiscriminate logging of forests deriving from various factors of local, national and international mafias of different nature, that operate together to maintain illegality and impunity;
3. 3. Among the goals of the FIP (Forest Investment Programme), of MINAM, there is no reference to the pending regularization of titling of land in spite of a written request AIDSESEP sent to MINAM. New communities, enlargement, communal and territorial reserves are areas on which REDD concessions and contracts are slated to be imposed, thereby generating increasing conflicts. This has been repeatedly pointed out to MINAM, and if they do not take this into consideration, it is because they apparently have an “*anti-indigenous*” position, beyond demagogic references to “*indigenous participation*”;
4. 4. Text in page 10 refers to something that does not exist and does not work. It is false that INDEPA “*is coordinating the conclusion of territorial titling with COFOPRI*”. This is untrue, since titling has never started, but rather, both entities oppose to titling, saying that they have no funds, while they in fact promote parcelization and division of titles;

Moreover, INDEPA is an entity that has shown its marginalization in the State, being subject to continuous reorganizing, and once more merged in the new Ministry of Culture, thereby diminishing its relevance, having originally been established within PCM. For this reason, we believe that these “*reorganizations*” reflect a State strategy to have a weak entity in charge of indigenous rights;

1. 5. In pages 12 and 13, there is reference to indigenous organizations, that “*participate to discuss and propose*”. This is just declarative, because AIDSESEP has advanced many proposals in meetings in Lima and Tarapoto, San Ramon and Cusco, as well as in writing and none of these has been taken into account. For this reason, we believe that our participation has been “*ornamental*” and seemingly even used to “sell” abroad what the State does not deliver home;
2. 6. In page 13, there is only reference to laws under discussion that will support REDD, such as the forestry law, or the law on prior consultation, but no explanation is given that the former does not prioritize autonomous management of indigenous forests, while in the latter the Executive envisages a law of prior consultation that is below the minimum requirements of the Convention ILO 169, and hence anti-constitutional;
3. 7. Among the main issues under analysis in the REDD strategy (page 15), including concrete projects (p. 54) AIDSESEP proposals are ignored, especially as regards unresolved regularization of land titling, the definition that plantations are not forests, indigenous land management and others. Hence the functions attributed to the Grupo de Trabajo REDD (GTREDD) (page 18) are only declaratory and there is no political will to support effective democratic participation;
4. 8. Page 20 mentions AIDSESEP’s contribution and participation, but this will have to be clarified since while we have indeed taken part, NONE of our key proposals has been taken into account – notably pending regularization of titling of land, (new communities, enlargements, communal and territorial reserves) – and hence we can conclude that our participation was “ornamental”. Furthermore, no mention is made of the fact that AIDSESEP has taken a position on REDD, and that at least this should be mentioned in the document. The failure to do so is another form of antidemocratic management of the process;
5. 9. References to the outcome of the National Coordination Group of the working

groups (page 21) are misleadingly generic, since the reality is that the government had no political or technical interest in approving and then implementing the outcomes, in particular as regards the forestry law, and the law on prior consultation, where criteria being imposed are against indigenous peoples and run counter to ILO 169;

6. 10. As far as prior consultation is concerned (p. 23-25, 65) - again - only generic information are provided and are misleadingly limited to inform about the approval of a law, while ILO169 has been in force for the last 15 years. No reference is made to the fact that the law currently under discussion in the Congress of the Republic, is a STEP BACKWARDS from what had been agreed upon last May 19th, since it limits consultation to areas with property titles, to those indigenous peoples that are directly affected (and not those that are indirectly affected), and the elimination of the conditions listed in article 7 of ILO 169, and to the imposition of what the State wants if no agreement is met. The framework of rights as envisaged in page 24, does not include our proposal related to “*the right to be prioritized, to decide and control strategies of self-development*” as per art. 7 of ILO 169, as well as art. 23 of the UN Declaration of the Rights of Indigenous Peoples (UNDRIP);
7. 11. As far as consultation with indigenous peoples is concerned, (pages 25-26) there are various paragraphs and even a graph of the levels of indigenous organizations, that are only meant to impress the reader and resemble a democratic process. These are only descriptions of what “*should*” be done in the future, for the procedure (consultation) - but what would it be for , if in the content we still experience the same marginalization and inequality of rights? If what is being proposed now (pending regularization of land titling and others) is not taken into account, what can we expect next? We do not expect good language and texts, but rather acts and a concrete and transparent political will in the execution of the R-PP;
8. 12. As far as land tenure and overlapping of indigenous property titles with concessions are concerned (page 34), these are still not addressed, in spite of the fact that these are key issues. In spite of the repeated appeals by AIDSESEP, the competent public authorities are ignoring as many as 300 communities that have ancestral titles and therefore should be taken into consideration. These communities’ property titles have been denied and the same happened to the broadening of titling and territories of almost 500 communities due to the fact that these had been titled more than 30 years ago, and that there is resource scarcity due to population growth. Studies and proposals that have been produced to create communal and territorial reserves (for peoples in isolation) are “*decaying*” in the Ministry’s shelves. **ALL THESE AREAS ARE FORESTS, where conflicts may arise with REDD contracts, and therefore it is worth noting that this issue is not taken into due account in the R-PP**
9. 13. We do not agree with the declaration of acceptance by the Peruvian state (p. 29) to the dictatorial dispositions of the United States, China and other countries, as contained in the erroneously denominated “*Copenhagen Accord*” where REDD for instance seems to be disconnected from the rights as envisaged in ILO169. An acceptance conditioned to money for bureaucratic programs without participation nor benefit for indigenous peoples;
10. 14. The project “*Conservation of communal forests*” (page 56) that is being proposed for Satipo (Quillabamba) will just give a sedative to an area stricken by cancer, because there is no concrete technical proposal, nor are mechanisms envisaged to solve the problems that are affecting that area and its natural resources. These communities have been put in areas or 100-200 hectares that are quite exploited, and rather than respecting their right to territorial enlargement, this project denies it, and concentrates on actions to reclaim those forests, something that is important but not crucial, nor would it prevent the serious threat of

extinction of these peoples;

11. 15. We do not accept that the fundamental issue is being ignored and that no money is allocated for the pending regularization of titling of land, and this is referred to only as a “critical problem” (page 71) with the attempt of confusing or substituting this with a project for “*communal forest conservation*” for which no budget is envisaged, while on the contrary as many as 40 million USD are allocated to regional governments for “*forest conservation*”. Nevertheless, the budgets for other projects are well detailed: 1,252,500 USD for studies, (table 2b, Strategies), consultations on zoning, “*improvement*” of State bureaucracy, strategy design (page 60); more than 250,000 USD for additional studies and provide market guarantees for REDD (table 2c, “*implementation frame work*”), (page 68); more than 250,000 USD for additional environmental and social impact studies (Table 2d, page 74); more than 1,600,500 USD to develop the implementation of REDD in Madre de Dios and San Martin, where no mention is made of indigenous communities (Table 3a reference scenario, page 81); more than 3,414,000 USD for the monitoring system (page 88) more than 10,023,000 for monitoring and indicators of other environmental benefits. Mr. Minister please stop with this waste without tackling the priority issues that Amazonian indigenous peoples coordinated by AIDSESEP have identified in the letters sent to your office!
12. 16. As far as relevant legislation is concerned, (page 63) the United Nations Declaration on the rights of Indigenous Peoples is excluded, and this has to be corrected and thereby UNDRIP has to be included since the Peruvian State voted in favour of such Declaration, beyond being the Declaration part of international human rights norms;
13. 17. Among the “*doubts*” related to REDD (page 66) only reference is made to lack of economic and market incentives, and no mention is made to the conflict triggered by the Government’s decision to approve law decrees analyzed in the Mesa (Table) 2 that aim at approving a law on consultation that does not respect the minimum prerequisites of ILO 169, is against indigenous peoples, and that does not envisage a requirement for consultation with indigenous peoples for forest areas (from their alienation to use) and “*indirect effects*” of any project (art. 7 ILO 169);
14. 18. The supposed indigenous participation is envisaged “**before**” funds are disbursed, because as regards their management within the REDD institutional frame work (page 95), there is a allocation of responsibilities among officials of MINAM, MINAG, DGFFS, SERNAN, etc. No reference is made of indigenous organizations, not even in declaratory terms;
15. 19. Again, “*prior consultation*” is misinterpreted as being the same of “*information workshops*”. For instance the section in page 142 titled Consultation plan refers only to information workshops in accordance with the decision of the Constitutional Court;
16. 20. AIDSESEP and CONAP proposals (page 146) are proposals originating from the Amazonian indigenous bloc. Nevertheless, they are mentioned in a very generic manner, like in the case of “*regularization of land titling*” that is hinted to as a “*problem*”, “*challenge*”, “*what they ask for*” etc. and downplayed throughout the whole document. Additional information was not included in the document, such as:
 - - prior information on conflicts generated by REDD in the world
 - - no consideration of plantations since these are not forests
 - - no acceptance of the destructive and immoral legitimization of “*continuing to emit*”

toxic substances” and paying for dumping sites elsewhere in the world

- - include clauses giving overriding force to ILO169 and the UNDRIP among others in REDD policies, strategies and possible contracts.

Looking forward to your reply, I remain

Yours sincerely

Segundo Alberto Pizango Chota

President

AIDSESEP