

## **FINAL REPORT**

**Of the Panel of the Independent Investigation Mechanism**

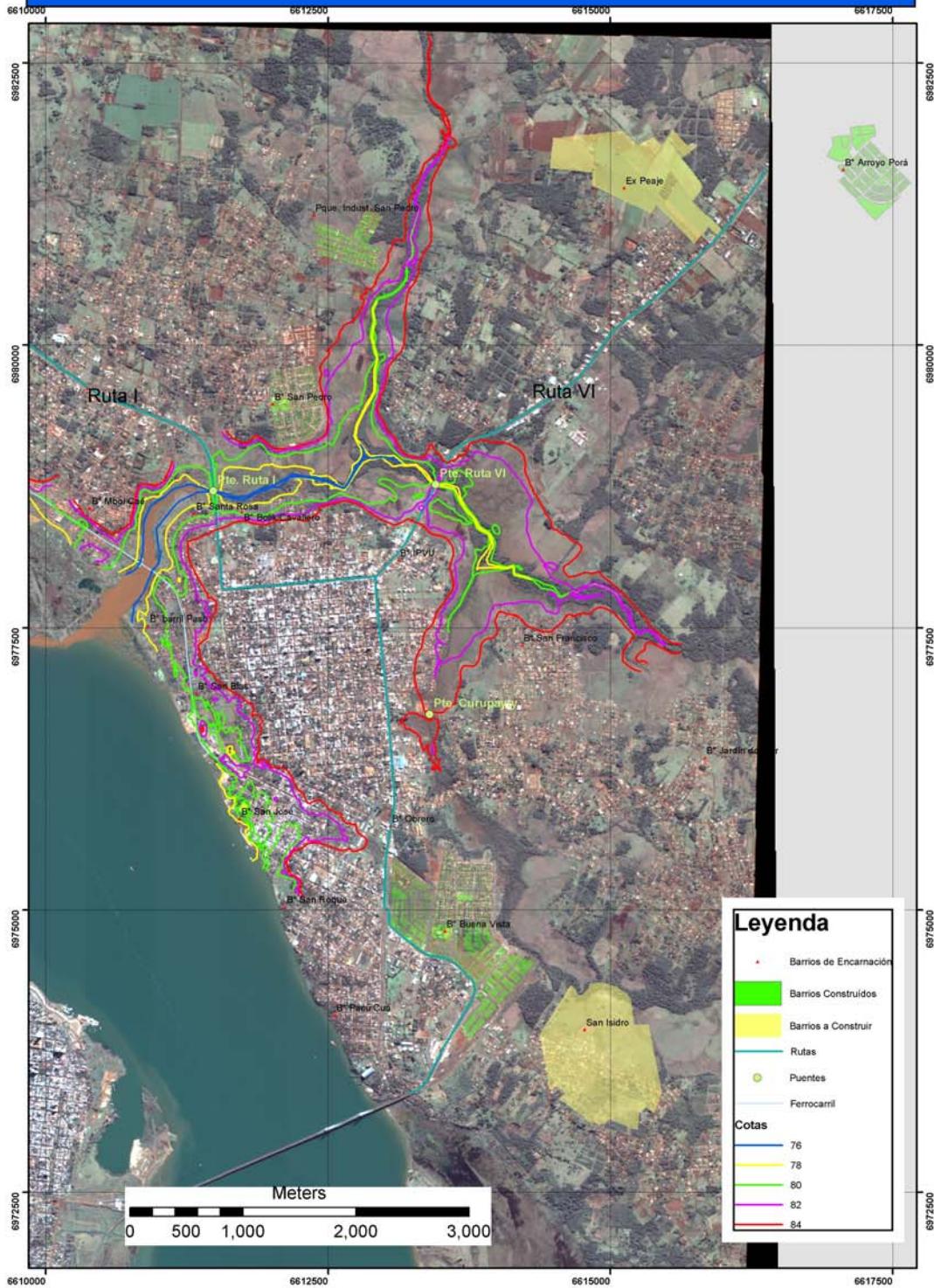
**on**

**Yacyretá Hydroelectric Project 760/OC-RG**

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**February 27, 2004**

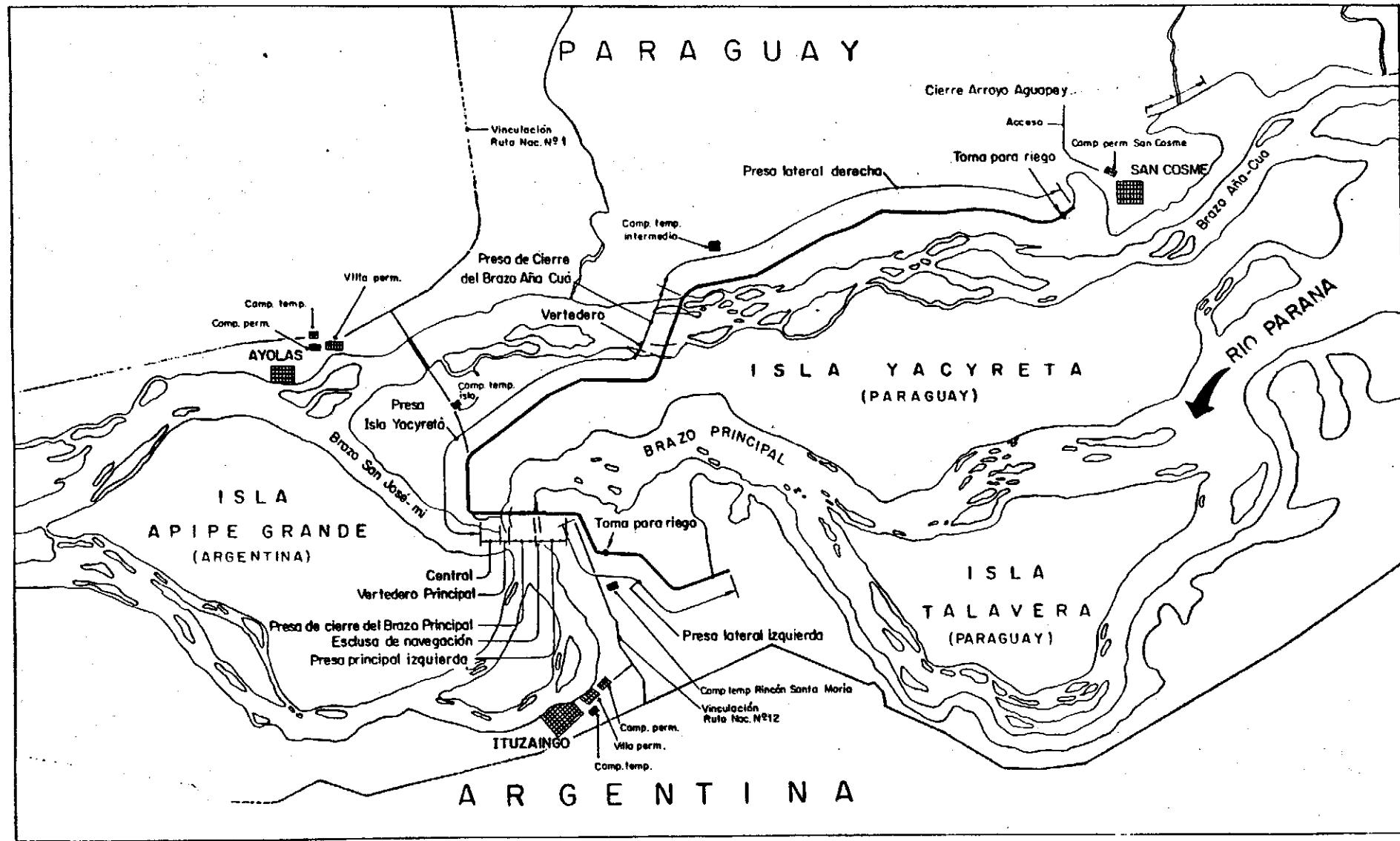
# Encarnación



**REGIONAL**  
**BANCO INTERAMERICANO DE DESARROLLO**  
*Mecanismo de Investigación Independiente*

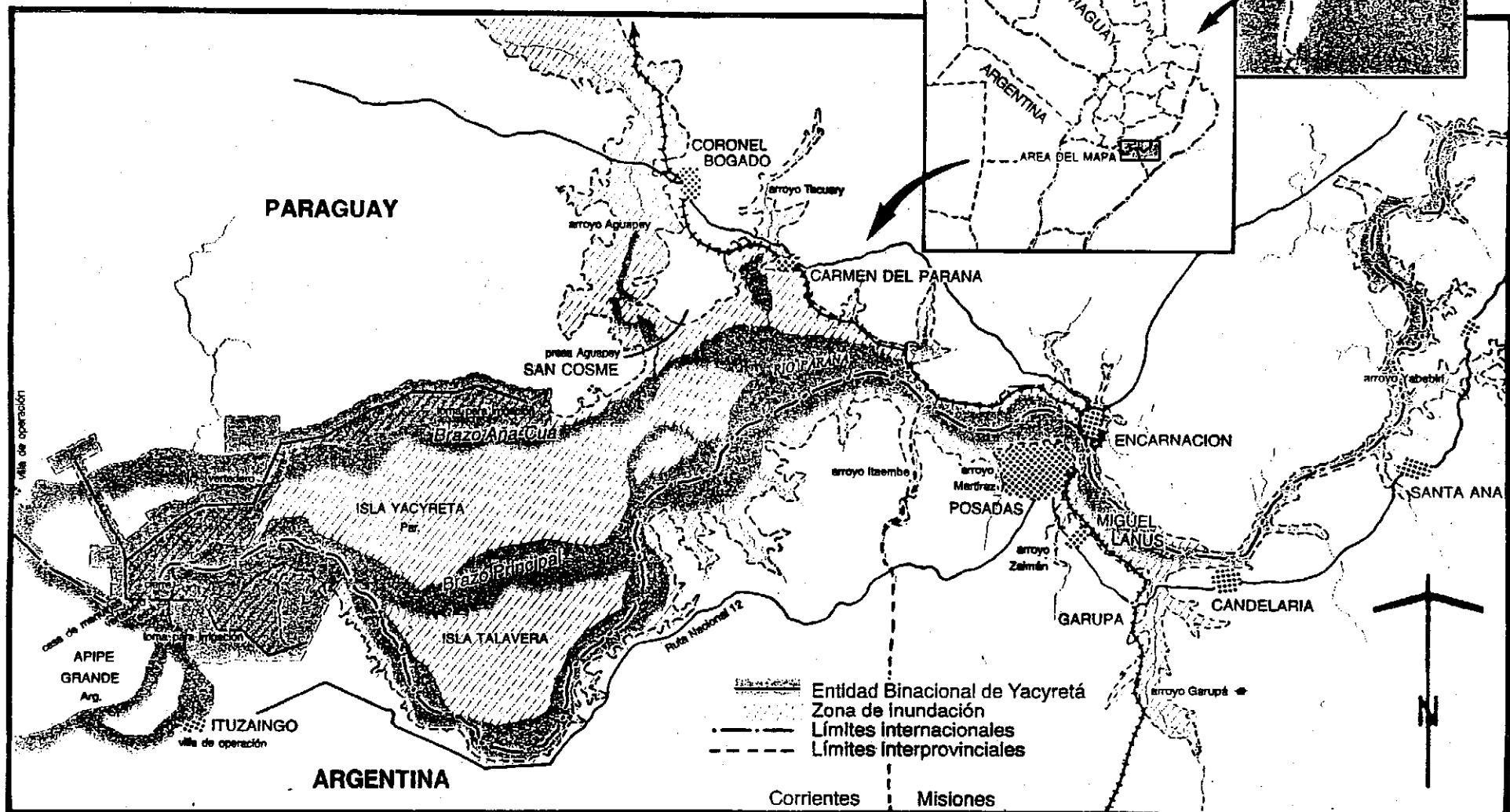
**Proyecto Hidroeléctrico Yacyretá**

**EMPLAZAMIENTO DETALLADO**



**REGIONAL**  
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*Mecanismo de Investigación Independiente*

**Proyecto Hidroeléctrico Yacyretá**



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indicar el área de influencia del proyecto que se propone financiar.

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# **EXECUTIVE SUMMARY**

This report documents the work of the Panel established as part of the Independent Investigative Mechanism to investigate the complaints made by FEDAYIM about the Yacyretá Hydroelectric Project supported by IDB under the loan 760/OC-RG.

Loan 760/OC-RG of US\$ 130 million is the latest in a series of loans awarded by the IDB related to the Yacyretá project. The first three loans, 346/OC-RG, 555/OC-RG, and 583/OC-RG, now fully disbursed, together with World Bank loans 3842-PA and 2854-AR, financed the construction of the principal civil and electromechanical works of the dam. Loan 760/OC-RG, in progress since 1994 and still being disbursed, was approved for project-related environment and resettlement programs. It was meant to resolve the remaining social and environmental problems caused by building the dam, and was scheduled to end in 1998. Up to early 2004 about US\$ 40 million were disbursed. A request for extension of the disbursement period up to July, 2004 was granted, and EBY submitted a request to the Bank for reprogramming the remaining funds. However, there has never been a modification of the original contract extending the time limit of the project.

Many social, environmental and economic problems associated with the Yacyretá Hydroelectric Project have not been addressed by the work done to date under loan 760/OC-RG. As a result of these pressing issues, FEDAYIM submitted a complaint to the IDB. A preliminary mission of the Independent Investigative Mechanism found that the complaint was well-founded, triggering the present Panel to examine it further.

The Panel was formally established in November, 2003 and was given the task of analysing the extent to which four sets of claims, totalling 12 individual claims, were valid and if IDB operational policies, particularly those on involuntary settlements and the environment, were violated. The Panel analysed the relevant documents, held discussions with the authors of the complaint, made field visits to the affected areas in Argentina and Paraguay, interviewed the local affected people and authorities, and held extended discussions with EBY and IDB staff. The information thus compiled formed the basis upon which this report was prepared.

While it focused on the claims of the complaint, as stated in the terms of reference, the Panel was aware that the text used in the terms of reference is an operational text which, compared to the original Spanish text of the complaint made by FEDAYIM, was sometimes summarised or shortened. The Panel therefore based its studies on the original text of FEDAYIM's claims. This means that, on occasion, when a claim bears a strict connection to "the dam," the Panel took care to interpret this, whenever appropriate, as relating to the "Yacyretá Hydroelectric Project" as a whole.

The methodology the Panel used to pursue its investigation is described in Section I: Introduction.

## RESULTS OF STUDIES OF THE TWELVE CLAIMS

The Panel considers that all twelve claims are valid. It also reached some specific conclusions on each claim, which are presented in Section II of this report and briefly summarized below:

Claims 1 and 2: Houses along the banks of the four urban creeks of Encarnación are flooded whenever it rains. Flooding is causally related to the dam. Affected people living in these areas since before the dam was built have not been recompensed for the damage to their houses nor offered rehabilitation.

Claim 3. No one can know the true number of claimants because the number is constantly changing, as are the rules of eligibility.

Claim 4. Of the World Bank's seven conditions that EBY must meet before continuing the project, EBY has fully met one. EBY promises to meet the other conditions if the project is carried to completion.

Claim 5. Many families living along the urban creeks, from 76 to 83 masl, for whom the PDA program was originally created, still are flooded every time it rains and have not yet received any assistance from EBY.

Claim 6. The Panel encountered many instances in which families were not being recompensed for the flood damage to their houses although they had been living in the same house since the 1980s. It also found that EBY would sometimes offer recompense for a house but not for an adjacent small business.

Claim 7. Houses and some land plots in Villa Candida have been damaged by flooding from the adjacent *arroyo* Potiy. The flooding is causally related to the dam. EBY concedes that the damage is occurring, but insists it will not compensate except according to its own timetable related to termination of the Yacyretá project.

Claim 8. Wells are contaminated in the areas of the urban creeks, in the communities downstream from Encarnación, and in the communities built by EBY or with EBY support. As stated in Claims 1 and 2, the Yacyretá project is causally related to contamination in Encarnación. Bank administration personnel were deficient in not detecting violations of IDB's environmental policies.

Claim 9. The Panel determined that there is an existing government Vectors Control Program but not, as stated in the FEDAYIM complaint, an EBY program. There are serious health problems throughout the project area, many related to the high levels of coliform bacteria encountered in the water, but EBY and the Bank point out that these problems are comparable to health problems elsewhere in Paraguay. A difficulty in addressing health problems is that they are dealt with by SENAPA, which operates on a national basis, the project area including Encarnación being only one of its many responsibilities. Nevertheless, it struck the Panel as noteworthy that, after an allocation of US\$130 million for resolving social and environmental problems, the measure of success of health issues should be that the project area is no worse than the rest of Paraguay.

Claims 10 and 11. The Panel confirmed that affected people moved to locations provided by EBY were worse off economically than they were in their original locations, and that in some cases. EBY offered compensation for houses well below market values.

Claim 12. While it is true that some brick factory owners were compensated by EBY but did not share the proceeds with their former workers, it is also true that many brick-makers now living in Colonel Bogado, Ayolas, and “Parque de los Condenados” lack income or prospects. These destitute people have ideas about alternative activities for which they need support, and also they need help in the form of employment retraining.

## VIOLATIONS OF BANK POLICY

Among the Involuntary Settlement policies violated are Principles 1 and 2, Impoverishment Risk Analysis, Community Participation, Baseline Information, Indigenous Communities, Transitional Hardships, Compensation and Rehabilitation Package, Monitoring and Evaluation, Legal and Institutional Framework, Resolution of Disputes, and Environment.

Among the Environmental policies violated are that resettlement plans must take environmental considerations into account; and that an environmental impact assessment, including carrying capacity and socio-economically induced impacts on the host community, must be carried out for each proposed site.

Details of the violations of Bank policy with examples can be seen in Section III of this report

## GENERAL CONCLUSIONS

Although its terms of reference required the Panel to focus on the 12 claims of the complaint, the causes of those claims impinge on other related issues. These involve the history of the Project, its legal underpinnings, the rate of disbursement of funds, and the supervisory role of the Bank administration. With these foci in mind, the Panel reached the following conclusions:

- i. Responding to a request from Paraguayan complainants, a previous panel of the IIM made a study of the Yacyretá Project in 1997. That panel submitted a comprehensive report and made a series of recommendations. The conditions that the panel described still prevail in the project area. One cannot determine the efficacy of the Bank administration’s effort to implement the panel’s recommendations.
- ii. Loan Contract No. 760/OC-RG between EBY and IDB, dated January 26, 1994, mentions in Annex A that “by 1998 the definitive operational level of 83 will be reached, once the necessary environmental activities and resettlement of the population affected by the construction of the hydroelectric dam has finished.” To fulfill this clause of the contract, EBY had to complete all the work on the environmental and resettlement aspects related to Yacyretá by 1998 or obtain a modification of the contract. Bank administrative personnel in Buenos Aires explained that EBY had requested and been granted two extensions of the disbursement periods<sup>1</sup>, but could not demonstrate the existence of a document, signed by EBY, the Bank, and the Government of Argentina, which modifies the termination date of the original contract.

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<sup>1</sup> The latter of the two extensions was granted without the consent of the Guarantor, The Government of Argentina (see Annex E2)

iii. Loan contracts 346/OC-RG, 55/OC-RG and 583/OC-RG all stipulate in their respective Chapter VI that "unless the relevant parties agree otherwise, before convoking each public tender the Borrower, through its intermediary the Executing Agency, will present for consideration by the Bank...in the case of physical works, proof that it has legal possession of the right of way or other pertinent rights over the land that permits construction of the works." Construction of the dam was covered in a single bid, the objective of which was to finish the work to the operational level of 83 masl. EBY did not have rights over the land required for the construction of the works being let out for bid. The fact that it still does not control the relevant land underlies many of the complaints the Panel examined.

iv. Loan 760/OC-RG was directed at resolving social and environmental problems provoked by the Yacyretá dam. US\$130 million was allocated for this purpose. Nine years have passed, the social and environmental problems remain as acute as ever, yet the project only managed to expend US\$ 40 million. The panel is concerned about this slow rate of execution of the project and the weak impact on the alleviation of social problems.

v. The cause of the flooding along the urban creeks of Encarnación is indirectly related to the construction of the dam and directly related to the Yacyretá Project in its total dimension. The great increase in population and change in character of Encarnación between 1982 and 1992 was induced by the dam. The population increase caused serious densification of the city. Densification, lack of storm sewers, and discharge of garbage in the streets greatly increased run-off of rainwater from high to low elevations of the city. This rapid run-off contributes substantially to the flooding of houses in the low elevations. Urban planning, which should have been a mandatory feature early in the project, would have predicted such densification and would have included provisions to prevent it. However, no urban planning took place.

vi. The affected population does not participate actively in the execution of programs of the Yacyretá Project, specifically PARR, PRAS, AND PEY. It is important to seek mechanisms which ensure the inclusion of the real interests of the affected population in the design and implementation of resettlement plans.

vii. No effective mechanism exists for the resolution of conflicts that arise in the project area.

viii. Unemployment and underemployment are endemic throughout the project area. As a result, many affected people have no source of income. EBY has generated neither an effective system of job training nor promotion of small business.

ix. Settlements built for the affected people lack some or all of the following: operating sanitary facilities, potable water, health facilities, schools, job training or social support, houses that are adapted to the size and needs of families assigned to them, a plot of land for planting food crops. In short, these are not communities designed to mitigate poverty or to provide a social milieu.

x. The sewage plant planned for the city of Encarnación is a source of major concern. The plant, the pipeline, and multiple pumping stations necessary to carry liquid wastes from remote parts of the city to the plant have all been designed. However, no provision has been made to connect individual houses to the pipeline.

xi. Overriding all these concerns, the Panel concludes that the Bank administration was seriously deficient in fulfilling its supervisory role. Over the past nine years, the Bank

watched the project fail to fulfill its social and environmental objectives. The number of visits of Bank administration personnel, from Washington, Buenos Aires and Asunción, to critical parts of the field area seem to have been insufficient to discern the serious violations of Bank policy that were taking place.

## RECOMMENDATIONS

- i. The Commission recommends that EBY, with supervision by the Bank administration, devise and implement a plan to resolve all of the social and environmental problems outlined in this report which are observed at the dam's current operational level of 76 meters above sea level. In addition, the Panel recommends that prior to raising the operational level of the dam, that the social and environmental problems that will be caused by this action be resolved in advance.
- ii. There is a pressing need to ensure that during field visits, the Bank administration's project monitoring staff pay more attention to EBY's compliance with Bank policies and take swift action whenever problems or irregularities are identified.
- iii. An Independent Commission should be established to hear each outstanding claim and arbitrate a mutually acceptable solution.
- iv. The Bank administration should ensure that contractual relations between EBY and Paraguayan governmental agencies are modified so that EBY provides support for institutional development to these agencies and so that the long-term success of projects transferred to Paraguayan management is assured.
- v. People holding a red file from either the 1979-80 or the 1990 census should be compensated with all possible haste. A *barrio* by *barrio* calendar of anticipated payments should be posted.
- vi. The Bank administration should ensure that EBY provides suitable treatment to indigenous people, as prescribed in the Policy on Involuntary Settlement.
- vii. The Bank administration should ensure that EBY establishes effective mechanisms for participation of the affected population in the planning and execution of actions that affect them.
- viii. The Bank administration should address the chronic poverty among people affected by the project resulting from their unemployment and underemployment by requesting EBY to establish more effective training and retraining programs and particularly by reinforcing its new program of promoting self-managed small businesses.
- ix. Finally, the Panel recommends that the Bank appoint a special commission to convene in six months to determine if suitable action has been taken to implement the recommendations of this Panel.

# I. INTRODUCTION

Representatives of the Federación de Asociaciones y Organizaciones de Afectados por Yacyretá de Itapúa y Misiones (FEDAYIM), by letter dated April 26, 2002, requested an investigation by the Independent Investigative Mechanism.

The request relates to the Yacyretá Hydroelectric Project, which straddles the Paraná River, on the border between the Republic of Argentina and the Republic of Paraguay. The Bank financed the construction of the principal civil and electromechanical works through loans 346/OC-RG, 555/OC-RG, and 583/OC-RG, now fully disbursed. Loan 760/OC-RG, in progress since 1994<sup>2</sup> and still being disbursed, was approved for a project-related environment and resettlement program.

In consultation with the Legal Department of IDB, the Coordinator of the IIM determined that the request for an investigation satisfied all of the procedural requirements for application to the Mechanism. The request was initially reviewed by a consulting member of the Roster, who determined it to be substantive and not frivolous. On February 10, 2003, the Bank's Management prepared a response to the request. The Board of Directors of the Bank decided, in a meeting on July 9, 2003 to authorize an independent investigation in response to the complaint. This new request included issues not addressed in the review of the Yacyretá project conducted in 1997 in response to a previous complaint. Since the project was also partly funded by World Bank Loans 3842-PA and 2854-AR and a similar claim was submitted by FEDAYIM to the World Bank, the Board of Directors of the World Bank authorised an investigation concerning this matter on September 20, 2002, requesting that its Inspection Panel examine the issue.

In implementing the decision to establish a Panel, the IDB contacted three experts who are part of the Permanent Investigation Roster, namely Arthur Heyman (USA), Julio Ruiz Murrieta (Peru) and Walter Leal Filho (Brazil) to look at the case, nominating the latter as Chairperson of the Panel.

From the day it was formally constituted (November 17, 2003), the Panel was initially given 90 days to report its results of the investigation.

According to the terms of reference given to the Panel, the objectives of the investigation are twofold:

- (a) Investigate the complaint, specifically addressing all of the claims raised therein and

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<sup>2</sup> Loan contract between Entidad Binacional Yacyretá and Banco Interamericano de Desarrollo – Environmental and Resettlement Program (26.1.1994)

- (b) Determine whether the Bank has complied with the relevant operational policies and norms formally adopted for the execution of those policies, in accordance with the rules and procedures of the Mechanism.

With regard to (b) above, the Panel particularly considered the Bank's operational policies OP-703, Environment (effective December, 1994), and OP-710, Involuntary Resettlement (effective August, 1998).

In conducting its investigation, the Panel took into consideration all relevant factors that could have an impact on the matter under review. In particular, the Panel considered the following:

- (a) The request for an investigation and related correspondence;
- (b) The response from Bank management dated February 10, 2003;
- (c) The 760/OC-RG Loan contract;
- (d) The report, dated April 24, 2003, of the consulting member of the Roster (the "Consultant's Report");
- (e) Minutes of the Meeting of the Organization, Human Resources, and Board Matters Committee of June 10, 2003 (document ORA/03/12);
- (f) Other sources of information, including people, organizations and documents, which could have relevance to the investigation.

The complaint made by FEDAYIM was divided into four sets of individual complaints, totalling 12 individual claims. These were as follows:

#### First set of claims

1. The assertion that the plots of land situated on the banks of the Potiy creek, in the Cambyretá district, suffer flooding each time that it rains, making the living conditions insufferable for the families residing there.
2. The assertion that the same situation affects the families that live on the borders of the Mboy, Santa Maria, and Yacu Paso creeks.
3. The assertion that the World Bank and IDB are financing a creek overflow program (PDA) in order to remedy the problem without having determined the number of families deserving compensation.
4. To the extent that it is relevant to actions by the IDB, the assertion that the World Bank Inspection Panel mission of September, 1999 recommended seven

conditions to support PDA funding, and that these recommendations were not followed by EBY.

5. The assertion that other families from the Pacu Cua, Santa Rosa, Mboy Cae, Ita Paso and San Blas *barrios*, who have not been affected by flooding and are not under the distressing situation suffered by those living on the banks of the creeks, are being substituted for the families for whom the Creek Overflow Program (PDA) was originally intended.
6. The assertion that property title owners included in the 1980 census have suffered the loss of their housing due to continuous overflows and have not been compensated for this.
7. The assertion that Entidad Binacional Yacyretá assumes no responsibility for the damages caused to the buildings, located on the banks of the Potiy creek in the Cambreytá district, which are unusable at the dam's present level.

#### Second set of claims

8. Various assertions related to the environmental contamination caused by the dam; specifically that the rise in water table affected by the contaminated water from the dam has in turn contaminated wells, and that the environmental impact evaluation was inadequate.
9. The assertions relating to the evidence of serious health problems and to the weakness of supervision and control programs for illness caused by micro-organisms.

#### Third set of claims

10. The assertion that the resettlement and compensation offered to the local population were inappropriate.
11. The assertion that in the Santa Rosa, Arroyo Pora and Ita Paso *barrios*, EBY made very low estimations of land value. In the Santa Rosa barrio the Evaluation Department of EBY has estimated extremely low figures, which in no way allow the families to buy new lands and reconstruct their housing. Similarly, EBY has no plans to rebuild the families' productive apparatus.

#### Fourth set of claims related to brick-makers and tile-makers

12. The assertions that the payment of compensation by EBY to artisan and industrial sectors benefited the owners, but not the workers; that the relocation of factories far from the clay deposits left the workers without employment; and that professional retraining is needed in the affected communities.

## HISTORICAL AND LEGAL MATTERS

The Panel refers the reader to a previous complaint submitted about the same project. That complaint was submitted in 1997 by SOBREVIVENCIA and Amigos de la Tierra. The panel convened to address that complaint submitted a comprehensive report, including recommendations, to the Board of Directors, but there has been little progress in implementing the recommendations.

The present claim by FEDAYIM addresses some of the issues of the first claim, plus some additional ones. In essence, the structural problems and the socio-environmental problems outlined by the first panel continue to exist. Others, such as the lack of appropriate mechanisms for public participation and the climate of uncertainty surrounding the project, have subsequently worsened.

There can be no doubt that the 12 claims made in the complaint registered by FEDAYIM are important, both to the people alleging them and to consideration of EBY's efforts and the Bank administration's supervision. However, underlying them are other issues of major importance:

Nine years have passed since 760/OC-RG entered into effect, but there is no prospect in sight of conclusion of the involuntary settlement activities, one of the principal objectives of the contract. This delay is due largely to the failure to conclude the phase of acquisition of land, legal control of land and easements. It is important to remember that the loans 346/OC-RG, 555/OC-RG, and 583/OC-RG have as their objective to build the dam to achieve the operational level of 83masl. All of these contracts provide that "*Unless otherwise agreed by the relevant parties, before convoking each public tender or the initiation of the works... (ii) in the case of the works; proof that one has legal ownership, easement or other rights pertaining to the land which allow construction on the same.*" However, there was only one tender for the construction of the dam. Its objective was the construction of the civil works to fill the lake behind the dam to its operational level of 83masl. It follows that to abide by those contracts EBY had to be in control of all the land that would be affected by the dam to level 83 before beginning construction. Furthermore, the 760/OC-RC loan contract is legally connected to those previous contracts through paragraph 6.16 of the contract. Thus the previous loans become a legitimate concern of this Panel.

The panel did not receive from EBY a satisfactory explanation for the delay in acquiring rights to the land nor proceeding with expropriation on the Paraguayan side. If the land had been acquired in a timely manner, most of the complainants would not be living where they are now, and would not be complaining.

The Loan Contract 760/OC-RG, states in Annex A in Chapter II, paragraph 2.1: "The filling of the dam will be carried out in three stages. In the first stage 76 meters above sea

level will be reached (level 76) which will allow the initiation of energy generation in September, 1994. One year later the dam will be raised to level 78 and it is anticipated that by 1998 the definitive operational level of 83 will be reached, once the necessary environmental activities and resettlement of the population affected by the contamination of the hydroelectric dam has finished."

To fulfill this clause of the contract, EBY had to complete all the work on the environmental and resettlement aspects related to Yacyretá by 1998 or obtain a modification of the contract. Bank representatives in Buenos Aires explained that EBY had requested and been granted two extensions of the disbursement periods, but could not demonstrate that there exists a document, signed by EBY, the Argentine Government and the Bank, modifying the original contract which would allow the project to continue beyond the contracted date of completion.

It is important, by way of introducing the context of the project, to quote from the original request for Loan 760/OC-RG. For example, in the paragraph on Risks in the Executive Summary, the document states: "*The lack of faith in EBY on the part of government agencies, nongovernmental agencies and affected people, due to the entity's failure to meet targets since the start of the project, could lessen their readiness to participate in the program and thereby cause delays...although the time available would be sufficient to meet the schedules as they currently stand this will definitely require marked efficiency on the part of all levels of responsibility in EBY...A fundamental aspect to be considered by the Bank is completion of committed actions in time and form, for which purpose half-yearly evaluations will be made of the program's progress.*"

These observations were certainly prescient, but as the Panel discovered, they did not help. The Bank administration was warned in advance to be wary of EBY's persistent failure to meet deadlines, but the failure continued for another nine years. The Bank dutifully conducted its inspections, always found EBY behind schedule, and yet always approved continuation of the project.

## METHODOLOGY

The Panel used the following methodology to pursue its investigation:

- i. an assessment of the scope of the complaint as a whole and of the individual claims in particular, identifying facts deemed relevant to each and the list of evidence needed
- ii. visits to the relevant sites in Paraguay and Argentina
- iii. interviews with the complainants and the affected people (e.g. land and home owners, brick-makers, farmers, fishermen) and decision-makers (e.g. community leaders)

- iv. interviews with IDB and EBY staff providing an opportunity for clarifications and for the provision of additional information
- v. collection and analysis of documents (e.g. studies, reports, letters)
- vi. discussions with staff of the World Bank Inspection Panel, which is investigating the same claim

The findings of the Panel on each claim (Section II), the violations of Bank Policy (Section III), conclusions the Panel reached (Section IV) and the Panel's recommendations (Section V, Section VI) are detailed in this report.

## II. INVESTIGATION OF FEDAYIM CLAIMS

**Claim 1: The affirmation that the plots of land situated on the banks of the Potiy creek, in the Cambyretá district, suffer flooding each time that it rains, making the living conditions insufferable for the families that reside there.**

**Claim 2: the affirmation that the very same situation affects the families that live on the borders of the Mboy Cae, Santa Maria, and Yacu Paso creeks.**

The Panel visited a number of houses and held interviews with individuals in the four *arroyos* mentioned. It also consulted relevant documents and conferred with authorities in the region. On the basis of the evidence compiled, the Panel determined that:

*Houses along the banks of the four arroyos are flooded whenever it rains.* The Panel visited houses in *Barrio Bernadino Caballero* on *Arroyo Yacu Paso* where water marks indicating flood levels were evident on the sides of houses. Home-owners said that floods inundate their houses as often as every two weeks in the rainy season. On the visit to *Villa Candida* on *Arroyo Potiy*, the Panel learned that flooding also occurs there frequently. In *barrio San Francisco* on *Arroyo Santa Maria*, residents indicated the junction of their *arroyo* with that of *Arroyo Potiy*. They said that every time it rains, the water in *Arroyo Mboy Cae* backs up and inhibits the drainage of the *Santa Maria*. Then, the *Santa Maria* cannot carry the water of the *Potiy* that is also in spate. At the junction a lake begins to form, expanding rapidly, and soon reaching the lowest houses of *San Francisco*. When the rain is more severe, the water rises to the second and third tier of houses. The Panel found this story convincing and presented it to the delegation of EBY representatives, including its environmental engineer, who agreed that the flooding as described occurs frequently<sup>1</sup>

*The flooding is causally related to the dam.* The EBY engineer explained that increased rainfall over the decade of the nineties caused flooding as much as 20 percent more frequently than the long-term average. The engineer and the Panel agreed that the flooding along the urban *arroyos* is due in part to the rapid run-off of rain from the higher elevations of the city. They further agreed that, associated with the 6.8% annual population growth rate of Encarnación between 1982 and 1992<sup>2</sup> there occurred widespread construction of houses and businesses and paving of roads and parking places that resulted in greatly increased densification. A corollary result was that in addition to the increased rainfall, large areas of soil into which water previously infiltrated were made impermeable. It was agreed that the increased densification of the city, the lack of storm drains, and garbage in the streets which inhibits the flow of water, all contribute to the frequent flooding along the banks of the *arroyos*. Finally, it was agreed that early in

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<sup>1</sup> Meeting with EBY officials, February 5, 2004

<sup>2</sup> Censo Nacional de Poblacion y Viviendas 2002, Resultados Preliminares, 2002, Direccion General de Estadistica. The same census shows the average annual growth rate for 1972-1982 as 3.3%, and for 1992-2002, 2.2%. Thus the rapid growth rate of Encarnación occurred immediately after the construction of Yacyretá and the Encarnación-Posadas bridge.

the project there was a complete lack of urban planning which could have predicted a large increase of the population of Encarnación and should have established control mechanisms to prevent unwarranted densification.<sup>3</sup> In short, whether the flooding is due to a rising of the water in the *arroyos*, or to increased run-off, or to a combination of the two, it is directly and /or indirectly related to construction of the dam.

*Some affected people living in these areas since before the dam was built have not been recompensed for the damage to their houses nor offered rehabilitation.* The Panel interviewed homeowners in *barrios* Bernadino Caballero, Villa Candida, San Jose, Villa Jardin, and Carmelita, among other *barrios*, who confirmed this assertion.

**Claim 3: The assertion that the World Bank and BID are financing a creek overflow program (PDA) in order to remedy the problem but without having determined the number of families deserving compensation**

The complainants insist that a large number of their problems should fall under the jurisdiction of the PDA. EBY states that many of these claims are not applicable to this program. For example, homeowners in *barrio* San Francisco requested assistance in acquiring land where they could move as a community. In response, PDA offered to move them to Arroyo Pora. When the people refused this offer, PDA said that, since the program is voluntary and was rejected, PDA had no further obligations toward them. The residents did not concur. Many people who own homes at the 83 meter level also requested assistance from PDA but were told that EBY is treating the people at the 76 meter level first and that as the water level behind the dam rises, these complainants would be treated in stages. Since many of the complainants at elevations from 76 to 83 meters are suffering inundations constantly, they feel they cannot wait several years for the termination of the Yacyretá project. These assertions and the responses they receive from EBY contribute to the difference in views as to how many people should be compensated.

The Panel acknowledges the large number of additional implications in the claim, the first of which is that the first set of claims about Yacyretá, submitted by in 1997, included a similar claim. Furthermore:

- 1) The number of affected people is constantly changing. EBY took censuses in 1979-80 and 1990, and gave red files (*carpetas rojas*) to people registered in both censuses. Many of the complainants interviewed by the Panel thought that the second census invalidated the first, an impression reinforced when holders of 1980 red files were refused compensation. EBY explained that both censuses are valid but that some red file holders were refused because EBY is responding community by community, starting with the topographically lowest areas and working up. EBY says that the people who were refused live above the 83-meter contour and that they will be compensated in their turn.<sup>4</sup> There is no awareness of this distinction among the complainants. As a result, there is a profound difference of opinion as to how many people are going to be compensated.

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<sup>3</sup> Meeting referred to in Footnote 1, February 5, 2004

<sup>4</sup> Meeting with EBY officials: February 4, 2004

2) The question of who is in and who is out remains unresolved. EBY takes the position that the complainants of San Cosme y Damien are not eligible for assistance because they were not affected by the dam. These complainants, showing their red files, say they should be eligible.

3) There is a question of the eligibility of people who moved into the project area late--after 1990--and are now requesting assistance from EBY. Some have already received assistance from EBY; many more have not. Views on the eligibility of this group remain strongly divided.

4) Some people who have been compensated did not fulfill the criteria for reimbursement under the regulations of PARR, while others who merit payment have either been rejected or are yet to receive compensation.

**Claim 4: Assertion that EBY has not satisfied the World Bank's seven conditions in order to regain World Bank support for PDA.**

This claim refers to a letter from the World Bank to EBY<sup>5</sup>. The letter specifies seven conditions put by a World Bank Evaluation Mission, which took place on September 27-29, 1999, as requirements for World Bank support to the “Programa de Desborde de Arroyos”(PDA). According to the claim, EBY did not comply with these conditions.

To evaluate the claim, The Panel first identified the relevant sites and visited Arroyos Potiy, Mboy Caé, Santa Maria and Yacú Paso to make field observations. Second, it interviewed EBY and IDB staff in Buenos Aires and gathered their opinions on the extent to which these conditions have been met, bearing in mind that EBY has stated that all these conditions have been fulfilled. The Panel also asked the IDB field office in Buenos Aires to comment in writing on the implementation of the seven conditions, since the reply from the Bank’s administration to the claim<sup>6</sup> states that these conditions have been satisfactorily met. Third, the panel asked the opinion of the World Bank about how well its conditions were being followed. Finally, the Panel analysed the relevant documents related to the PDA, cross-checking them against the conditions. Below are the seven conditions and the Panel’s conclusions on whether or not they have been fulfilled.

*1. Define and detail the mechanisms for social participation which will be used in the PDA. Participation is understood as an articulated set of processes and actions for effectively incorporating the communities to the PDA, thus ensuring that the program*

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<sup>5</sup>World Bank letter, dated November 29, 1999

<sup>6</sup> Report concerning the Inspection Request to the World Bank and IDB Independent Investigation Mechanism presented by FEDAYIM. IDB document PR-1917 of 14.2.2003.

*beneficiaries be co-owners of the resettlement solutions and of the changes that will take place in their lives.*

The Panel finds that the mechanisms for social participation have not been fulfilled, especially concerning actions to integrate the local communities with the PDA so that the beneficiaries may pursue the proposed co-ownership. Although in the context of PDA there are four structures which are listed as means of complying with the recommendation (e.g. creating units of participative management; round-tables in each *barrio*, municipal round-table; and inter-institutional panel), the Panel has found concrete evidence of the following:

- the details of PDA have not been widely discussed in all affected *barrios* nor with affected people in a participatory way;
- alternatives for resettlements have not been presented, discussed and agreed upon with the affected families in a participatory way. There is a lack of opportunity for discussion of available options and their implications for the community;
- the various components of the PDA, such as resettlement and choices for relocation, have not been widely disseminated, with an opportunity for changes and improvements in format or design. Indeed, if mechanisms for social participation had been employed, different requirements for different families would have been taken into account in the design of the settlements to which people are now being relocated.

The lack of social dialogue is one of the main reasons that attempts to move families to new settlements such as the San Pedro *barrio* have met with little success. This condition has therefore not been fulfilled.

*2. In each of the municipalities where EBY plans to build housing complexes it should produce studies needed to integrate resettlement with urban development plans and spatial planning.*

This recommendation was made in order to allow the municipalities affected by the project to cope better with the increasing demands imposed by new settlements and to integrate the changes as part of their urban development plans. Behind this condition lies the need for careful population forecasts, plans for increases in living quarters, attention to forthcoming demands in public services, and the forecast of current and future needs for other types of infrastructure.

In 1995, (e.g. before the recommendation was made) EBY presented a document to the Municipality of Encarnación seeking general approval for its plans for urban relocation.<sup>7</sup>

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<sup>7</sup> “Plan Director de Relocalizaciones Urbanas de la Ciudad de Encarnación,” Encarnación Honorable Municipal Council, Resolution no. 465.

However, the Plan Director did not include any specific indication of resettlement sites, nor make any provision for the methods to deal with affected people. Other documents of a similar nature exist, including a plan for Carmén del Paraná, but the Panel could not find any evidence that studies have taken place to integrate resettlement plans into the urban development plans of all municipalities where EBY has built housing complexes. This condition has thus not been met.

*3. As part of the PDA, to conform the execution of each construction scheme or acquisition of land to the results of ex-ante evaluations of socio-economic and environmental aspects of the contemplated projects.*

EBY commissioned the National University of Misiones in Argentina to perform a study, which was undertaken between April and August, 2001 on the Argentinean side<sup>8</sup>, on the impacts on families relocated by the PDA.

In addition, EBY produced a number of studies titled EISE (Estudios de Impactos Socioeconómicos) which were completed by August, 2002, containing data mostly associated with information from the affected families. However, these studies were prepared primarily in the context of the PARR and have mainly focused on socio-economic impacts, thus leading to an imbalance between socio-economic and environmental issues. The studies performed to date have been methodologically incomplete. Moreover, public consultation during the process did not meet the necessary requirements of ex-ante evaluations which, as stated by Banks (2000)<sup>9</sup>, is an interactive process involving both decision-making bodies and affected people, and which is used not only for ethical reasons, but also with a view that resources be used more efficiently.

Some evaluations ex-post have been undertaken in the context of PARR<sup>10</sup>, but again, these focused primarily on social aspects and failed to meet Bank requirements.

A further matter of concern regarding this recommendation is that, because EBY failed to perform complete ex-ante studies of socio-economic and environmental aspects, it was unable to correlate quantitative and qualitative criteria which could ultimately guide the decisions on where to move the affected people or where to build the new settlements. This condition has therefore not been met.

*4. Delay the purchase of the areas of Picada Pytá and Chiape in the Paraguayan margin, planned as sites for the construction of 367 homes.*

This condition has been met, and no further purchases in the above areas have been made.

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<sup>8</sup> Estudio de los impactos de la relocalización de las familias objeto del Programa de Desborde de Arroyos,” Executive Summary of Report No. 5, Agreement EBY-UNAM, September, 2001.

<sup>9</sup> Banks, R. (2000). “Ex-ante Evaluations: strengths, weaknesses and opportunities.” In 4<sup>th</sup> European Conference on Evaluation of Structural Funds, European Commission, Brussels.

<sup>10</sup> “Plan Base-Diagnóstico de la Situación Pre-Traslado,” PARR Independent Evaluation. M. Scombatti and R. de Carvalho.

*5. In executing the PDA, study alternatives in order to diversify the model of urban relocation.*

This has not been done; most people interviewed stated they were given one single option (i.e. resettlement to a new house), despite the recommendation which included items such as “assisted indemnization” aimed at helping families needing social and legal support in acquiring a new living site.

In addition, the IDB country office in Buenos Aires has, in a response to a question posed by the Panel<sup>11</sup>, stated that this recommendation will not be incorporated in the PDA. Rather, it expects it to be considered in the context of PARR.

This condition has thus not been met. The affected families have not fully studied and discussed urban relocation alternatives. In addition, as a result of EBY’s need to fill some of the new settlements, many families have been moved to areas where they have poor transportation and no jobs, leaving behind their original social contexts.

*6. Revise the development proposals following the EBY model for buildings in Ita Paso to allow affected people to build or change homes.*

Proposals for buildings in Ita Paso were contracted out to a company which then subcontracted the NGO “Alter Vida del Paraguay”, which has undertaken some community work. However, this entity did not produce a workable development plan for the buildings, nor has it fostered the option of self-built homes or mutual assistance. Many of the affected people who built their own homes had to tear them down so that EBY’s standard style of housing could be followed.

The Panel visited homes in Ita Paso guided by Sr. Cardoso, a local community leader, and interviewed local inhabitants. In the course of the visit, the Panel identified many problems, such as poor drainage of rainwater regularly flooding streets and penetrating homes; contamination of wells with unsuitable drinking water; houses with unacceptable sanitation facilities or no toilets.

The Panel noted that many of the houses visited in Ita Paso are precarious because wastewater flows openly to the lower parts of the settlement, and the promised sewage collection system was never delivered. In addition, members of the *Makas*, the Indian group living in the settlement, must use the nearby woods as toilets.

These are pressing problems which are yet to be addressed. Furthermore, the Panel left the settlement under the impression that no action has been taken which might alleviate the difficult social conditions of the current inhabitants. This condition has thus not been met.

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<sup>11</sup> “Independent Investigation Panel – Questions and Requests for Documents” IDB Country Office, Buenos Aires.

*7. Reduce the economic impact of relocation on the families, especially those working in the informal sector.*

One of the main issues the IDB raised in the “Eighth report by Management on the Status of the Yacyretá Hydroelectric Project”<sup>12</sup> states that “...more than 10 years after approval of the resettlement plan, some shortcomings are noted in the capacity to address fully the needs of the affected community, mainly in connection with economic issues and the work situation, factors that led to a deterioration in the socioeconomic indicators in both countries.”

Although EBY has created three funds (Fund for Social Support, Fund for Development and Social Investment, and Fund for the Promotion of Credit for Productive Activities), the Panel saw evidence that the economic impact of relocations in Arroyo Porá and San Pedro continue to be dramatic. Some people who formerly worked in the informal sector are now unable to make a living, as they can no longer pursue their small businesses or “negócios”.

Designed to alleviate the economic impact of relocation, “The Economic and Worker Retraining Fund,” initially put in place in Paraguay in 2001 with US\$ 6 million for projects, has until now reached very few people. The IDB and the World Bank have also questioned its transparency because its monies could be manipulated for political reasons. This condition has, therefore, not been met.

**Claim 5: the assertion that other families from the Pacu Cúa, Santa Rosa, Mboy Caé, Ita Paso and San Blas barrios have been substituted for those sufferers for whom the Creek Overflow Program (PDA) was originally intended.**

The Panel visited the *barrios* within Level 76 affected by the creeks’ overflow and for which the PDA was created in order to verify the claims about distressing situations and flooding each time that it rains. Visited were the *barrio* Bernardino Caballero affected by the *Yacu Paso* creek, the *barrio* Villa Cándida affected by the *Potiy* creek, the *barrios* San Francisco, Villa Jardín and Carmelita from the Cambyretá district affected by the *Santa María* creek, and the *barrio* América affected by the *Porá* creek

In order to verify the *barrios* that are to be found below level 83masl, the Panel visited the *barrios* of *Mboi Caé, Santa Rosa and Pacu Cuá*. The Panel also visited the *Ita Paso barrio* in order to understand its singular nature as a settlement carried out by the Paraguayan Government, and in which EBY claims to have no responsibility.

Based upon the evidence collected on the ground and in discussions with EBY personnel and Bank officials in Asunción and Buenos Aires, the Panel determined the following:

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<sup>12</sup> Executive Summary, p.3, Eighth Report by Management on the Satus of the Yacyretá Hydroelectric Project (7 November 2003), Document GN-1947-21.

We acknowledge that the *Programa de Desborde de Arroyos* (PDA) has a very broad outlook and was created to address the needs of the families below level 83masl affected by environmental contamination caused by the overflow of streams, canals, ditches, and drains. Many of these families also suffer from flooding each time that it rains and as such have been quite correctly compensated by the PDA.

Numerous families, particularly those that are at level 76masl and located along the banks of the Yacu Paso, Potiy, Santa Maria and Porá creeks, are living in more critical situations than those in the *barrios* beneath level 83. Numerous families in the *barrios* at level 76 suffered and continue to suffer flooding caused by the dam and the overflow of streams. This is the case of the families from the San Francisco *barrio* in the Cambyretá district who still have not been assisted by the PDA, because of serious conflicts remaining to be resolved between these affected people and EBY.

EBY has not yet implemented a “mechanism for conflict resolution” which would address the issue or finding a solution in this case and others that the Panel has detected. (see **Annex 9**)

**Claim 6: the assertion that property title owners included in the 1980 census have suffered the loss of their housing as a result of continuous overflows and have not been compensated.**

The Panel encountered property owners with red files in a number of the communities it visited: among them were the following:

In Caballero Bernadino Mauriceo de Sosa has had a red file since 1979. He lives close to the new bridge being built and is flooded every time it rains. He is a builder and all of his clients are nearby, so he prefers indemnification to relocation. EBY offered him US\$15,675 for his house and US\$ 9,590 for his land, which he says is not enough to buy another house.

Genes Pedrazo-Exello also lives in Caballero Bernadino and is flooded every time it rains. Like de Sosa, she has lived in the same house for more than 25 years. In August, 2003 EBY offered her a payment for her house, with a commitment to pay her within 60 days, but she has not yet been paid. Her husband is a construction mechanic with a number of large tools, but the offer did not cover his machines. If they move, he will be without work.

In Villa Candida, Samuel Acuna, who has an extensively equipped carpentry shop, was offered compensation for his house but not for his business. Jose Costa, the owner of a business constructing cement furniture, accepted an offer to move to Arroyo Pora, but was offered nothing for his business or equipment. Genera Sanchez de Queroga occupied a house for 12 years and operated a *chisperia* all that time. She was not eligible for recompense because she was not the owner of the house; however, others who were occupants in nearby houses, one for two years, and another for eight months, were paid.

Similar stories were repeated again and again in the many *barrios* the Panel visited.

**Claim 7: the assertion that Entidad Binacional Yacyretá assumes no responsibility for the damages caused to unusable buildings located on the banks of the creek in the Cambyretá district**

The central feature of this claim is that EBY accepts no responsibility for the damages incurred to buildings and land plots. EBY's position has been that damages to buildings or to land plots in the Cambyretá district cannot possibly be related to the current reservoir level.

Local inhabitants in the Barrio Villa Candida along Potiy creek were interviewed and some of the homes and affected properties were inspected. Multiple homes were visited to view the problems first-hand; it was clear that the interior of some homes was still wet, various watermarks outlining the levels reached by previous rains.

In addition, the Panel asked the opinion of the IDB office in Buenos Aires, which stated that there are no damages to land plots on the banks of Potiy Creek. Moreover, it verified the management response by EBY, which has consistently stated that the land plots on the banks of the Potiy creek in the Cambyretá district cannot be reached at the current level of the reservoir. As a further procedure, the Panel analysed the various maps available, especially GIS-based maps produced by EBY, with the lines of influence of the different levels of the dam. Based on the above procedures, the Panel reached the following conclusions:

- a) In Villa Candida many buildings, especially homes, but also some plots of land, have been damaged and are being damaged by past and current inundations. Some damage is structural and puts at risk the very foundations of some homes. Therefore, the official response provided by EBY, namely "there are no damages on the banks of Arroyo Potiy" is not correct.
- b) Although there is disagreement about the causes of the damage attributed in the claim to the current reservoir level, it is a fact that damage to buildings and land plots derives from the periodic inundations which are aggravated by the uncontrolled urban growth in Encarnación. This rapid urban growth<sup>13</sup> associated with the Yacyretá Hydroelectric Project has led to the exacerbation of the problems seen in Cambyretá District (especially, but not only, in *Barrio* Villa Candida) and elsewhere in Encarnación as already discussed in the context of Claims 1 and 2.
- c) EBY is aware that damages do occur but has stated in the document ("Informe sobre la Solicitud de Inspección al Mecanismo de Investigación Independiente del BID")<sup>14</sup> that it will only relocate or compensate the affected families in line with the timetable for the completion of the project. This, despite the fact that the "Ley de Expropiación" of

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<sup>13</sup> Paraguay Urbano, Resultados Preliminares," November 2002.

<sup>14</sup> IDB document PR-1917 of 14.2.2003.

Paraguay, and indeed IBD policies on involuntary resettlement, oblige it both to acknowledge and compensate those affected within a reasonable time period.

**Claim 8: the various assertions related to environmental contamination caused by the dam, specifically that the rise in the water table affected by the contaminated water from the dam has in turn contaminated wells, and that the environmental impact evaluation was inadequate.**

As a first step in verifying this claim, the Panel made field visits to several *barrios* including Yacú Paso, Villa Cándida, Pacu Qua, Mboy Cae, San Pedro, Santa Rosa, and Ita Paso, where it confirmed that creeks such as Mboy Cae and Potiy, as well as wells in many parts of the City of Encarnación, are contaminated.

The Panel found a similar trend elsewhere in the Itapúa District, such as in the municipality of Ayolas. During the visit to Ayolas and the meeting with the Intendente, Sr. Antonio Barreto, the Panel established that, due to the contamination of wells, drinking water supplies are limited and only available to Núcleo 1 and Núcleo 2.

In examining this assertion further, the Panel obtained a set of documents, including the study “Impacto Sanitario de la Represa de Yacyretá en las Áreas de mayor influencia en la ciudad de Encarnación”<sup>15</sup> and analysed various water quality bulletins produced by the environment authorities in Encarnación. As further evidence, the Panel analysed the reports which are mandatorily prepared as part of the PMMA, especially Informe Bimestral 6/2003<sup>16</sup>.

The Panel was unable to substantiate that the dam water is contaminated nor that the contamination of wells is the result of rising water tables which are affected by stagnant water from the dam.

Nonetheless, there was, both in Encarnación and in other parts of the Itapúa District visited by the Panel, clear evidence that the wells are contaminated. For example, in many of the *barrios* visited in Encarnación, especially in the *barrios* which were developed with support from EBY such as San Pedro and Ita Paso, as well as in some districts which have had EBY settlements (e.g. San Cosme y Damian), water contamination in wells is a common occurrence.

Therefore, although there is no evidence that environmental pollution from the dam per se has led to contaminated wells, the project Yacyretá Hydroelectric as a whole has produced environmental pollution. The uncontrolled growth of Encarnación, with the various urban planning deficiencies associated with it (see Claims 1 and 2) has contributed to the problem. This state of affairs is further exacerbated by the poor design of many settlements initiated by EBY as part of the project and the lack of provisions to

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<sup>15</sup> Report “Impacto Sanitario de la Represa de Yacreta en las Areas de mayor influencia en la ciudad de Encarnación – 2003, prepared by the Universidad Nacional de Itapúa, Facultad de Medicina (2003-undated)

<sup>16</sup>PMMA, Informe Bimestral 6/2003. EBY

prevent foreseeable problems with wastewater flows. This also indicates that the environmental evaluations which preceded such settlements have been deficient. At present, dirty water from the creeks and/or from overflow of septic tank carried by runoff, infiltrates groundwater and domestic wells.

In new settlements, these matters should have been raised, discussed and critically analysed in the context of environmental impact assessment studies. In addition, timely action should have been taken, prior to beginning any construction work in the new settlements, in order to address environmental issues in a participatory and integrative way, taking into account the views of the affected people.

**Claim 9: assertions relating to evidence of serious health problems and to the supervision and control program for illness caused by micro-organisms.**

This claim asserts that there are serious impacts on human health related to the Yacyretá Hydroelectric project. In addition, it states that no program exists to monitor diseases, especially waterborne diseases, and to control the micro-organisms that cause such diseases.

The Panel confirmed the presence of various waterborne illnesses in Encarnación and in the other places visited in the Itapúa District. An analysis of water quality undertaken by EBY and delivered to the Office of the Mayor of Encarnación showed that levels of fecal coliforms in 70% of the surveyed sites are above the prescribed limits, thus putting the local population at significant risk. In areas such as Arroyo Santa María and Arroyo Yacu Paso, the percentages are 50% to 100% higher than allowed, thus increasing both exposure to diseases and the likelihood of health problems occurring in the population which clearly cannot afford to buy medicines.

If the whole project area is considered, there are further causes of concern. In the resettlement areas in the municipality of Ayolas and the Districts of Col. Bogado and San Cosme y Damian, the Panel was told about the occurrence of diseases such as parasitosis, anemia, and skin diseases in addition to many cases of diarrhea. Furthermore, an official note on morbidity and epidemiology issued by the Paraguayan Ministry of Health documented the occurrence of the above listed and other diseases in Itapúa; the document noted that in areas such as Encarnación, disease frequency was bound to increase as a result of the growth of the population.

In order to collect further evidence related to this claim, the Panel visited the Regional Hospital in Encarnación and held discussions with Dra. Baran, the Director, asking for her opinion and for data which could show disease rates in the region. The assumption of the Panel was that, as Director of the Regional Hospital, she would be in a position to comment on serious trends, which could then warrant further investigation. Dra. Baran denied that there have been any epidemics or major outbursts of any specific disease in the region in the past years, but she confirmed that both diarrheic cases and cases of parasitosis, anemia and skin diseases were on the increase.

The Panel faced a barrier in assessing the problem because there are no systematic records of the incidence of diseases which could allow a comparison over the years. Thus it is not possible to ascertain whether there have been increases or decreases in disease frequency in epidemiological terms. However, it has become clear as a result of the field visits to the *barrios* in Encarnación and in the resettlement sites that conditions are suitable for waterborne diseases and other diseases such as malaria.

In dealing with the statement in the claim that “there did not exist a program to monitor and control illness causing micro-organisms”, the Panel visited the office of SENEPA, the Government’s Public Health Authority and held discussions with Mr. Guido Rivas, who represents the national Program of Vectors Control. The Panel requested data that might indicate a relationship between the dam and diseases, as well as data on levels of occurrence of particular diseases in the region.

Mr. Rivas, who was able to show various reports on health monitoring that SENEPA has produced, provided the Panel with evidence that there is indeed a “Vectors Control Program” and stated that there are monthly controls for diseases such as chagas, dengue and esquitosomosis, among others.<sup>17</sup> He also referred to the fact that an increase in diseases such as esquitosomosis is expected when the dam is raised and that his unit, which only has 24 workers for the whole province with 30 districts and part of Missiones with two districts, in association with the National Department of Vectors Control, is unable to cope with the heavy work load.

It was clear during the interview that the working conditions for the health monitoring program are very modest. The Panel was shown a tiny laboratory, with only a handful of instruments, raising doubts on the ability of the vectors’ control program to fulfill its tasks. It was the impression of the Panel that although modestly equipped to monitor some diseases, the program is not able to control the illness-causing micro-organisms that are ultimately responsible for such diseases.

The Panel has gathered sufficient evidence to state that, as far as health conditions are concerned, the area influenced by the Yacyretá project, including Encarnación but also the affected districts and resettlement sites, is poorly served. Although there is no evidence of epidemics, it seems to be only a question of time until one reaches the project area.

**Claim 10: the assertion that the resettlement and compensation measures offered to the local population were inappropriate.**

**and**

**Claim 11. The assertion that in the Santa Rosa, Arroyo Porá and Ita Paso *barrios* EBY’s estimates of land value are very low. In the Santa Rosa *barrio* the Evaluation Department of EBY has estimated extremely low figures, prohibiting the families from buying new lands and reconstructing their housing. Similarly, EBY has no plans to rebuild the families’ productive apparatus.**

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<sup>17</sup>Letter from Dr. Arsenio Rotela (EBY) to the Mayor of Encarnación with bacteriological analyses of recreational water in the city (9 January 2004).

In order to verify the claims concerning resettlement, the Panel visited the *barrios* of Tacuarí, América, Atingo (Ciudad de los Pescadores), Ita Paso, San Miguel de Potreros (people that came from the Yacyretá island), San Cosme and Damián, San Pedro, San Pedro 1 and Buena Vista. The Panel also visited the San Pedro Industrial Estate, which the affected people have named “el Parque de los Condenados”.

In order to verify the claims about compensation, the Panel fully discussed this topic in a meeting with the affected people on January 13, 2004 in the Hotel Encarnación. We then verified the validity of this claim “in situ” in the *barrios* of Bernardino Caballero, Villa Cándida, San Francisco, Comunidad de Resquínqué, San Cosme and Damián, Mboi Caé, Santa Rosa, and the Ayolas area. Resettlements and compensation carried out by EBY were also discussed with the leaders and Municipal Councils of the Encarnación, Ayolas and Colonel Bogado Administrations.

On the basis of the evidence corroborated “in situ” and the discussions with EBY staff and Bank officials in Asunción and Buenos Aires, the Panel finds the following:

The resettlement actions implemented by EBY have generated new, relatively modern *barrios*, containing new housing, medical posts and schools for the affected families. However the Panel has also confirmed that many of these *barrios* are very far from the city of Encarnación, and very far from the affected families’ existing work. For example in Atingo, Ciudad de los Pescadores, the Panel confirmed that a woman lives in extreme poverty in a house without possessions, with four young children whom she has to leave neglected throughout the day; she must work as a servant in Encarnación after a four hour journey on foot because there are no buses.

The Panel has also been able to confirm that many of the schools do lack teachers and are abandoned; the medical posts have no medicines, nurses, or doctors. In San Pedro 1 *barrio* at a closed medical post, the inhabitants told us that the nurse no longer came to work because she felt abandoned and exiled.

In the resettlement *barrios*, the Panel also verified the existence of many houses that suffer flooding from rain, and also verified very small houses without furniture and with very limited garden space where nothing can be planted because of the poor quality of the soil.

In the resettlement *barrios*, the Panel was also able to corroborate the existence of extensive poverty, under-nourishment, malnutrition, extensive unemployment and a lack of natural resources for subsistence, in particular fertile lands for agriculture. EBY provided an *Informe de Evaluación del PARR* [PARR Evaluation Report] from 1998 where satisfactory results are indicated in various resettlements including San Miguel de Potreros (see Annex 8). What the Panel saw in this *barrio* is the opposite. In response to the Panel’s interrogation, EBY told us that San Miguel de Potreros is now an “emancipated” *barrio*, which means that its current situation is no longer EBY’s responsibility. The Panel held long discussions on the topic of emancipated *barrios* and

reached no understanding as to the criteria of when and under what conditions a *barrio* should be “emancipated”. The Panel concluded that the poverty in these *barrios* is EBY’s responsibility, and it does not agree with the concept of emancipated *barrios*.

The Panel was able to confirm EBY’s willingness to find a solution to these problems through the *Plan de Rehabilitación y Apoyo Social (PRAS)*. The Panel considers this plan to be well-structured and focused. However, in the conversations with the affected parties and also in meetings with leaders and Municipal Councils of Encarnación, Ayolas y Colonel Bogado, everyone expressed that they were never consulted. Because the plans were not prepared in a participative fashion with the affected parties, the interests of these parties are not reflected in these plans, thus ensuring little possibility of success and positive impact. The leaders informed the Panel that what EBY has done up until now is to circulate its plans and programs broadly and then present them to the population through public audiences. However in the opinion of the affected people, “public audiences” do not mean “participative planning process” or an “adequate model of social participation”, which is what they demand.

The Panel also clearly understands and agrees with EBY that the Entity is not an institution of the Paraguayan Government and as such is not responsible for the solution of social, cultural, environmental and economic problems within the field of impact of the project. However, the Panel confirmed that the agreements between EBY and the state institutions are weak, without a clear delimitation of responsibilities and with no on-going observation or evaluation.

The Panel verified that the physical replacement of losses has not been completed in an adequate or equitable manner. For example, we verified that some carpenters, farmers, ceramic workers, basket weavers and brick-makers have not yet been compensated for their factories, or in other cases do not wish to accept the limited value that EBY has offered.

The Panel verified that the labour problem has not been treated at any time in its true dimension. The extremely informal character of the economic activities that the affected people perform, together with EBY’s poor understanding of the dimension of the problem and how to resolve it, has led to enormous unemployment, rupture in social cohesion, little fraternity and solidarity among the affected people, delinquency in the *barrio*’s and an increase in child prostitution in Encarnación. (The Panel interviewed some young people between the ages of 13-15, all of whom come from resettlement *barrios*, who prostitute themselves at night in the streets of Encarnación.)

In relation to the valuations, the Panel verified that EBY is applying the letter of the *Ley de Expropiaciones* [Expropriation Law]. In the majority of cases, the affected parties do not demand greater compensation but an improvement in their quality of life: health, greater areas to practice agriculture, education, an aid plan and labour retraining, and action concerning sewage contamination produced by the rains. In other cases the people have demanded greater compensation for their properties and suggested that EBY’s evaluations be compared with property development agencies’ valuations. The Panel

followed this recommendation and found EBY's property valuations in Santa Rosa far below those of the Municipality Land Tax Office. Finally, many owners who had tractors, machinery and small factories, which are now beneath the water produced by the dam, require compensation for these losses.

The Panel has heard that the majority of claims relating to compensation are due to the non-compliance of EBY with the set time period of 60 days. There are a great number of cases in which three years have already elapsed since the promise to compensate, especially in cases of illiterate people and older people without families. Many assert that payment after three years is an enormously devalued amount, making it impossible for them to buy housing similar to that which they owned previously.

The Panel verified that evaluations are long, complicated processes; EBY demands many requirements and documents that the poor people cannot provide due to their cost and the time required to obtain them. Moreover, the Panel confirmed that there are many illiterate people who cannot verify their evaluations, or read or understand the *Ley de Expropiaciones*.

Last, the Panel has been able to verify that there are some groups that identify themselves as indigenous, as is the case of the Tupí Guarani in the Ayolas area, who are not treated in accordance with the indigenous peoples clause of the Involuntary Settlement Policy.

**Claim 12: referring to the ceramic workers, the assertion that the payment of compensation by EBY in favour of a great number of production units (artisan and industrial) benefited the owners, but not the workers; that the moving of other units far from the clay deposits left the workers without employment; and that professional retraining is needed in the affected communities.**

In order to verify the claims of the brick-and tile-makers, the Panel visited the *Colonel Bogado Community, and the San Pedro Industrial Estate*, known as Parque de los Condenados by the affected people. The Panel discussed this topic in a meeting with the affected people on January 13, 2004 in the Encarnación Hotel. The subject of the ceramic workers was also discussed with the leaders and Municipal Councils of the *Encarnación, Ayolas and Colonel Bogado Administrations*.

Based upon the "on the ground" evidence and discussions with the Bank's staff in Asunción and Buenos Aires, the Panel finds the following:

The Panel corroborated that EBY has compensated the majority of the brick factory owners, who have then not complied with the Paraguayan labour laws and compensated their workers. The workers now find themselves unemployed or working for the new brick factories under subhuman conditions. The Panel considers that this situation is not the fault of EBY. The Panel has verified that the new brick factories created by the ex-employees do not have prime raw materials available. The extracted clay is of a very

poor quality, resulting in easily broken bricks. This results in inadequate sales, and consequently the life of these workers is impoverished and precarious.

The Panel has verified that many brick factory owners who had important machinery, high quality production and an average of 15 workers, have not yet been compensated. These cases were corroborated in San Cosme, where we saw the abandoned factories and machinery, which are now unusable.

The Panel verified that there are artisan brick-makers living in Colonel Bogado who have still not been compensated. The Panel has a list of 162 brick-makers who are in this situation. This list was presented to EBY so that it would be informed about this case.

The Panel confirmed that in the San Pedro Industrial Estate, although the brick-makers keep their productive units active, the Estate itself does not offer good living or production conditions.

The Panel verified that currently affected people in the Industrial Estate live in precarious conditions, packed together, competing fiercely to produce bricks that break easily due to the poor quality of the clay and with no technical support and/or minimal machinery to improve their production. Moreover, the affected people in the Industrial Estate have been offered no plan for labour retraining. The brick-makers' representative in the Estate told the Panel that "Before, when we worked our factories on the banks of the Paraná River, the rain and flooding were our worst enemies. But when the clay quarries were flooded, we became fishermen since there were a lot of fish. Nowadays here in the Estate we don't have those old conditions and we are in a desert, poor, without clay, and without fish."

The Panel has verified that a recession in the civil construction sector enormously impacts the precarious and numerous brick factories. This deserves an urgent program of labour retraining in order to avoid an increase in the number of poor and unemployed people, averting the creation of a social time bomb in Paraguay.

### **III. VIOLATIONS OF BANK POLICY**

The Panel found numerous violations of IDB policies on Involuntary Settlement (OP-710) and on Environmental Impacts (OP-703) throughout the claims examined. To avoid redundancy, this report will describe the violations encountered, give examples of how each policy was violated, and finally list the claims in which the violation occurred. The report first addresses the many elements of Involuntary Settlement Policy and then goes on to Environmental Impact Policy.

#### **INVOLUNTARY SETTLEMENT OP-710**

##### **Principle 1.**

*A thorough analysis of the alternatives to the project must be carried out in order to identify solutions that are visible from a technical and economic point of view, at the same time eliminating or reducing to a minimum, the need for involuntary resettlement. Upon examining the advantages and disadvantages of the alternatives it is important that the calculation of the number of affected persons, the costs of the resettlement, the socio-cultural aspects such as the cultural and religious transcendence of the land, the vulnerability of the affected population etc. be taken into account.*

(A) The panel asked EBY if they made “thorough analysis of alternatives” as required by policy. The Panel verified that no such analysis exists and concludes that this principle was not fulfilled.

#### **CLAIMS 10 AND 11**

##### **Principle 2.**

*Compensation and rehabilitation are deemed fair and adequate when they can insure, within the shortest possible time, the resettled and host populations will (i) achieve minimum standard of living, and access to land, natural resources, and services (such as potable water, sanitation, community infrastructure, and land titling) at least equivalent to pre-settlement levels... (ii) recover all losses caused by transitional difficulties... (iii) experience as little disruption as possible to their social networks, opportunities for employment or production, and access to natural resources and public facilities*

(A) Many families who accepted relocation to a house in Ita Paso or Arroyo Poro have no source of income. EBY made an attempt to provide employment training or retraining as prescribed, but this effort did not result in the families securing employment. Since November, 2003, EBY has been attempting to support the people with a new system of self-generated employment. While the effort has admirable intent, it is young and so far has had little impact. Meanwhile, most of the complainants are still out of work. Owners of businesses such as a carpentry shop, a cement furniture factory, and a chisperisa in Villa Candida were offered recompense for their houses but not for their businesses. The time-distance to public health facilities is so great for residents of Ita Paso, they have given up trying to use them. Home-owners in Santa Rosa were offered compensation for their land at far below its assessed value. Home-owners in Bernadino Caballero and in Villa Candida signed contracts stipulating that EBY would buy their houses at a particular price. These people were told (orally) that they would be paid within 60 days. The promised dates have now been exceeded by as much as two

years, but payment has not yet been made. When the Panel confronted EBY with this situation at a meeting in Buenos Aires, on February 4, 2004, EBY explained that the provision was made in accordance with the Paraguayan Law of Expropriation and that on the sixty-first day after such a contract was signed, interest would begin to accrue. The Panel asked why the EBY negotiators had not explained this to the home-owners. EBY conceded they should have done so, and that they intended to do so in the future.

## **CLAIMS 1 AND 2**

- (B) The policy has not been followed along the banks of the Potiy creek where many affected families have not yet been compensated. The approach adopted by EBY—compensating people at a later stage—goes against this policy, which was meant to alleviate suffering and inconveniences caused by the project.

## **CLAIMS 7 AND 9**

- (C) The Panel verified that this was not fulfilled by EBY as no analysis has been made of the affected groups relative to the degree of vulnerability by sex, age and other aspects. The Panel detected single women with many young children, people on the verge of death, and adults with serious illness who are more vulnerable than other groups and who have spent a long time without being attended to by EBY. In this sense, adequate compensation as set out under the policy is lacking. Moreover many have no source of employment, nor access to basic natural resources (such as the fertile lands and fish that they had before), nor basic, efficient public services such as adequate medical attention, education and professional training.

## **CLAIM 5**

- (D) This policy has been violated both in Encarnación and in the other affected areas, not only in terms of health provisions, but also because the project and its settlements have violated the implicit rights of people to be protected from threats to their health. This is relevant to a lack of access to potable water and to poor sanitation.

## **CLAIM 9**

- (E) The Panel verified that compensation and rehabilitation have not been done in an equitable and adequate manner, in that older people receive the poorest treatment and the lowest compensation.

## **CLAIM 10 AND 11**

- (F) The design of PDA settlements failed to follow this policy with the result that many of the concerned families were moved to areas such as Arroyo Pora, San Pedro or Ita Paso where transport and employment opportunities are limited. The overwhelming majority of the *municipios* do not have urban plans. Although it can be claimed that the new situation of the affected families represents an improvement in basic infrastructure, many families involved with PDA suffer because they are unable to make a living out of small business or agriculture or fishing, and thus are economically worse off than they were before.

## **CLAIM 4**

# **Impoverishment Risk Analysis**

*When a significant number of affected persons belong to marginal or low-income groups, special consideration must be given to risks of impoverishment including loss of housing, land, clear title, employment, subsistence, income, access to common property, or to education, increased morbidity or mortality*

- (A) All the people referred to under Principle 2 had low income before the dam was built and have lower income now, so all the points made in that section are applicable here as well.

## **CLAIMS 1 AND 2**

- (A) The risk of impoverishment is certainly a problem with the people who run small businesses or have low paying jobs, (e.g. bakers, housemaids) who at present are struggling to make a living.

## **CLAIM 7**

- (B) A detailed analysis should have been carried out and its findings should have been used in the design and appraisal of resettlement plans. There has been a failure to gather accurate and timely baseline information which must be compiled as early as possible so that both the number of people to be moved and their socio-economic characteristics can be established.

## **CLAIM 4**

- (C) EBY is not paying special attention to the risk of impoverishment that the people face as a consequence of resettlement due to the loss of lands and natural resources, loss of employment, loss of access to the means of production, insecurity about food, the breakdown of social networks, and loss of access to education.

## **CLAIMS 10 AND 11**

- (D) A detailed analysis should have been carried out and its findings should have been used in the design and appraisal of resettlement plans. To establish timely baseline information, accurate statistics of affected people and their socio-economic characteristics were necessary.

## **CLAIM 12**

# **Community Participation**

*The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities. Consultations will take place during the design period and will continue throughout the execution and monitoring of the plan.*

- (A) According to the affected people with whom the Panel conferred, no such consultations took place. The mayors of Encarnación, Colonel Bogado, and Ayola vigorously confirmed the lack of consultations. They said that EBY sometimes convened a public meeting and presented a plan of action, but without previous consultation with the community. Nor did the presenters heed the community's comments on the announced plan.

## **CLAIMS 1 AND 2**

- (B) The Panel verified that the communities are only informed of the resettlement plans in public audiences, but that they do not actively participate in the design of these plans; consequently, the interests of the communities are not reflected in the plans.

## **CLAIMS 10 AND 11**

- (C) The resettlement plan carried out as part of PDA should have had a strong community participation component, but it did not.

## **CLAIM 4**

- (D) Bank policy also requires that the compensation and rehabilitation package must take adequate account of intangible assets, especially non-monetary social and cultural assets. Settlement plans with

the brick-makers have failed to do this. The resettlement plan so far carried out as part of PDA has failed to ensure that sufficient resources are available to the resettled families.

## **CLAIM 12**

### **Baseline Information**

*Accurate baseline information must be compiled as early as possible, covering number of people to be resettled, gender, ethnicity, income, and other factors, to determine risks. This information can be used to define eligibility criteria.*

- (A) The Panel saw no evidence that information gathered in a baseline study was used to define eligibility criteria for diverse settlement options. More specifically, the Panel found neither eligibility criteria nor diverse settlement options.

## **CLAIMS 1 AND 2**

### **Indigenous Communities**

*The Bank will only support operations that entail the resettlement of indigenous communities or other ethnic minorities, if the Bank can prove that: i) the civil rights of the affected community are fully recognized and ii) the resettlement will directly benefit the affected community in relation to its previous situation.*

- (A) The Panel has verified that there exist groups of resettled people who define themselves as indigenous, such as the case of the *Makas* in the *Ita Paso barrio*. The Panel verified that these groups are not being attended to as required by the policy's special consideration concerning indigenous communities. Moreover, we verified that EBY has no document refuting this group's status as indigenous people. The Panel spoke with these indigenous people and could verify that this group of people is quite unlike the other resettled groups, in that they identify themselves as Makas both by their language and customs. As such, we verified that their civil rights had not been taken into consideration. Moreover, the Panel observed living conditions that had nothing to do with the traditional indigenous way of life, especially the absence of lands for agriculture and natural resources necessary for their subsistence.

## **CLAIM 5**

- (B) The Panel confirmed that in the Ayolas area some of the displaced groups define themselves as indigenous communities, such as the case of the *Tupí Guaranies* who used to live on Yacyretá island. The Panel confirmed that these groups are not being attended to as required by the policy's clause concerning indigenous communities. Moreover, we verified that EBY has no document that states that these groups are not indigenous. The Panel spoke with these indigenous people, who related that EBY did not take them into account in the diverse censuses because, according to them, they do not know how to read or write. Many families of this indigenous people who still live on the Yacyretá Island consider that their civil rights have been violated; they can no longer fish in their ancestral lakes because of either the lack of fish or contamination.

## **CLAIM 10 AND 11**

### **Transitional Hardships**

*Affected persons must recover all losses caused by transitional hardships such as crop losses, moving costs, or interruption or loss of employment.*

- (A) Virtually all the people the Panel interviewed, including those in *barrios* Caballero Bernadino, Villa Cándida, and Cambryeta, lost employment as a result of the disruption of their neighbourhoods.

## **CLAIMS 1 AND 2**

### **Compensation and Rehabilitation Package**

*Housing and service options will be appropriate for the social and cultural context and will, at the very least, meet minimum standards of shelter and access to basic services, regardless of conditions prior to settlement.*

- (A) The Panel visited many families in Ita Poro who had been relocated from diverse urban communities. These families lacked employment, income, job training, access to medical facilities and adequate potable water. Many of the families were inundated under a flow of sewage from the outhouse of their upslope neighbors every time it rained. Their health was in danger; they did not have access to basic services; and their houses did not meet minimum standards.

## **CLAIMS 1 AND 2**

*Design of compensation packages must take into account the characteristics of the resettled population identified by basic information, and separated by sex, ethnic origins, age and other factors that indicate their vulnerability and/or specific needs*

- (B) The Panel has verified that these options are not carried out fairly (some benefit and others do not): the necessary means have not been guaranteed to assure subsistence and income, and the offered options do not reflect their realistic aspirations. Moreover these measures have not taken into account *non-economic social and cultural activities*, in particular land and natural resource rights of rural populations. The Panel does not have any knowledge of such compensation packages.

## **CLAIM 11**

*The policy also requires that the entitlements of affected persons be determined, identifying any services or social benefits to which they might have access, and ensuring that sufficient resources are available. It also requires that the package give adequate consideration to intangible assets, especially non-monetary social and cultural assets.*

- (C) The resettlement plan carried out by PDA has failed to ensure that sufficient resources are available to fulfill these policies.

## **CLAIM 4**

- (D) Bank policy requires that the compensation and rehabilitation package must take adequate account of intangible assets, especially non-monetary social and cultural assets. The resettlement plan so far carried out as part of PDA has failed to ensure that sufficient resources are available to the resettled families.

## **CLAIM 12**

### **Monitoring and Evaluation**

*The resettlement component of an operation must be fully and adequately covered in reports on the progress of the overall project.*

- (A) There is no doubt that the project is visited frequently by EBY and sometimes by Bank personnel. Some residents told the Panel that they had been visited last year by a “vice-president” of the Bank

who was shocked by what he observed, but there was no follow-up. Other people told the Panel that they had complained several times to personnel of the Bank, had written to EBY and to the Bank in Buenos Aires, and to the Bank in Washington. They said that not only were their problems not addressed, but also they rarely received a response to their communications. In the Panel's view, observing a violation of Bank policy but taking no action on it does not constitute adequate monitoring. More particularly, during the meeting in Buenos Aires the Panel requested information on Bank personnel visits to Posadas, Encarnación, and the field area. In answer, the Panel received reports of supervisory visits to the field—a stack of paper 2 cm thick. But most of the reports do not indicate who made the visits or where, physically, the inspections took place. It was an unconvincing demonstration of the Bank's fulfilling its supervisory responsibility.

## **CLAIMS 1 AND 2**

# **Legal and Institutional Framework**

*The resettlement plan must identify the legal and institutional context within which the compensation and rehabilitation measures have to be implemented.*

(A) EBY has signed agreements with the Paraguayan Ministries of education and health and various other government agencies. Yet the Panel heard numerous incidents of families stating that when they complained to EBY they were told "That is the Ministry's responsibility", while the ministry always blamed EBY. Neither responded to the claims. The sewage plant in Buena Vista ceased to function three months after it was turned over to the relevant Paraguayan government agency: an EBY engineer told the Panel that the government agency was incapable of running it. In the Panel's view, engineering work should be designed in such a manner that the government agency to which it will be transferred will be capable of its management. This may require that EBY provide institutional support for Paraguayan agencies, and/or assist in their institutional development, and/or build less technologically advanced facilities. Many schools are built that have neither teachers nor books; many health posts are built that have neither technical personnel nor medicines. Even though EBY may fulfill some technical aspects of the Legal and Institutional Framework policy, the benefits intended by the policy are not accruing to the affected people. The agreements between EBY and the government agencies need clarification.

## **CLAIMS 1 AND 2**

(B) The Panel has verified that EBY and the Paraguayan state institutions avoid responsibility for the cultural and socio-economic problems because no institutional agreement exists where the rules of transparency and responsibility are clearly stated.

## **CLAIM 11**

# **Dispute Resolution**

*Effective and expeditious procedures must be established for resolution of disputes.*

(A) During the meeting with EBY personnel in Buenos Aires, they conceded that no effective mechanism for resolution of disputes has yet been devised in the project area. They said that there have been several attempts at creating such a mechanism, but none worked satisfactorily. Now EBY plans to approach disputes in small facilities at the local level. While this approach may be more effective than previous attempts, it does not yet exist.

## **CLAIMS 1 AND 2**

# **Environment**

*Resettlement plans must take environmental considerations into account...An environmental impact assessment, including carrying capacity and socio-economic induced impacts on the host community, will be carried out for each proposed site.*

- (A) Houses built in two topographically low areas in Ita Paso are flooded every time it rains. According to an EBY official, this is due to the fact that Ita Paso was planned without giving consideration to the topography of the site. The extensive land clearing for Arroyo Poro increased run-off down-slope into *barrio* Tacuary. Consequently, Tacuary is flooded in every rain. Additionally, an open sewer, running down from Arroyo Poro past Tacuary, is flooded in every rain, inundating the community in fecal matter.

## **CLAIMS 1 AND 2**

- (B) *A project must avoid densification of the host area.* In this case the host area is pre-dam Encarnación. The dam was finished to its current level in 1994; the Posadas-Encarnación bridge was built in 1990. The tripling of the city's population and its change in character, from an industrial/trade center to a tourism attraction, was induced by construction of the dam and the bridge. This urban change and the corresponding densification should have been anticipated by suitable urban planning before construction of the dam and the bridge.

## **CLAIMS 1 AND 2**

## **ENVIRONMENT OP-703**

**Basic criteria for project analysis include:**

*that individual projects are designed to preserve the quality of air, water, and soil which could be affected by the project.*

- (A) The water table in much of Encarnación is contaminated, infiltrated in flood periods by waste material carried down by the heavy run-off and discharged from the *arroyos*. Consequently, wells, most of which draw from the shallow aquifer, are also contaminated. The flooding is causally related to construction of the dam.

## **CLAIMS 1 AND 2**

- (B) Water is contaminated and provides a basis on which micro-organisms can proliferate. These conditions go against the principles of good air and water quality. Indeed, the fact that water in the creeks is polluted and that thousands of people consume water from wells known to be contaminated indicates that the Yacyretá Hydroelectric project has not given adequate consideration to health matters.

## **CLAIMS 8 AND 9**

*that the design of specific projects incorporates environmental factors adequately, and provides for monitoring to avoid adverse impacts.* (This item was discussed above under environmental considerations of settlement projects.)

- (C) This policy has also been violated because the large extent of water contamination which provides the basis for proliferation of micro-organisms goes against the principle of good quality of air and water. Paraguay conducts specifically funded monitoring activities which are supervised to a minimal degree by EBY.

## **CLAIM 9**

## **IV. CONCLUSIONS**

**Examining the task of fulfilling its two objectives, the Panel determined the need to consider issues underlying the complaint. These include the historical background of the project, its legal implications, the rate of execution, and the Bank administration's supervisory role. On this basis, the Panel has reached the following conclusions:**

1. The Bank established a panel in 1997 to investigate the first claims in relation to the Yacyretá Project. Among others, that Panel identified five problems: problems between the governments of Argentina and Paraguay; extended time periods in the execution of actions; little to no participation by the affected population; low credibility of EBY; and great uncertainty regarding the future of the project. That panel examined aspects related to resettlement and environment and presented its conclusions and recommendations to the Bank in its report on September 15, 1997. It is difficult to determine what actions have been taken by the Bank to implement those recommendations, but the five problem areas described in the 1997 report continue to be important concerns for our Panel, just as they were for the previous panel.
2. The Panel believes that two important legal questions should be highlighted. The first refers to the end date of the project. The loan Contract 760/OC-RG, signed by the relevant parties on January 26, 1994, mentions in Annex A that the project's end date is 1998. The Panel can confirm that, although there are agreements that were signed between the parties for the extension of disbursements, the administration has not been able to demonstrate that there is a legal modification to the contract itself to extend the period of its operations. The Panel thus concludes that the activities of the project since 1999 violate the loan contract.
3. Loan Contracts 346/OR-RG, 555/OC-RG and 583/OC-RG all provide that "Unless otherwise agreed by the relevant parties, before convoking each public tender or the initiation of the works...(ii) in the case of the works proof that one has legal ownership, easement or other rights pertaining to the land which allow construction on the same." Because there was only one tender for construction of the dam to its completion, all the land that would be affected should have been acquired before construction began. The fact that some of the relevant land has still not been acquired is one of the underlying causes of the complaint.
4. The project began in 1994 with US\$130 million. The project was to have been completed in 1998. Now, six years after the agreed upon termination date, EBY has disbursed about US\$40 million. The Panel concludes that the rate of execution of the project was inexcusably slow.
5. The cause of the flooding along the urban creeks is indirectly related to the construction of the dam and directly related to the Yacyretá Project in its total

dimension. The huge increase in population and change in character of Encarnación between 1982 and 1992 were induced by the dam. The population increase caused serious densification of the city. Densification, lack of storm sewers, and discharge of garbage in the streets greatly increases run-off of rainwater from high to low elevations of the city. This rapid run-off contributes substantially to the flooding of houses in the low elevations. Urban planning, which should have been a mandatory feature early in the project, should have predicted such densification and should have included provisions to prevent it. However, no urban planning occurred.

6. There is no active participation of the affected population in the execution of EBY programs including PARR, PRAS and PEY. Mechanisms should be sought to ensure the active participation of the affected population in the design and implementation of resettlement plans, and the inclusion of issues of their concern in those plans.
7. There exists no effective mechanism for the resolution of conflicts that arise in the project area.
8. Unemployment and underemployment are endemic throughout the project area, underlying the poverty of people affected by the project. Until November, 2003, EBY has generated no effective system of job training or promotion of small business that would generate income for the affected population comparable to their pre-dam income.
9. Loan 760/OC-RG has as an objective the execution of the *Plan Maestro de Manejo Ambiental* (PMMA) and the *Plan de Accion de Reasentamiento y Rehabilitacion* (PARR) with the final outcomes of protecting and improving the standard of living of the affected populations as well as protecting the cultural and historical heritage, the environment, and the natural resources of the area influenced by the Project. This objective has not been fulfilled.
10. Settlements built for the affected people lack some or all of the following: operating sanitary facilities, potable water, health facilities, schools, job training or social support, houses that are adapted to the size and needs of families assigned to them, a plot of land for planting food crops. In short, these are not settlements designed to mitigate poverty or provide a social milieu.
11. EBY has written agreements with all relevant Paraguayan agencies such that physical works produced by EBY (e.g., sewage plants, schools, health posts) will be transferred to the appropriate Paraguayan agency for long-term operation and maintenance. To date those arrangements have resulted in facilities that broke down shortly after transfer, buildings without staff, and a dearth of services. Arrangements between EBY and the Paraguayan government agencies should be improved to ensure the long-term successful operation of these vital facilities. One feature of such improvement should be that EBY assumes responsibility for strengthening the institutional capability of the Paraguayan agencies with which it works.
12. The 1997 panel noted that the problems involved in Yacyretá are so widespread and pervasive that they do not lend themselves to point-by-point solutions. That panel recommended a more comprehensive regional approach to a socially acceptable solution. This Panel endorses that recommendation.
13. The sewage plant planned for the city of Encarnación is a source of major concern. Land for the plant has been acquired. Land for the buffer zone remains to be acquired, but EBY authorities assured the Panel that the plant is so well designed that

the buffer zone is superfluous. The plant, the pipeline, and multiple pumping stations necessary to carry liquid wastes from remote parts of the city to the plant have all been designed. A problem with the design is that in times of energy failure, the pumping stations cannot operate, and the contents of the pipeline will be dumped into the urban creeks. More importantly, no provision has been made to connect individual houses to the pipeline. Naturally, unless the houses are connected, the sewage plant will be an expensive white elephant. The greatest concern, however, is the future management. If, after the transfer to Paraguayan authority, the plant breaks down as soon as its recent predecessor, the Buena Vista sewage plant, the city is in serious trouble.

14. Overriding all these concerns, the Panel concludes that the Bank administration was seriously deficient in fulfilling its supervisory role. In the past nine years, the Bank administration should have been aware of the lack of effective participation of the affected population in planning new actions, and the lack of an effective mechanism for conflict resolution. The Panel concludes that the administration was unaware of the true situation in the field because its personnel did not spend enough time in the project area to comprehend the magnitude of the project's failure on social issues.

# **V. SPECIFIC RECOMMENDATIONS**

## **Relating to Claims 1 and 2**

- 1) Under the close supervision of IDB, EBY should be required to comply with all Bank policies, particularly those which have been violated. These include, under Involuntary Settlement OP-710: Principle 2, Impoverishment Risk Analysis, Community Participation, Baseline Information, Legal and Institutional Framework, Compensation and Rehabilitation Package, Monitoring and Evaluation, and Environment; and under Environment OP-703: basic criteria for the analysis of projects.
- 2) To ensure that Bank policies are followed for all other outstanding claims of affected people, and in lieu of an existing operational system of conflict resolution, an Independent Panel should be established to hear each claim and arbitrate a mutually acceptable solution. At the meeting in Buenos Aires, this recommendation was presented to the personnel of EBY, who confirmed that it is reasonable.
- 3) All current social and environmental problems should be resolved before further work on the dam is undertaken.
- 4) Any agreement that EBY reaches with a complainant should contain, in writing, all relevant facts related to the agreement, particularly the date the agreement will be fulfilled.
- 5) The Bank administration should ensure that agreements between EBY and Paraguayan government agencies should be revised so that the transfer of responsibilities from EBY to the relevant government agency is suitably defined and to ensure that the government agency is capable of assuming the responsibility.

## **Relating to Claim 3**

- 1) The status of all people holding a red file should be publicly announced, along with time estimates of when each community will be serviced.
- 2) All people holding red files should have their claims adjudicated with all possible haste.
- 3) The Panel reiterates its second recommendation for Claims 1 and 2: in lieu of an existing operational system of claim resolution, an Independent Panel should be established to hear each claim and arbitrate a mutually acceptable solution.

## **Relating to Claim 4**

- 1) Under the close supervision of the IDB, EBY should be required to comply with all conditions posed by the World Bank mission of September, 1999, especially 2, 3 ,5, 6 and 7, which are directly relevant to the IDB.
- 2) EBY should be given a period of no more than six months to comply.

### **Relating to Claim 5**

- 1) Many families living at the edge of creeks at the 76 level are in a more distressed situation than families at the 83 level and therefore should be given priority.
- 2) The Bank administration should ensure that EBY should special treatment for indigenous groups, taking into account their legal rights and the Bank's involuntary settlement policy.
- 3) The Bank administration should ensure that EBY establishes an independent mechanism for conflict resolution as soon as possible.

### **Relating to Claim 6**

The Panel makes the same recommendations it made for Claim 3.

### **Relating to Claim 7**

The project is in violation, not only of Bank policies but also of the Paraguayan Law of Expropriation. EBY's position--that it will proceed with its timetable for completion of the dam and will recompense complainants in relation to the rise of the water--is illegal. The Panel recommends that EBY take immediate responsibility for homes, businesses, and plots of land whose damage is related to the Yacyretá and compensate the owners as the law provides with no further delays.

### **Relating to Claim 8**

The arguments made in this claim are very concrete. The Panel recommends that EBY and the affected municipalities, including but not exclusively Encarnación, combine efforts to address the serious problem posed by contaminated wells in their territories.

### **Relating to Claim 9**

The Bank administration should ensure that EBY participates with the relevant health authorities to prepare health plans for the affected communities toward improving the health infrastructure in the affected areas. This includes addressing the current problems with health planning and the disparities in the allocation of health facilities between urban and rural areas.

### **Relating to Claims 10 and 11**

1. Seek mechanisms to ensure the active participation of the affected population in the design and implementation of the resettlement plans as well as the inclusion of their real interests in the same. The Panel recommends that EBY go beyond the presentation of these plans in public audiences and toward effective participation mechanisms.
2. Compensate affected people in a maximum time period of 60 days. This recommendation should be implemented immediately, as there are many families that have lost the hope of seeing their compensation met. In particular give priority to sick people, indigenous people and elderly people without families.
3. Create new collaboration mechanisms with the Paraguayan government institutions so that responsibilities for the affected people are clearly delimited. The ping-pong game between EBY and the Paraguayan government agencies, with the affected people as the ball, must stop.

4. Allocate resources efficiently to rebuild the financial capabilities of the families and to generate employment to progressively diminish poverty, unemployment, delinquency and child prostitution in the resettlements.
5. The Panel makes the same recommendation on indigenous people as was made for claim 5.
6. The Bank administration should ensure that EBY designs and implements compensation options that take into account the characteristics of the affected population on the basis of sex, ethnic origin, age and other factors that indicate their vulnerability and/or special needs.

### **Relating to Claim 12**

1. The problem of the ceramic workers, like that of the fishermen, washerwomen, farmers, builders, etc., is a problem that goes beyond the sectorial problem. The Panel recommends that the Bank launch a Regional Development Program (economic, social, cultural and environmental development) in order to solve the existing social and economic problems in the region, which to a great extent were caused by the Yacyretá Project.
2. The Bank administration should ensure that EBY implements a Labor Retraining Program for the ceramic workers who are now being affected by recession in the civil construction sector. However, the Panel concludes that it is not the unique function and responsibility of EBY, and as such the labor retraining program should be agreed upon, planned, and implemented by EBY and relevant Paraguayan government institutions together with the labor force.
3. The Bank administration should ensure that EBY implements a mechanism for conflict resolution as soon as possible, in order to consider the question of the ceramic workers.
4. The Panel recommends that a Work Panel be formed by representatives of the affected ceramic workers and EBY technicians in order to analyse the distressing situation of the brick-and tile-makers and give a definitive solution to their demands

## **VI. GENERAL RECOMMENDATIONS**

### ***About the continuation of the project***

The recently signed agreement between the Ministry of Public Works and Communications of the Republic of Paraguay and the Ministries of Federal Planning, Public Investment and Services of the Republic of Argentina to conclude the pending works of the Yacyretá Project demonstrates the political will of both countries to finish the project. Nevertheless, the Panel recommends that the operational level not be increased to level 78 until the social, economic, cultural and environmental problems provoked by the dam at level 76 have been resolved.

### ***About future actions on the project***

If it is decided to continue the project, the Panel recommends that a program of action be initiated immediately to resolve the problems or negative impacts that could arise from the raising of the dam to level 78, 80 and 83.

### ***About conflict resolution***

The Panel recommends that the Bank administration ensures that EBY immediately establishes an independent mechanism for conflict resolution to address the serious problems that have resulted from the project. The independent mechanism for the resolution of conflicts must have as its principal focus the need to resolve all of the existing conflicts, giving priority to the most vulnerable groups, including women, older people, indigenous people and those with serious health problems, as well as those who possess red files.

### ***About bank policies that have been violated***

The Panel recommends that the Bank seriously take into consideration its operational policies unfulfilled by Entidad Binacional Yacyretá, and require that the administration perform a thorough follow-up to ensure that EBY complies with the points of the violated policies.

### ***Problems between EBY and the Paraguayan Government institutions***

The Panel asserts that the aforementioned socio-economic problems may be improved by a better relationship between EBY and the Paraguayan Government institutions, and recommends that EBY place greater emphasis on improving these relationships, provide

help in institutional development, and offer greater technical support so that the affected population obtains better benefits and regains confidence in its institutions and in EBY.

### ***About work creation and the promotion of self-management***

To generate employment and income, the Panel recommends that the Bank administration ensure that EBY concentrates its efforts on implementing the labor retraining programs which include promotion of community work and promotion of small local business, including help in generating new ideas for business, technical assistance, provision of seed capital, help in developing project proposals, and related aspects of self-managed small businesses.

# **ANNEX 1**



**Figure 1- Bairro Pacu Cua: problem with garbage/ Pacu Cua problema con las basuras**



**Figure 2- Taquari creek with a polluted side waterway / Arroyo Taquari con aguas contaminadas**



**Figure 3- Taquari creek and another polluted side waterway/ Arroyo Taquari con otro distribuidor con aguas contaminadas**



**Figure 4- Bread maker at Ita Paso / Negócio de fabricación de pan (Chipa) en Ita Paso**



**Figure 5- Brick-maker / Oleiro**



**Figure 6- An active brick-making business with bad quality clay/ Una Olería activa con arjilla de mal calidad**



**Figure 7- An abandoned brick factory / Una Olería abandonada (San Cosme y San Damian)**



**Figure 8- Brick-making business in Mboy Cae / Olaria en Mboy Cae**



**Figure 9- Owners of red files in Recinque /Proprietarios de carpetas rojas en Recinque**



**Figure 10- Maka tribe in Ita Paso/ Tribo Maká en Ita Paso**

# **ANNEX 2**

## **Proyecto Yacyretá**

### ***Reuniones preparatorias de la Comisión Investigadora*** (17 al 21 de noviembre, 2003)

#### **Lunes 17 de noviembre**

- 09,30 a 10,00 Reunión con la Srta. Eliana Prada, (Ext. 3160) en el hall de la entrada Principal. Avenida New York 1300. Entrega de los documentos de identificación.
- 10,30 a 12,30 Reunión informativa con el Coordinador del Mecanismo de Investigación Independiente (MII), Sala de reuniones NW 239, sobre los siguientes temas: (a) Objetivos y estructura operativa del Mecanismo; (b) Aplicación de la Política del Mecanismo. Doc. GN-1830.
- 14,30 a 1730 Entrega y revisión inicial de los siguientes documentos: (a) Política del Mecanismo; (b) Política sobre Disponibilidad de Información del Banco; (c) el Préstamo 760/OC-RG (d) Informe de la Comisión Investigadora de 1997; (e) la queja presentada por FEDAYIM; (f) el Informe del Coordinador del Mecanismo sobre la validez de la queja; (g) Informe Final y Recomendaciones del Miembro del Registro, Sr. Modesto Correa; (h) Políticas Operativas del Banco: Política sobre Reasentamiento Involuntario y Política sobre Medio Ambiente; (i) Términos de Referencia de la Comisión Investigadora; (j) otras informaciones

#### **Martes 18 de noviembre**

- 09,30 a 12,30 Discusión de las actividades a ser cumplidas por la Comisión Investigadora y calendario tentativo al que se sujetarían las mismas.
- 14,30 a 17,30 Reunión con la Sra. Gay Miller, Abogada del Departamento Legal para discutir los aspectos legales de las posibles implicancias legales, de los trabajos a ser realizados, así como la aplicación de la Política de Diseminación de Información del Banco.

#### **Miércoles 19 de Noviembre**

- 09,30 a 10,30 Reunión con el Coordinador del Mecanismo para discutir temas de carácter administrativo.
- 10,30 a 12,30 Reunión de trabajo de los miembros de la comisión

Jueves 20 de Noviembre

- 09,30 a 10,30 Reunión de trabajo de los miembros de la comisión  
11.00 a 12,30 Reunión con los Miembros del Panel de Inspección del Banco Mundial  
12,30 a 14,00 Almuerzo de trabajo (por confirmar) con el Secretario del Banco y los Miembros del Panel de Inspección del BIRF.  
14,30 Reunión de los miembros de la comisión

Viernes 21 de Noviembre

- 09,30 a 12,30 Reunión con el Coordinador del Mecanismo y el abogado del Departamento Legal. Preguntas y respuestas sobre los temas discutidos durante los días anteriores.  
14,30 a 17,50 Reunión de trabajo entre los miembros de la comisión

***Mecanismo de Investigación Independiente***

*Proyecto Hidroeléctrico Yacyretá*

*Agenda tentativa de trabajo*

*Diciembre 8 al 12, 2003*

• **Lunes 8 de Diciembre**

Hrs.           **9:00-10:00**      Reunión inicial.  
                **10:30-12:30**     Sr. Jaime Sujoy, Sra. Silvia Sagari,  
                **2:30-5:30**        Sra. Claudia De Coulston Werebe, Coordinadora, RE1

Lugar: *SEC Conference Room (NE 1231)*

• **Martes 9 de Diciembre**

Hrs.           **9:00-12:30**      Trabajo del Panel  
                **2:30-5:30**        Sr. Ricardo Pinheiro.

Lugar: *SEC Conference Room (NE 1231)*

• **Miércoles 10 de Diciembre**

Hrs.           **9:00-12:30**      Carlos López-Ocaña, Especialista Ambiental  
                **2:30-5:30**        Trabajo del Panel

Lugar: *Conference Room NW 309*

• **Jueves 11 de Diciembre**

Hrs.           **9:30-11:30**      Sr. Dana Martin, Depto Legal  
Lugar: *Conference Room LEG/IIC (SW 239)*

**11:30-12:30**   Sr. Ricardo Santiago, Gerente Región 1

Lugar: *Por confirmarse*

• **Viernes 12 de Diciembre**

Hrs.           **9:00-12:30**      Trabajo del Panel  
                **2:30-5:30**        Trabajo del Panel



**BANCO INTERAMERICANO DE DESARROLLO**  
**A G E N D A**  
**PROYECTO YACYRETA**  
**VISITA DE LA COMISIÓN INVESTIGADORA**  
2 al 6 de febrero de 2004, Asunción-Buenos Aires

La Comisión está integrada por el Sr. Walter Leal Filho (Presidente), Arthur Herman y Julio Ruiz Murrieta. Por el Banco, el Sr. A. René Ríos, Coordinador del Mecanismo de Investigación Independiente.

**Lunes 2 de febrero de 2004 (Asunción, PARAGUAY)**

- 08:15 a.m.      **Reunión con el Sr. Álvaro Cubillos, Representante BID**  
Dirección: Caballero 221 casi Eligio Ayala, 2º Piso.
- 09:00 a.m.      **Dr. José Alberto Alderete, Ministro  
Ministério de Obras Públicas y Comunicaciones**  
Dirección: Oliva esq. Alberdi  
Secret. Dra. Maria Luz Martinez, Tel. 414.9711
- 11:00 a.m.      **Lic. Luis Fretes Escario, Director  
Entidad Binancional Yacyreta (EBY).**  
Dirección: Gral. Díaz 831 e/Ayolas y Montevideo.  
Confirmado con Celeste. Tel. 281-273/283.860
- 14:30 p.m      **Personal Técnico de la Representación**  
Dirección: Caballero 221 casi Eligio Ayala, 2º Piso

**Martes 3 de febrero de 2004 (Asunción, PARAGUAY)**

- 09:00 a.m.      Personal Técnico de la EBY  
Dirección: Gral. Díaz e/ Ayolas y Montevideo.
- 14:30 a.m.      Personal Técnico de la EBY  
Dirección: Gral. Díaz e/ Ayolas y Montevideo.

**Miércoles 4 de febrero de 2004 (Buenos Aires, Argentina)**

- 09:00 a.m.      Reunión inicial con Personeros del BID y de la EBY:  
Juan Martínez Rivas, Carlos López Ocaña, Diego Caminal y Belinda Fonseca-Galindez (BID), Raúl Leyton, Carlos Fulco, Mauricio Perayre, Osvaldo Núñez y Alba Fourcadell de Genes (EBY)  
Dirección: **COF/CAR**, Esmeralda 130 – Piso 19, Tel.: 4320-1807 d. (Srta. Carolina).
- 03.30 pm      Reunión con el Secretario de Energía de la Nación: Ing. Daniel Cameron y Director Ejecutivo de la EBY Arq. Oscar Alfredo Thomas  
Av. Paseo Colón 171 - Piso 8º Of. 803, Tel.: 4349-8004 (Sras. Verónica y Analía).

**Jueves 5 de febrero de 2004 (Buenos Aires, Argentina)**

- 09:00 a.m.            Reunión con personal Técnico de la EBY
- 12:30 p.m.          Almuerzo con el Representante BID Sr. Daniel Oliveira
- 15:00 pm.            Reunión con personal Técnico de la EBY

**Viernes 6 de febrero de 2004**

- 10:30 a.m.          Reunión con Autoridades Nacionales
- 15:00 p.m.          Reuniones con Autoridades Nacionales

# **Mecanismo de Investigación Independiente del BID**

## **AGENDA PRELIMINAR DE VISITA A LA ZONA DEL INFLUENCIA DEL PROYECTO HIDROELECTRICO DE YACYRETA (Enero, 12 al 19, 2004)**

### **LUNES 12**

AM (10,30-12,30)

Reunión con la Sra. Angela Miranda de Vergara. Reunión Preparatoria.

PM (2:00-4:00)

Reunión con los coordinadores y autoridades municipales. Acompañado de la Sra. Ángela Vergara de Miranda. Presidente de FEDAYIM.

PM (4:00-7:00)

Visita a los barrios afectados por el desborde de arroyos, que si tienen que ver con el PDA y que no son beneficiados por el PDA. *Distrito de Cambyretá a orillas del arroyo Potyi, familias asentadas en los arroyos Mboy Caé, Santa María y Yacú Paso.*

### **MARTES 13**

AM (8:00-12:00)

Inspección de los problemas de salud y medio ambiente en barrios de Posadas.

PM (1:00-7:00)

Inspección de los problemas de salud y medio ambiente en barrios de Encarnación.

### **MIÉRCOLES 14**

AM (8:00-12:00)

Visita a los barrios no-afectados por el desborde de arroyos y que son beneficiados por el PDA (Estas familias están remplazando a los beneficiados originales). Familias de los barrios Pacu Cua, Santa Rosa, Mboy Caé, Ita Paso y San Blas.

PM (1:00-7:00)

Visita a las propiedades de los propietarios

### **JUEVES 15**

AM (8:00-12:00)

Visita al arroyo Potiy

PM (1:00-7:00)

Visita a los re-asentamientos que dicen que no lo fueron compensados en forma adecuada. De los barrios afectados Santa Rosa, Arroyo Pora e Ita Paso a asentamientos en Encarnación y Coronel Bogado.

**VIERNES 16**

AM (8:00-12:00)

Visita a los Oleros obreros que no fueron indemnizados por la EBY

PM (1:00-7:00)

Visita a los Oleros propietarios que si fueron beneficiados por la EBY

**SABADO 17**

AM (8:00-12:00)

Visita a las familias cuyas tasaciones de sus casas fueron infimas. Barrios de Santa rosa, Arroyo Pora e Ita Paso

PM (1:00-7:00)

Visita a los barrios no-afectados por el desborde de arroyos y que son beneficiados por el PDA (Estas familias están remplazando a los beneficiados originales). Familias de los barrios Pacu Cua, Santa Rosa, Mboy Caé, Ita Paso y San Blas.

**DOMINGO 18**

Todo el dia: Visita al embalse

**LUNES 19**

Salir de la zona

# **ANNEX 3**

**PROYECTO YACYRETÁ**  
**YACYRETÁ HYDROELECTRIC PROJECT**  
**Independent Investigation Panel**  
**List of experts consulted with their qualifications**

Name of the Expert: René Rios  
Institution/Country: IDB, Washington  
Qualification: IIM Coordination

Name of the Expert: Eduardo Abbot  
Institution/Country: World Bank, Washington DC  
Qualification: Lawyer, Executive Secretary of the Inspection Panel

Name of the Expert: Andrew Thomson  
Institution/Country: World Bank, Washington DC  
Qualification: Assistant Executive Secretary of the Inspection Panel

Name of the Expert: Tatiana Tassoni  
Institution/Country: World Bank, Washington DC  
Qualification: Member of Investigation Panel

Name of the Expert: Richard Fugle  
Institution/Country: World Bank, Washington DC  
Qualification: Member of Investigation Panel

Name of the Expert: Gay Miller  
Institution/Country: IADB, Washington DC  
Qualification: Lawyer

Name of the Expert: Dana Martin  
Institution/Country: IADB, Washington DC  
Qualification: Lawyer

Name of the Expert: Claudia de Coulston Werebe  
Institution/Country: IADB, Argentina  
Qualification: Projects Coordinator

Name of the Expert: Ricardo Pinheiro  
Institution/Country: IADB, Washington DC  
Qualification: Energy Specialist

Name of the Expert: Carlos López-Ocana  
Institution/Country: IADB, Washington DC  
Qualification: Environment Specialist

Name of the Expert: Ricardo Santiago  
Institution/Country: : IADB, Washington DC  
Qualification: Manager, Region 1

Name of the Expert: Silvia B. Sagari  
Institution/Country: : IADB, Washington DC  
Qualification: Chief of Finance and Infrastructure, Region 1

Name of the Expert: Jaime Sojoy  
Institution/Country: : IADB, Washington DC  
Qualification: Chief, Regional Operations Department, Region 1

Name of the Expert: Luisa C. Rains  
Institution/Country: : IADB, Washington DC  
Qualification: Deputy manager, Regional Operations Department, Region 1

Name of the Expert: Álvaro Cubillos  
Institution/Country: IDB, Paraguay  
Qualification: Representative

Name of the Expert: Alberto Passos  
Institution/Country: IDB, Paraguay  
Qualification: Sectorial Specialist

Name of the Expert: Carlos Arce  
Institution/Country: IDB, Paraguay  
Qualification: Sectorial Specialist

Name of the Expert: Luis Frete Escarollo  
Institution/Country: EBY, Paraguay  
Qualification: Director

Name of the Expert: José Alberto Alderete  
Institution/Country: Ministry of Public Works and Communications, Paraguay  
Qualification: Minister

Name of the Expert: Luis Fretes Escario  
Institution/Country: EBY, Paraguay  
Qualification: Director

Name of the Expert: Osvaldo Nunes  
Institution/Country: EBY, Paraguay  
Qualification: EBY official

Name of the Expert: Alba Fourcadell de Genes  
Institution/Country: EBY, Paraguay  
Qualification: EBY official

Name of the Expert: Eng. Humberto de la Ucci  
Institution/Country: EBY, Paraguay  
Qualification: EBY official

Name of the Expert: Eng. Mauricio Perayre  
Institution/Country: EBY, Paraguay  
Qualification: EBY official

Name of the Expert: Oscar Thomas  
Institution/Country: EBY, Argentina  
Qualification: Director of EBY

Name of the Expert: Rául Leyton  
Institution/Country: EBY, Argentina  
Qualification: EBY official

Name of the Expert: Carlos Fulco  
Institution/Country: EBY, Argentina  
Qualification: EBY official

Name of the Expert: Juan Martinez Rivas  
Institution/Country: IDB, Bolivia (formerly IDB Argentina)  
Qualification: IDB official

Name of the Expert: Diego Caminal  
Institution/Country: IDB, Argentina  
Qualification: IDB official

Name of the Expert: Belinda Fonseca-Galindez  
Institution/Country: IDB, Argentina  
Qualification: IDB official

Name of the Expert: Carlos Sampaio  
Institution/Country: IDB, Washington  
Qualification: Senior Attorney, Region I

# **ANNEX 4**

**PROYECTO YACYRETÁ  
YACYRETÁ HYDROELECTRIC PROJECT  
Independent Investigation Panel**

**List of interviews held**

Place and date of interview: IDB, 17 to 20 November 2003 Washington DC,

Purpose of the interviews: to obtain information on various aspects

Name of interviewees: various (see list of experts consulted)

Institution/Country: IDB, USA

Outcome of interviews: gathering of different sets of information

Place and date of interview: 19<sup>th</sup> November 2003 Washington DC,

Purpose of the interview: to explore cooperation possibilities

Name of interviewee: Tatiana Tassoni & Eduardo Abbott, World Bank

Institution/Country: World Bank, USA

Outcome of interview: agreement to cooperate was reached

Place and date of interview: Posadas, 12 Jan 2004

Purpose of the interview: First meeting to agree on schedule of works

Name of interviewee: Angela Miranda de Vergara

Institution/Country: FEDAYIM, Paraguay

Outcome of interview: agreement on schedule of field visits

Place and date of interview: Posadas, 12 Jan 2004

Purpose of the interview: Meeting to gather information on the problems in Posadas

Name of interviewee: Nilda Hebaria

Institution/Country: Asociación de Desarrollo y Defensa del Ambiente , Argentina

Outcome of interview: discussion of problems on the Argentinian side

Place and date of interview: Assentamento de Oleiros de Meso Pardo, 12 January 2004

Institution/Country: Assentamento de Oleiros, Argentina

Purpose of the interview: Visit and discuss problems with the Oleiros

Name of interviewee: various

Outcome of interview: Information on the problems faced by the Oleiros

Place and date of interview: Encarnación, Hotel Holliday Inn, 13 January 2004

Institution/Country: various, Paraguay

Purpose of the interview: Initial discussion with oleiros, fishermen and home/land owners

Name of interviewee: various

Outcome of interview: Information on the problems faced associated with the Yacyreta project

Place and date of interview: Ayolas, 14 Jan 2004

Purpose of the interview: obtain the views of the oleiros, fishermen and home/land owners

Name of interviewee: Mariano Cardozo Armoa

Institution/Country: Sindicato of Fishermen, Paraguay

Outcome of interview: gathering of information and documents on the claims from the various groups

Place and date of interview: District of San Cosme y San Damian, 14 Jan 2004

Purpose of the interview: obtain the view of oleiros, fishermen and home/land owners

Institution/Country: Municipality of San Cosme y San Damian plus various people, Paraguay

Name of interviewee: various

Outcome of interview: gathering of information and documents on the claims from the various groups

Place and date of interview: Ita aso, Encarnación, 15 Jan 2004

Purpose of the interview: obtain the view from local inhabitants

Institution/Country: Association of Inhabitants

Name of interviewee: Mr Cardoso and various others

Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Col. Bgado, 15 January 2004

Purpose of the interview: obtain the view from local inhabitants

Institution/Country: Municipality of Col. Bogado, Paraguay

Name of interviewee: various

Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Arroyo Aguapé (close to Col. Bgado) 15 January 2004

Purpose of the interview: obtain the view from local inhabitants

Institution/Country: Local inhabitants, Paraguay

Name of interviewee: various

Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Requin Que, 15 January 2004

Purpose of the interview: obtain the view from local inhabitants

Institution/Country: inhabitants, Paraguay

Name of interviewee: various

Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: San Miguel Potrero, 15 January 2004

Purpose of the interview: obtain the view from local inhabitants

Institution/Country: local inhabitants, Paraguay

Name of interviewee: Sra. Célia de Bogado and various others

Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Encarnación, 15 Jan 2004

Purpose of the interview: obtain views from the Municipality

Institution/Country: Municipality of Encarnación, Paraguay

Name of interviewee: Rogelio Benitez Vargas, Mayor

Outcome of interview: information on the lack of urban development plans

Place and date of interview: Encarnación, 16 January 2004  
Institution/Country: Regional Hospital, Paraguay  
Purpose of the interview: Identify incidences of diseases  
Name of interviewee: Dr Baran  
Outcome of interview: Information on the incidence of diseases established

Place and date of interview: Encarnación, 16 January 2004  
Institution/Country: SENEPA, Paraguay  
Purpose of the interview: Identify existence of vectors' control program  
Name of interviewee: Mr Guido Rivas  
Outcome of interview: Existence of program established

Place and date of interview: Mboy Cae, Encarnación, 16 January 2004  
Institution/Country: local inhabitants, Paraguay  
Purpose of the interview: obtain the view from local inhabitants  
Name of interviewee: various  
Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Bairro Santa Rosa, Encarnación, 16 January 2004  
Institution/Country: local inhabitants, Paraguay  
Purpose of the interview: obtain the view from local inhabitants  
Name of interviewee: various  
Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Bairro Villa Candida, Encarnación, 16 January 2004  
Institution/Country: local inhabitants, Paraguay  
Purpose of the interview: obtain the view from local inhabitants  
Name of interviewee: various  
Outcome of interview: gathering of information on the problems and on the claims from the various groups

Place and date of interview: Bairro San Pedro, Encarnación, 16 January 2004  
Institution/Country: local inhabitants, Paraguay  
Purpose of the interview: visit to see the houses  
Name of interviewee: none  
Outcome of interview: gathering of information on the site

Place and date of interview: Bairro San Pedro, Encarnación, 16 January 2004  
Institution/Country: Parque Industrial dos Oleiros, Paraguay  
Purpose of the interview: obtain the view from the Oleiros  
Name of interviewee: Sra. Costa and various  
Outcome of interview: gathering of information on the problems and on the claims from the Oleiros

Place and date of interview: Bairro Pacu Qua, Encarnación, 17 January 2004  
Institution/Country: local inhabitants, Paraguay  
Purpose of the interview: obtain the view from local inhabitants  
Name of interviewee: various

Outcome of interview: gathering of information on the local problems faced by inhabitants

Place and date of interview: Bairro Pacu Qua, Encarnación, 17 January 2004

Institution/Country: local inhabitants, Paraguay

Purpose of the interview: obtain the view from local inhabitants

Name of interviewee: various

Outcome of interview: gathering of information on the local problems faced by inhabitants

Place and date of interview: Bairro Buena Vista, Encarnación, 17 January 2004

Institution/Country: local inhabitants, Paraguay

Purpose of the interview: drive-by visit to get to know the site

Name of interviewee: none

Outcome of interview: visit to ascertain the conditions of the bairro and the fact that many houses, some large, were empty

# **ANNEX 5**

**PROYECTO YACYRETÁ  
YACYRETÁ HYDROELECTRIC PROJECT**

**List of documents**

- Document 1 Policy of the Independent Investigation Mechanism
- Document 2 Operational Policy of IDB: disclosure of information
- Document 3 Operational Policy of IDB: involuntary resettlements
- Document 4 Operational Policy of IDB: environment
- Document 5 Operational Policy of IDB: energy
- Document 6 Designation of a consultant to the Permanent Roster of Investigators
- Document 7 Consultant's report (24 April 2003)
- Document 8 Text of the complaint with its annexes (26 April 2002)
- Document 9 Reply from the Bank's administration to the complaint made by FEDAYIM (14. Feb 2003)
- Document 10 Proposal for Loan to EBY (8 June 1993)
- Document 11 Report of the Revision Panel (15 Sep 1997)
- Document 12 Notice of the Executive Board's Decision (13 Nov 1997)
- Document 13 Request for an inspection panel by the World Bank (28 Aug 2002)
- Document 14 Report on the inspection request submitted by FEDAYIM to the World Bank and IDB Independent Investigation Mechanism
- Document 15 Ayuda Memoria de la Misión de Supervisión (21-30 Oct. 2002)
- Document 16 Ayuda Memoria de la Misión de Supervisión (23-31 Oct. 2003)
- Document 17 Plano de Manejo de Medio Ambiente (PMMA) (Sep. 2000)
- Document 18 Plan Estratégico Yacyretá (PEY 2000) (31 July 2002)
- Document 19 Plan de Infraestructura Social y Medio Ambiental para Culminar el Llenado del Embalse de Yacyretá (28 Feb 2001)
- Document 20 Plan Estratégico Yacyretá (PEY 2000) –Participación– Etapa I : Difusión – Área temática : Medio Ambiente (October 2002)
- Document 21 Eighth Report by Management on the status of the Yacyretá Hydroelectric

Project (7 November 2003)

- Document 22 Plan de Acción para el Reasentamiento y la Rehabilitación
- Document 23 Responses by the IDB Office in Buenos Aires to questions posed by the Panel (undated)
- Document 24 Annex 18 of the responses by the IDB Office in Buenos Aires to questions posed by the Panel (Salud y Medio Ambiente) undated)
- Document 25 Evaluación de la actuación de la EBY en los ultimos años (undated document prepared by the Centro de Confraternidad Argentino Paraguayo)
- Document 26 Overview of the “Margen Paraguaya- Programa Base for categoria- inversion (undated document)
- Document 27 Addenda no. 1 al Convenio Marco de Salud Publica periodo 1999-2003 entre el Ministerio de la Salud Publica y Bienestar Social (Paraguay) y la EBY (undated)
- Document 28 PMMA – Informe Bimestral no. 37 – Bimestre 6/2003 (undated)
- Document 29 Letter from D Arsenio Rotela (EBY) to the Mayor (Intendente) of Encarnación with a bacteriological analysis of recreational water in the city (9 January 2004)
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# **ANNEX 6**

**Independent Investigation Panel Yacyretá Project**  
**Questions and requests for documents**  
**IDB Country Office in Buenos Aires**

**A. Questions**

- 1. Will the IDB (Buenos Aires/Washington D.C.) have the opportunity to assess and comment on the "PEY Diferido" to be submitted by the 15<sup>th</sup> December?**

La EBY ha estado elaborando durante los últimos dos meses un Plan de Inversiones Mínimas tendientes a posibilitar el recrecimiento del embalse a cota 83. Dicho Plan tiene en cuenta todos los aspectos sociales y medioambientales. Aquellas inversiones que han surgido de los sucesivos acuerdos, pero no vinculadas directamente al recrecimiento son postergadas para cuando la Central genere a su máxima capacidad.

Durante el día 17 de diciembre se producirá una reunión de las Altas Partes, los presidentes de la República Argentina y del Paraguay, en donde definirán las líneas de acción necesarias para la terminación de la obra.

En función de ello la EBY ha comunicado al Banco que alcanzados dichos acuerdos, se enviará el Plan de Finalización para que el emita una opinión al respecto.

- 2. Has there been any public consultation on the "PEY Diferido"? When, with whom?**

Sobre el nuevo Plan de Finalización no se ha hecho aún ninguna consulta pública, por los motivos expuestos en el punto anterior.

- 3. Are there future plans for a public consultation on the "PEY Diferido" prior to the next High Level Meeting which shall eventually approve it? When? With whom?**

Es intención de la EBY, a posterioridad del acuerdo de las Altas Partes, efectuar las consultas necesarias enmarcadas en las directivas que se emanen de dicho acuerdo.

- 4. If "PEY Diferido" is funded, will it cover all outstanding social and environmental complaints? In what time frame?**

La EBY se ha comprometido con los Bancos en respetar los aspectos sociales y medioambientales, en un todo de acuerdo con las directivas impuestas por las Altas Partes.

- 5. How can "PEY Diferido" be reduced in cost from around \$700 million to (the currently estimated) around \$400 million? Will the quality of the project be reduced? Was the original cost inflated?**

Como se definió en los puntos anteriores el Plan contempla las inversiones mínimas para terminar las obras necesarias para el recrecimiento y posibilitar la generación a cota 83. La reducción de monto original previsto se vincula a ajustes que se han hecho en las estimaciones de los montos afectados a expropiaciones y al diferimiento de la ejecución de obras complementarias no necesarias para el recrecimiento. No se han hecho ajustes sobre la previsión de inversiones en los aspectos sociales y/o medioambientales.

**6. Is it the case that for the 78m elevation, to be (according to PEY 2002) reached by October 2004, there is a need for US\$ 60 million as new money? If so, do you know where the money will come from?**

Si bien la fecha para el crecimiento a cota 78 prevista en el PEY' 2002 fue para Octubre del 2004, la nueva situación que se origine en función de los acuerdos que se alcancen en las Altas Partes, ajustaran los nuevos cronogramas, como así también la utilización de fondos.

**7. Has the purchase of land in the areas of Picada Pyta ad Chiapa been completed? If there has been a delay, what are the reasons?**

La situación sobre estas tierras están relacionadas a una de las siete Recomendaciones de la Misión de Evaluación realizada por el BIRF entre el 27 al 29 de septiembre de 1999, que fueron consideradas y notificadas al banco por Nota N° 36473 de fecha 30 de marzo de 2000.<sup>1</sup> La Condición 4 plateaba "*detener los trámites de adquisición de las áreas Picada Pytá y Chaipe propuestas para reasentamiento en margen derecha (República del Paraguay)*".

Atendiendo la recomendación de la Misión de Evaluación del BIRF, la EBY no adquirió las áreas indicadas y concentró las viviendas previstas para ser ejecutadas en dichos sitios, en Arroyo Porá, en el Distrito de Cambyretá, donde actualmente se reasentaron 377 familias correspondientes a la primera etapa del PDA y se encuentran en ejecución otras 601 viviendas también del PDA.

**8. Is EBY following one model of relocation or are there further models being used (and if so, which ones)?**

El modelo relocalizatorio que aplica la EBY es el aprobado en el Plan de Acción para el Reasentamiento y Rehabilitación (PARR), que en su capítulo sobre Pautas Generales de Política para el Reasentamiento, establece que toda persona, familia y/o comunidad desplazada tendrá derecho a elegir libremente entre dos opciones excluyentes:

1. Acogerse a los programas de reasentamiento propuestos por la EBY.
2. Solicitar la indemnización por los bienes inmuebles afectados, o compensación por sus mejoras y auto-relocalizarse por sus propios medios.

A partir de la implementación del PARR, *la opción de reasentamiento* no implica asumir costos o contraer deudas para el pago de la nueva solución para ninguna familia. En el caso de optarse por *la opción indemnizatoria*, los bienes inmuebles de las familias serán valorizados a los costos comerciales de reposición, que en la MD se realiza actualmente, conforme los procedimientos de la Ley de Expropiaciones N° 1.681 del 15/01/01 y su modificatoria, Ley N° 1.814 del 30/10/01.<sup>2</sup>

Esta situación también formó parte de una de las 7 Recomendaciones de la Misión de Evaluación del BIRF de septiembre de 1999. La Condición 5 planteaba la necesidad de "*diversificar el modelo de relocalización, estudiando nuevas alternativas*".<sup>3</sup> En tal sentido, la EBY respondió que si bien esta recomendación no pudo ser incorporada al PDA, será tenida en consideración para los reasentamientos de cota final, dado que la ampliación del abanico de soluciones relocalizatorias es uno de los principales objetivos de la actualización del PARR, que será realizada como actividad inicial del programa de reasentamiento para cota final y cuyo proceso fue acordado en la reciente Misión de Supervisión del BIRF y BID, realizada entre 23 al 31 de octubre de 2003.

**9. What is the current situation in respect of the construction works in Ita Paso?**

El caso de Ita Paso merece una consideración especial. Es un asentamiento realizado por el Gobierno del Paraguay para familias adicionales de cota 76 y 78 msnm, que previó inicialmente sólo la

<sup>1</sup> Ver, Anexo 01 de este informe.

<sup>2</sup> Ver, Anexo 02.

<sup>3</sup> Ver, Anexo 01.

adjudicación de lotes con servicios, quedando la construcción de las viviendas por cuenta de los propios reasentados, que en la práctica simplemente reconstruyeron en el nuevo sitio, sus viviendas originales. Ita Paso no es PDA y lo que se considera dentro de esta fase operativa es la construcción de viviendas para familias ya reasentadas, dado que la precariedad del proyecto fue motivo de varias gestiones de los Bancos ante el Gobierno, que terminó resultando en un acuerdo donde la EBY asumió la ejecución de todas las obras de viviendas e infraestructura con repago por parte del Gobierno de Paraguay, a través de las regalías por territorio afectado

Esta situación también formó parte de una de las siete Recomendaciones de la Misión de Evaluación del BIRF de septiembre de 1999. La sexta Recomendación plateaba “*revisar la propuesta de desarrollo para las construcciones de Ita Paso 1 y 2*”. Para responder a esta condición, los pliegos para las construcciones de Ita Paso incorporaron una componente de participación comunitaria que involucró directamente a las familias en el proceso constructivo. El modelo adoptado fue basado en la metodología utilizada por las Obras Sociales Salesianas, que es una ONG católica de Asunción del Paraguay, con larga experiencia en la construcción de viviendas para familias de baja renta, a través del sistema de ayuda mutua. La empresa que ganó la licitación, contrató a la ONG Alter Vida del Paraguay, que realizó las actividades de organización y acompañamiento de los trabajos comunitarios. **Este proceso ya ha concluido.**

**10. Has EBY taken any action to reduce the economic impacts of resettlements to the people concerned?**

El Plan de Acción para el Reasentamiento y Rehabilitación (PARR) aprobado en 1992, expresa que las soluciones que se proponen a la comunidad, tienen el doble objetivo de *reposición de la pérdida* (mitigación del impacto) y de *contribución a la mejora en el nivel de vida* de las comunidades desplazadas. Para esto último el PARR contiene un plan operativo de Rehabilitación y Apoyo Social, destinado a las familias reasentadas.

Originalmente el Plan de Rehabilitación estaba conformado por varios Programas de Acompañamiento Social, en materia de educación, salud, desarrollo comunitario, asistencia técnica y reconversión productiva, a ser implementados con el apoyo de los organismos gubernamentales competentes. Esos Programas son los siguientes:

- i. *Apoyo Social*, que consta de tres componentes: *comunicación social, monitoreo y evaluación del reasentamiento*.
- ii. *Acompañamiento Social*, cuyos componentes son *salud, educación y desarrollo comunitario*.
- iii. *Acompañamiento Económico*, con componentes de *asistencia agropecuaria y de reconversión económica*.
- iv. *Apoyo a la Comunidad Indígena*, que contempla un apoyo integral al desarrollo económico y a la reconstrucción comunitaria.

Las pautas de atención del PARR siguen vigentes hasta la fecha, pero el mismo ha sido adecuado,<sup>4</sup> de forma que puedan ofrecerse respuestas a un nuevo contexto que se conformó en las zonas de intervención, como resultante de la modificación de los parámetros socioeconómicos en su periodo de vigencia. Esta adecuación de las directrices del PARR, presenta una reestructuración operativa en dos sub-planos complementarios:

- a) El Plan Operacional de Reasentamiento (POR), vinculado con la efectiva desocupación de las áreas del futuro embalse, comprende las tareas de *preparación de las familias para el traslado; la implementación efectiva de los trasladados y la titulación de las viviendas y la recepción de las familias en el nuevo hábitat*.
- b) El Plan de Rehabilitación y Apoyo Social (PRAS), vinculado con acciones de *apoyo social, desarrollo comunitario y apoyo crediticio* para actividades productivas sobre la base de la

<sup>4</sup> La Adecuación de las Directrices del Plan de Acción para el Reasentamiento y la Rehabilitación (PARR) al Plan Estratégico Yacyretá 2002 (PEY' 2002) fue aprobado por Resolución CE Nº 5.482/03. Ver, Anexo 03.

ejecución de acciones y proyectos autogestionados, está orientado a atender necesidades sentidas de la población desplazada.

Esta adecuación procura adecuarse a la actual situación de crisis socioeconómica imperante en la región y subsanar también una de las deficiencias del PARR, que en materia de rehabilitación social fue la ausencia de un accionar que favorezca el desarrollo de capacidades de gestión en la población reasentada, para encauzar acciones sostenibles de desarrollo comunitario y productivo.

**11. Have there been damages to land plots on the banks of Poity creek (Cambyreta District), as alleged? If so, what is the nature of the damages?**

No se conocen daños sobre terrenos del arroyo Poti-y (afluente del arroyo Mboi Cae) sobre su margen derecha (Distrito de Cambyretá) como se alega. En el Plano N° 1,<sup>5</sup> puede observarse claramente que el arroyo Poti-y se encuentra a considerable distancia de la desembocadura del Arroyo Mboi Cae sobre el río Paraná por lo que resulta imposible una afectación al nivel actual del embalse.

Como se indica en el Plano N° 2,<sup>6</sup> una crecida con 10 años de recurrencia inunda terrenos fundamentalmente de la margen derecha del arroyo en condiciones naturales. Esto es así, tal como puede observarse, por las condiciones de las secciones del cauce en dicho tramo. La crecida de diciembre de 1997 tuvo una recurrencia de más de 100 años por lo que resulta evidente que los daños que produjo fueron variados aunque siempre vinculados a una crecida extraordinaria donde la existencia de la represa no tuvo ninguna significación.<sup>7</sup>

**12. What is the latest information on the construction works in the enlargement of Encarnación waste water system?**

El estado de situación de la construcción de la planta de tratamiento de líquidos cloacales y de las ampliaciones de las redes de saneamiento y agua potable, es que se firmaron en el presente mes de diciembre de 2003, los contratos con las empresas adjudicatarias de las obras. Por lo tanto se prevé el inicio en un plazo máximo de 60 días.

**13. What is the freatic level below Encarnacion, Distrito Cabyreta, and Arroyos Poti-y, Santa Maria, Mboy Cae, and Yacu?**

Con respecto al acuífero libre, sobre los que se asientan los pozos de extracción de agua de algunas familias al igual que los pozos negros o pozos filtrantes, se puede detallar que es un acuífero de muy baja potencia conformado sobre un sustrato de suelo limo-arcilloso con transmisividades del orden de  $10^{-5}$  a  $10^{-6}$ . Por ello los niveles del acuífero libre siempre "acompañan" al terreno natural. Por ello es común en la zona el uso de aljibes para el almacenamiento del agua de lluvia principalmente (en sectores donde no existe cobertura de red de agua potable).

Los niveles freáticos son siempre superiores a cota 79/80 sobre las cuencas de los arroyos Poti-y, Santa María y Mboi Cae.<sup>8</sup> De igual manera, en las zonas pobladas, los asentamientos se producen sobre niveles de acuífero superiores a la cota 80 por lo que resulta imposible que, al nivel actual del embalse, se afecten los niveles del acuífero libre.

También se observa de los trabajos de relevamiento de campo que en ciertas zonas, la diferencia entre el basalto o nivel impermeable y el acuífero libre es muy chica lo que indica que los pozos cavados (bien para abastecimiento de agua, como para drenaje de aguas cloacales) se asientan sobre zonas no aptas, en virtud de la calidad del agua del mismo y de la poca potencia del acuífero. Esto hace que en

<sup>5</sup> Ver, Anexo Planos de este informe.

<sup>6</sup> Ver, Anexo Planos.

<sup>7</sup> En el Anexo 04 de este informe, se detalla mayor información sobre el tema hidrología.

<sup>8</sup> Ver, Anexo 05.

dichas zonas una lluvia de mediana magnitud pueda conectar los diferentes pozos dado que además se suelen ubicar muy cercanos unos de otros.

Esta afirmación es parte de las conclusiones del estudio de la consultora LOTTI & Associati,<sup>9</sup> donde se expresa que no existe relación entre los niveles del río Paraná o sus afluentes en las zonas urbanas de Encarnación y Posadas y los niveles freáticos, dado que el acuífero libre es siempre drenado por los ríos y arroyos y nunca ocurre lo contrario.

La EBY posee una red de medición hidrogeológica en las ciudades de Encarnación y Cambyretá. Los datos obtenidos son comparados con los niveles del río Paraná y de los arroyos.

Al efecto de evaluar los posibles niveles de afectación de la napa freática (acuífero libre) en función a los diferentes niveles del embalse, se realizó un estudio (basado en las ecuaciones de Businessq y Darcy) cuyas conclusiones se expresan en el gráfico del Anexo 05.

En dicho gráfico, puede observarse que desde le punto de borde del embalse a cota actual, la afectación es mínima y sólo se presenta en los primeros 50 metros (zonas ya liberadas por la EBY) y a cota definitiva, la afectación alcanza los 300 metros (contados desde el embalse a situación actual). Como aclaración se indica que la cota 77,30 corresponde a la denominada cota 78 (78 de relocalización y 77,30 de nivel de agua), la cota 79 a la denominada cota 80 y la cota 83 a la denominada cota 84 (83 de nivel de agua y 84 de relocalización).

**14. What do you estimate will be the energy demand for the rest of this decade? What do you estimate will be the value of electricity per kilowatt/hour?**

A continuación se describen las principales variables que afectan a cada escenario evaluado, válidos tanto para Cota 76 como 83 de la C.H. Yacyretá.

#### **ESCUENARIO MEDIO**

A continuación se indican las principales variables que afectan al escenario medio (que será considerado como base en el presente estudio) y que serán desarrolladas en los puntos siguientes:

- Evolución de la demanda.
- Incorporaciones de generación en el corto y mediano plazo.
- Nuevas Líneas de Transmisión.
- Precios de combustibles: gas natural y líquidos.
- Interconexiones internacionales.
- Precio de Largo Plazo.

#### **EVOLUCIÓN DE LA DEMANDA**

En la tabla siguiente se muestra la evolución registrada de la demanda del MEM, a nivel de nodos de compra de los Agentes Demandantes, durante los años 1992 a 2002. La tasa de crecimiento media resultante durante dicho período es del 4,5%.

<sup>9</sup> Estudio Hidrogeológico, Topográfico y Geotécnico del área de Posadas, Garupá (Misiones – Argentina) y Encarnación (Itapúa – Paraguay). Año 1999 – LOTI & ASSOCIATI.

**MEM ARGENTINO - DEMANDA HISTÓRICA A NIVEL DE AGENTES DEL MEM**

(NO INCLUYE PÉRDIDAS DE TRANSMISIÓN EN DISTROS Y TRANSENER)

Año	Demanda Agentes [GWh]	Tasa de Crecimiento
1992	45.942	
1993	48.821	6.3%
1994	51.908	6.3%
1995	53.790	3.6%
1996	57.783	7.4%
1997	62.184	7.6%
1998	65.669	5.6%
1999	68.785	4.7%
2000	71.748	4.3%
2001	73.607	2.6%
2002	72.123	-2.0%

Fuente: CAMMESA.

Se puede observar que desde el año 1998 la tasa de crecimiento de la demanda presenta un paulatino descenso, llegando a tener un valor negativo (-2%) en el año 2002, con relación a la crisis económica experimentada en Argentina en los pasados cinco años.

La demanda registrada durante los primeros meses de 2003 muestra un nivel de recuperación y se espera tener para el presente año una demanda levemente superior a la registrada en el año 2001.

En la tabla que sigue se muestra la evolución prevista de la demanda del MEM argentino a nivel de nodos de compra de los Agentes Demandantes. Se ha planteado para el año 2004 un estado intermedio, llegando al 2005 a la tasa media histórica 1992/2002.

**MEM ARGENTINO - DEMANDA PROYECTADA A NIVEL DE AGENTES DEL MEM**

(NO INCLUYE PÉRDIDAS DE TRANSMISIÓN EN DISTROS Y TRANSENER)

Año	Demanda Agentes [GWh]	Tasa de Crecimiento
2003	73.146	1.4%
2004	74.748	2.2%
2005	78.111	4.5%
2006	81.626	4.5%
2007	85.299	4.5%
2008	89.138	4.5%
2009	93.149	4.5%
2010	97.341	4.5%

Fuente: Mercados Energéticos

#### **INCORPORACIONES DE GENERACIÓN EN EL CORTO / MEDIANO PLAZO**

Las únicas adiciones de capacidad consideradas, además de la de Yacyretá con elevación a Cota 83, fueron las relacionadas con la finalización durante los primeros meses del año 2003 de las obras de dos proyectos; uno térmico, dado por la incorporación de una segunda TG de 116 MW en la C.T. Pluspetrol Norte, y otro hidráulico, dado por la reconstrucción del complejo hidráulico Cacheuta y Alvarez Condarco (se agregan 100 MW).

Las incorporaciones de nueva generación anunciadas previamente al año 2002 (por ejemplo: Atucha II, Genelba 2, Loma de la Lata, etc.) fueron retrasadas indefinidamente. Actualmente el Organismo Encargado del Despacho (CAMMESA) no modela dentro de sus proyecciones la incorporación de nuevos equipos, y sólo toma en cuenta la finalización de las obras y entrada en operación de los proyectos indicados de Cacheuta y A. Condarco.

La falta de financiamiento y la situación socioeconómica que atraviesa actualmente Argentina no permiten prever el momento en que estos proyectos "anunciados" se materialicen, motivo por el cual no fueron incorporados dentro del escenario de este estudio.

El único incremento de capacidad evaluado fue el de la Central Hidroeléctrica Yacyretá, cuando ésta evoluciona hacia Cota 83. En la tabla siguiente se indica la evolución prevista del incremento de potencia de esta central.

#### **MEM ARGENTINO – INCREMENTO DE CAPACIDAD DE LA C.H. YACYRETÁ POR ELEVACIÓN A COTA 83**

Fecha	Incremento de Capacidad (MW)	Observaciones
Oct-04	+ 195	Se eleva la Cota de 76 a 78 msnm
Ene-07	+ 367	Se eleva la Cota de 78 a 80 msnm
Ene-08	+ 400	Se eleva la Cota de 80 a 82 msnm
Jun-08	+ 338	Se eleva la Cota de 82 a 83 msnm
INCREMENTO TOTAL	+ 1300	Elevación de Cota de 76 a 83 msnm

Fuente: Plan Estratégico Yacyretá 2002.

#### **NUEVAS LÍNEAS DE TRANSMISIÓN**

El estado actual del sistema de transporte en alta tensión resulta insuficiente como para poder evacuar el incremento de capacidad previsto para Yacyretá (+ 1300 MW), siendo necesario realizar una ampliación de transporte entre el NEA y Buenos Aires. El proyecto de ampliación consiste en la conformación de un tercer circuito en 500 kV, dado por el agregado de los tramos Rincón - Salto Grande y Colonia Elía - Rodríguez.

#### **PRECIOS DE COMBUSTIBLES: GAS NATURAL Y LÍQUIDOS**

Actualmente, y en función de lo establecido por la Resolución 01/03 de la Secretaría de Energía, los generadores térmicos realizan las declaraciones de estructura de costos de sus Costos Variables de Producción (CVP) indicando la participación que tienen en la misma los componentes combustibles, no combustibles y de mantenimiento, y a su vez cómo se ven cada uno de estos términos afectados por el Precio de Referencia de los Combustibles y/o las variaciones cambiarias del peso respecto al dólar estadounidense. De esta manera, se hace posible

mantener las declaraciones que en cada período estacional realizan los generadores térmicos ante posibles variaciones de los precios de referencia y/o la cotización del dólar.

Dentro del escenario evaluado se han tomado en cuenta las declaraciones realizadas por los agentes en la última programación estacional definitiva de mayo de 2003.

A futuro, y con el objeto de reflejar los verdaderos costos de expansión de sus redes, surge la necesidad de plantearse un incremento de los precios que actualmente se tienen para el Gas Natural. La expectativa de los productores de gas es que se alcance en el mediano plazo un nivel cercano al 90% del que se tenía, en dólares, en el 2001. Dada la incertidumbre sobre la orientación política que se dará al respecto, en el escenario base (medio) se proyectó un progresivo incremento de los precios de referencia del Gas Natural, llegando a alcanzar en el año 2005 un valor equivalente al 60% del registrado durante el 2001. Para los combustibles líquidos se mantuvieron los precios actuales de referencia durante todo el período que comprende el presente estudio.

#### ***INTERCONEXIONES INTERNACIONALES***

No se consideraron incrementos de capacidad en las interconexiones internacionales. En particular, se prevé que la interconexión Argentina - Brasil resulte con un bajo despacho, al menos durante los próximos dos años, en función del estado actual que presentan los embalses del sistema brasileño. Los resultados arrojan en este sentido un nivel de exportación a Brasil inferior al 20% (promedio de hidrologías) de la capacidad de intercambio disponible.

#### ***PRECIO DE LARGO PLAZO***

Tomando en cuenta la evolución prevista de la demanda y manteniendo su abastecimiento bajo ciertos niveles de calidad, es necesario plantearse para el largo plazo la posible incorporación de nuevos generadores dentro del sistema. La capacidad actual y las incorporaciones de corto y mediano plazo consideradas pueden no ser suficientes para lograr, por sí solas, el abastecimiento de la demanda durante todo el período.

Por consiguiente, se debe establecer un criterio que permita determinar las principales características de las incorporaciones de largo plazo (tipo, potencia, etc.) así como la fecha prevista para su entrada en servicio.

Una hipótesis básica es la de considerar que toda inversión de largo plazo en el sistema es realizada exclusivamente a riesgo de mercado. Esto significa que dichos proyectos de inversión se financian con una tasa de retorno razonable, vendiendo toda su producción al mercado spot.

No importa el tipo de expansión en generación que finalmente se adopte para el largo plazo, la condición necesaria para estos proyectos, desde el punto de vista del inversor, es que el costo marginal de corto plazo (CMCP) se ubique dentro de un rango que permita hacer factible la inversión desde el punto de vista financiero.

La tecnología adoptada para la expansión de la generación es la de ciclos combinados consumiendo Gas Natural. Tomando en cuenta la escala que tiene el MEM y en función de la tecnología utilizada para el desarrollo de las últimas incorporaciones, se adoptaron módulos de 800 MW para estos ciclos combinados.

Para la evaluación del "proyecto genérico de expansión" se consideró una Tasa Interna de Retorno (TIR) del 16 %. Tomando en cuenta la actual situación de falta de crédito para nuevas inversiones, se consideró una estructura de capital 100 % *equity*.

Para el largo plazo se consideró que los niveles de remuneración de la potencia acompañan proporcionalmente al incremento de la energía para mantener la señal económica que tiene

este concepto.

En la tabla siguiente se indican las principales consideraciones adoptadas, dando como resultado un Costo Marginal de Largo Plazo (CMLP) monómico igual a 58.98 \$AR/MWh, siendo la parte correspondiente a la energía 49.10 \$AR/MWh y a la potencia 6.99 \$AR/kWmes.

#### CMLP PROYECTADO PARA EL MEM

$$\text{CMLP (Energía)} = 49.10 \text{ [$AR/MWh]} = 23.95 \text{ [USD/MWh]} (*)$$

$$\text{Precio de la Potencia} = 6.99 \text{ [$AR/kW-mes]} = 3.41 \text{ [USD/kW-mes]} (*)$$

(\*) Nota: se asumió una tasa de cambio en el largo plazo de 2.05 \$AR/USD.

En la tabla siguiente se indican las principales hipótesis evaluadas en el cálculo de CMLP del sistema.

#### MEM ARGENTINO – PRECIO DE LARGO PLAZO – CARACTERÍSTICAS DEL PROYECTO DE GENERACIÓN FUTURO CICLO COMBINADO DE 800 MW

##### Costos de Inversión

Precio FOB del equipamiento	480	USD/kW
Otros Costos	10	%
Costo Total de Inversión	422	*10 <sup>6</sup> USD

##### Central

Tipo	Ciclo Combinado	
Potencia Bruta	800	MW
Eficiencia	57	%

##### Composición del Capital

Propio	100	%
Préstamo	0	%

##### Costo de Combustible

Precio del Gas en central	1.2	USD/10 <sup>6</sup> BTU
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##### Rentabilidad

TIR	16	%
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##### Precio Medio del MEM

28.77 USD/MWh

Precio de la Energía	23.95	USD/MWh
Precio de la Potencia	4.82	USD/MWh

Fuente: Mercados Energéticos

## PRECIO DE LA ENERGÍA - EZEIZA 500 KV

Año	\$US/MWh
2003(*)	9.86
2004	10.70
2005	12.06
2006	13.94
2007	16.95
2008	21.90
2009	24.26
2010	23.95
2011	23.93
2012	23.95
2013	23.95
2014	23.95
2015	23.95
2016	23.95
2017	23.95
2018	23.95
2019	23.95
2020	23.95
2021	23.95
2022	23.95
2023	23.95

(\*) Nota: corresponde al período junio a diciembre de 2003.

En referencia al informe podemos decir que una última estimación hecha por CAMMESA calculó que en el corriente año la demanda habrá crecido el 8%, contra el 1,4 % estimado en el informe. Por otro la tasa estabilizada para el largo plazo es de un 4/5% (similar a la estimada), pero a partir del 2004.

- 15. Ha sido el Plan de Acción para el Reasentamiento y la Rehabilitación (PARR) así como el Plan de Rehabilitación y Apoyo Social (PRAS) consultado con la población civil así como con los afectados?. Creen que estos planes darán solución a las denuncias hechas por la FEDAYIM?.**

El PARR, en sus distintas fases de ejecución ha sido ampliamente consultado con las familias y organizaciones de la sociedad civil, contando para ello con el aporte del Banco Mundial.

- En 1992, previo a la aprobación del PARR, se realizaron Audiencias Públicas, en Posadas y Encarnación.
- Posteriormente, en oportunidad de la definición del Programa Desborde de Arroyos, se realizaron tres (3) Jornadas Participativas; la 1º en 1997 en Ituzaingó, con 152 participantes; la 2º en 1998, en Encarnación y Posadas, con 257 participantes y la 3º en 1999 en Encarnación, con 498 participantes.

- En oportunidad de la aprobación por parte de la EBY del PEY' 2002, se realizaron en ese año, diversas Jornadas de difusión de los alcances generales y específicos del Plan, así como del PARR y del PMMA y en particular, se realizó un amplio proceso participativo en Carmen de Paraná, que incluyó a las 329 familias a ser relocalizadas, si como al Municipio y a otras organizaciones de la sociedad civil. El resultado de dicho proceso participativo fue oportunamente remitido a ambos bancos.

Con relación a si estos planes darán solución a las denuncias hechas por la FEDAYIM, puede señalarse que sí, en los términos en los que está planteada su implementación; pero si se lo considera desde la perspectiva que ha planteado la denunciante, puede entenderse que no, dado que por una parte, su posición es muy intransigente y por la otra, no existe una posición hegemónica con relación al Proyecto Yacyretá y por eso es necesario caracterizarla como una reivindicación de uno de los varios grupos que constituyen el movimiento reivindicadorio.

El proceso reivindicadorio vinculado al Proyecto Yacyretá se caracteriza por una fragmentación de los objetivos planteados y por la multiplicidad de organizaciones sectoriales, que en conjunto, constituyen indicadores de la fragilidad política de los canales y de las formas de representación de los intereses de las familias involucradas por el Proyecto.

Está situación es más evidente en Margen Derecha (República del Paraguay), donde la diversidad de organizaciones constituidas llega a más de 100 y que de acuerdo con las necesidades del movimiento y a los fines de agrupar esfuerzos para tornar más efectiva la capacidad de negociación, van creando instancias de coordinación. *"Esta estrategia de acción colectiva efectivamente torna más visible a las organizaciones y posibilita que estén planteen sus reivindicaciones con más fuerza ante la EBY, como asimismo en escenarios políticos locales y nacionales de poder. Sin embargo, la misma sobredimensiona el rol de los dirigentes o líderes, que no siempre favorece a los desempeños equilibrados a favor de las demandas reales de los asociados, en la medida en que ellos pueden estar expuestos a presiones o intereses externos (EISE, informe N° 03)"*.

Las deudas pendientes son muy relativas y desafortunadamente una intervención de la magnitud del Proyecto Yacyretá, genera en la población un sentimiento de responsabilidad, por todas las alteraciones y cambios estructurales que pasan a ser manifestadas en su zona de influencia. No se puede atribuir al Proyecto la responsabilidad de los efectos de la crisis económica vigente tanto en Argentina, como en Paraguay; ni de las severas modificaciones climáticas; ni por el desarrollo urbano desordenado, con ausencia de una infraestructura sanitaria adecuada que genera graves problemas de contaminación; ni por la carencia de servicios públicos; etc. En términos generales, la población considera que la EBY es la única institución que realiza obras y dispone de recursos y por ese motivo se canalizan todos los reclamos a través de la Entidad.

Puede señalarse que no son consistentes las demandas hacia la EBY, pero sirven como una estrategia de las organizaciones, que no tienen otros canales más efectivos para orientar sus demandas y reivindicaciones.

**16. Creen ustedes que las denuncias de la FEDAYIM son justas, claramente definidas o creen que les falta mas precisión? En particular en lo que se refiere a las denuncias 10, 11 y de los oleros?**

Con relación a lo expuestas en 10, en cuanto a las medidas de *indemnización*, la EBY se ha regido (hasta el año 2002), conforme a las normas aprobadas por el Comité Ejecutivo en fecha 4 de junio de 1981, Acta N° 117, punto 7. Posteriormente, por Resolución N° 1.366/02 de fecha 27 de noviembre de 2002, se aprueban las nuevas Normas y Procedimientos Valuatorios, uniformes y comunes para ambas márgenes,<sup>10</sup> que para Margen Derecha, contemplan los alcances de las mencionadas Leyes Nacionales N° 1.681/01 y 1.814/01 (modificatoria de la anterior), que son las que determinan los mecanismos de tasación tanto para los inmuebles de familias propietarias, como para las mejoras de las familias no

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<sup>10</sup> Ver, Anexo 06.

propietarias. La realización de la tasación de las propiedades afectadas por la EBY esta fundada y apoyada en la metodología en uso por la Comisión Binacional de Tasaciones aprobada por el Comité Ejecutivo en la cual se establecen los pasos a seguir para la realización de las tasaciones de inmuebles a ser expropiados. El método adoptado es el Método Analítico Comparativo, que consta de dos partes: primero la obtención de un valor zonal para la determinación del valor de la tierra y luego, la determinación del valor de las construcciones y otras mejoras introducidas en el inmueble.

De todas maneras, las denuncias son muy generales y para que la EBY pueda responder sobre el particular, sería correcto contar con las copias de las tasaciones denunciadas, ya que no se sabe si se trata de tasaciones de ocupantes de terrenos, o de propietarios de inmuebles.

Con relación a lo expuesto en 11, cabe indicar que la precaria situación en que viven la mayoría de las familias, afectadas por el Proyecto, reflejan los montos de las respectivas tasaciones. El análisis de los valores de tasaciones realizadas en el marco del Programa Base, para todos los barrios afectados, demuestran que el 55% de las mejoras tienen un valor inferior a los tres mil dólares estadounidenses, lo que realmente no permite la compra de un nuevo terreno, ni la reconstrucción de una vivienda. Esto demuestra también, que el tratamiento indemnizatorio no es la solución más adecuada para este grupo poblacional. No obstante, cabe aclarar que actualmente las tasaciones se realizan sin depreciación; es decir, que se realizan considerando el valor a nuevo, en función al cumplimiento de los alcances de la Ley Paraguaya de Expropiación vigente. Para comprender mejor esta situación, cabe decir que *el 87% de las familias de los barrios mencionados ostenta la condición de no propietarios*, son ocupantes precarios de lotes de pequeñas dimensiones situados en áreas carentes de servicios básicos, lo que infiere los bajos valores de tasación denunciados. Esta condición, asociada a los bajos niveles de ingresos de estas familias, fue el factor principal que llevó a la EBY -con el apoyo del BIRF- a formular e implantar el Plan de Acción para el Reasentamiento y Rehabilitación (PARR), que determina *la solución relocalizatoria sin ningún costo para el afectado, independiente de la situación de ocupación de sus terrenos*.

Con relación a las reclamaciones referidas a los productores de ladrillo, el tratamiento de las unidades de producción olera y cerámica (tejerías), fue la resultante de un largo y complejo proceso de negociación con los afectados, que terminó en ofrecer, de acuerdo con las características del sistema de producción (artesanal o mecanizado), dos alternativas de solución: *el reasentamiento o la compensación por cambio de actividad*.

La opción relocalizatoria que procuró mantener en actividad las unidades oleras promoviendo mejores condiciones sanitarias, de habitabilidad y de producción, fue la apoyada por los Bancos y contó solamente con la opción de las 97 familias de margen derecha, de las cuales 92 constituyen el Parque Industrial San Pedro en Encarnación y 5 fueron relocalizadas en el distrito de Coronel Bogado, donde la EBY siempre trabajó con la población, apoyando el mantenimiento de la actividad.<sup>11</sup>

Para los que decidieron no continuar en la actividad, por libre opción, fue abonado un pago compensatorio promedio de doce mil dólares por unidad productiva, monto que fue definido de acuerdo con la producción individual. Con relación a los empleados de las ollerías, en su gran mayoría miembros del mismo grupo familiar del titular de la unidad productiva, de acuerdo con los Artículos 78 y 79 del Código Laboral de la República del Paraguay, deberían ser indemnizados por los empleadores y no por la EBY.

Situación semejante ocurrió con 54 unidades industriales ubicadas bajo cota 84 msnm, que fueron objeto de un programa de autorelocalización libre, a un costo total de más de cuatro millones de dólares estadounidenses.<sup>12</sup>

La EBY también patrocinó el pago compensatorio por la afectación de los yacimientos de arcilla de la zona de Encarnación, para 48 tejerías ubicadas fuera de cota 83, a un valor total de tres millones de

<sup>11</sup> Ver, Anexo 07.

<sup>12</sup> Ver, Anexo 08.

dólares y a 91 olerías, arriba de cota 83, a un valor total de setecientos cincuenta mil dólares, inversión orientada a una re-articulación de las industrias remanentes, con la consecuente reocupación de empleados dispensados por las industrias directamente afectadas. La aplicación de la política de atención para el sector, proporcionó solución a la totalidad de las unidades productivas censadas antes del llenado a cota 76, en el eje Encarnación-Posadas.

No obstante, puede verificarse que la actividad se ha retomado y se han reocupado o invadido áreas de yacimientos aún no expropiadas por la EBY, que involucra a hijos y antiguos empleados de oleros, que procuran obtener los mismos beneficios otorgados a los oleros censados.

#### SOLUCIÓN DE INDUSTRIAS OLERAS Y TEJERAS

Localización de Origen	Oleras			Total Solución Olera	Tejerias			Total Solución Tejera
	Bajo Cota de Afectación		Arriba de cota de afectación		Bajo Cota de Afectación		Arriba de Cota de Afectación	
	Relocalizados	Compensados por Act. Económica	Indemnización por acopio de materia prima		Pago para Autorrelocalización Libre	Indemnización	Compensados por afectación de Yacimiento	
Encarnación (1)	92	200	91	383	54	1	48	103
Carmen del Paraná		48	3	51				0
Coronel Bogado (2)	5		60	65				0
San Cosme y Damián		20		20			1	1
Totales	97	268	154	519	54	1 *	49	104

(1) Incluye Mboi Cae, Barril Paso, Pacu Cuá, San Juan del Paraná, entre otros.

(2) Recibieron pago indemnizatorio lo 65 oleros, de los cuales 5 fueron también relocalizados.

(\*) Corresponde al pago de una Tejería mecanizada.

17. Creen ustedes que la denuncia sobre "Reasentamientos inadecuados" es precisa o creen que la FEDAYIM debe precisar más esta denuncia explicando que entienden ellos con reasentamientos inadecuados?

Las acciones de *reasentamiento* estuvieron y están enmarcadas dentro de las Pautas Generales de Política para el Reasentamiento del PARR y en tal sentido es necesario señalar, que los reasentamientos producidos por la EBY en el marco del llenado de cota 76 msnm, fueron objeto de monitoreo constante por parte de instituciones académicas de la zona y de evaluaciones independientes sistemáticas realizadas por consultores internacionales.

Los resultados del mecanismo de control externo demuestran que en términos de reposición física de las pérdidas y de mejoría en las condiciones habitacionales, de salud y educación, el Proyecto logró resultados superiores a los inicialmente acordado con los Bancos.

18. Tiene la EBY algún plan para recomponer el aparato productivo de las familias afectadas?

Como se ha mencionado en la pregunta 10, el PARR contiene una Plan de Rehabilitación y Apoyo Social (PRAS), que ha sido recientemente adecuado para ofrecer respuestas a las actuales características socioeconómicas desfavorables que imperan en la región.

Sus objetivos específicos están orientados a establecer mecanismos de asignación de recursos que permitan brindar financiamiento, capacitación y asistencia técnica para pequeñas iniciativas familiares y comunitarias, que contribuyan a mejorar la capacidad de autogestión de las familias y grupos de esas familias, favoreciendo su protagonismo en la administración de esos recursos.

Para ello se promueven desde el PRAS la articulación de acciones de *Apoyo Social* que se implementan por Convenios con los organismos públicos (nacionales, provinciales o departamentales y/o municipales)<sup>13</sup> y por acciones de desarrollo comunitario y apoyo crediticio, que se estructuran en dos Fondos de Inversión Social, que puedan ser administrados por organizaciones públicas o privadas independientes de Yacyretá.

Son ellos el *Fondo de Desarrollo e Inversión Social* (que representa un fondo de subsidios para apoyar pequeñas iniciativas comunitarias, actualmente en ejecución)<sup>14</sup> y el *Fondo de Promoción y Crédito para Actividades Productivas* (que representa un fondo rotatorio de préstamo, que se pretende sea administrado por una institución financiera).

**19. Que quiere decir la EBY con “indemnización asistida”. Dar mas detalles y ejemplos concretos de que este instrumento de indemnización es adecuado.**

Esta situación también formó parte de una de las siete Recomendaciones de la Misión de Evaluación del BIRF de septiembre de 1999. La ya nombrada Condición 5 plateaba “*diversificar el modelo de relocalización, estudiando nuevas alternativas*”. Una de las alternativas propuestas fue la indemnización asistida, destinada a las familias que deseen trazar su solución relocalizatoria específica, con un apoyo social y jurídico para utilizar el dinero de la indemnización en la adquisición de otro inmueble.

En términos generales, el instrumento de indemnización asistida es un programa de auto-relocalización con liberación de recursos diferido de acuerdo con la evolución de la solución relocalizatoria (compra o construcción de viviendas), acompañada de un apoyo técnico y jurídico. Como ejemplo puede ser considerado como “ladeen case” de este mecanismo, el caso del tramo este de la Costanera de Posadas, donde la Municipalidad con el apoyo de la EBY realizó un programa de indemnización asistida para familias adicionales con buenos resultados, en cuanto al grado de satisfacción por parte de las familias relocalizadas.

La EBY entiende que la indemnización asistida es un mecanismo que puede resultar eficiente para ser incorporado dentro del proceso de terminación del proyecto, tanto para familias propietarias, como para familias no propietarias de inmuebles, que no se encuentren en estado de riesgo social. En el primer caso, porque sería un complemento adecuado de la simple indemnización, que hasta el presente presentó una aceptación limitada por parte de las familias propietarias y en el segundo caso, porque le daría a las familias no propietarias, la posibilidad de buscar una vivienda que dentro de un monto equivalente a la solución patrón del EBY, cubra las expectativas de localización dentro de sectores urbanos considerados cercanos a los sitios de donde proviene cada familia.

De todos modos, las limitaciones de este modelo están relacionadas con la disponibilidad de inmuebles o lotes para compra en las ciudades afectadas y con la estructura que se debe disponer para asistir en forma individual a centenas de familias en el proceso de adquisición de esos inmuebles y/o para la posterior ejecución de sus viviendas. También existe el riesgo de un amplio proceso de reclamos y reivindicaciones de revisión de las soluciones anteriormente implementadas, lo que debe ser cuidadosamente incorporado al momento de realizar un análisis de implementación masiva de este tipo de alternativa.

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<sup>13</sup> En Paraguay (MD), se establecieron acuerdos para la firma de Convenios con el Municipio de Cambyretá, donde se relocalizaron las familias del PDA en Arroyo Porá. Dicho acuerdo abarca un primer aspecto relacionado con el desarrollo de actividades socio-culturales como medida de contención social, junto a la puesta en marcha del Centro Comunitario y un segundo aspecto, orientado a actividades de mejora de capacidades laborales, alimentación y nutrición.

<sup>14</sup> En Margen Derecha, este Fondo está siendo implementado inicialmente en Arroyo Porá por el Centro Paraguayo de Estudios Sociológicos (CPES), que es una ONG de Paraguay. Con el objetivo de lograr la adhesión de la comunidad para la implementación del Fondo se realizaron una serie de Talleres de difusión, que incluyeron a los distintos sectores sociales involucrados. El 11/09/03 con las autoridades del Municipio de Cambyretá; el 12/09/03 con representantes barriales, junto a las organizaciones gubernamentales y de la sociedad civil que están localizadas en Arroyo Porá y desde el 24/09/03 al 05/10/03, con las familias potencialmente beneficiarias del Fondo.

## B. Requests for Documents (possibly via EBY)

### **1. A copy of the urban development plan(s) of the municipalities affected by the project**

No existen planes de desarrollo urbano de los municipios de MD, afectados por el Proyecto Yacyretá. Esta situación también formó parte de una de las siete Recomendaciones de la Misión de Evaluación del BIRF de septiembre de 1999. La Condición 2 plateaba la necesidad de “*producir planes de desarrollo urbano en los municipios que reciben la intervención del Proyecto de forma de enmarcar las obras de reasentamiento en planes de desarrollo urbanos*”. Al respecto, la EBY informó al banco por la mencionada Nota N° 36473 de fecha 30/03/00, que este tipo de accionar está vinculado con la etapa final de ejecución del Proyecto Yacyretá; sin embargo, la EBY estructuró y aprobó un *Programa de Apoyo a los Municipios*, con el objetivo de aportar al fortalecimiento institucional de los mismos y para ello propuso -tal lo recomendado por el BIRF-, afectar un presupuesto de un millón de dólares. Inicialmente, se previó que el programa sería financiado con recursos del Préstamo BIRF 2854-AR, pero el cierre del periodo de desembolso de dicho préstamo, no permitió su utilización. Para retomar estas acciones, se deberá contar con la posibilidad de afectar una partida del Contrato de Préstamo BID-760 OC/RG y acordar una actualización de los Términos de Referencia del Programa, dentro del mecanismo de participación institucional correspondiente.

De todas maneras, se anexa la *Ordenanza Municipal N° 292/94*<sup>15</sup> que aprueba el *Plan de Zonificación para el Municipio de Encarnación*, regulando la intervención en el territorio de particulares y de los entes públicos y autárquicos, en el desarrollo de la infraestructura y equipamientos y la *Ordenanza Municipal N° 28/2002*,<sup>16</sup> que modifica el apartado de Uso del Suelo eliminando una franja de protección de 70 metros posterior a la última cota de nivel de agua por considerarla como “.. una limitante para el desarrollo de la zona ribereña”.

### **2. A copy of the report(s) where results of the monitoring of water quality can be seen (last five years)**

La calidad del agua del río Paraná la establece la cuenca de aporte y los terrenos por donde el río discurre. La gran mayoría de las ciudades ubicadas en la cuenca del río Paraná (con cierre en el eje Encarnación-Posadas) no poseen sistema de tratamiento de aguas cloacales y además se vierten diferentes tipos de aguas industriales y a ello se suman las mas de 50 represas ubicadas en dicha cuenca. Esta situación de base, más los suelos de tipo lateríticos por los que atraviesa, le confieren al río Paraná unas características de calidad propias que ni su pasaje por las ciudades de Encarnación y Posadas ni el embalse de Yacyretá (con un tiempo de retención hidráulica de 5 días) pueden modificar.

La Entidad Binacional Yacyretá ha establecido un sistema de monitoreo permanente de calidad de agua a través de una red índice que opera desde antes del llenado del embalse. Los índices de calidad no han variado desde antes del llenado hasta la fecha.<sup>17</sup>

Puede observarse, en los gráficos del Anexo 11, que los valores de coliformes fecales (indicador más crítico considerado) no se han modificado desde antes del llenado del embalse a la actualidad y están vinculados a las deficiencias en saneamiento de las ciudades a orillas del río Paraná.

### **3. A copy of the health record(s) where results of health monitoring and statistics on the incidence of water-borne diseases can be seen (last five years)**

La EBY estableció su plan de mitigación por medio de una estrategia definida por la relación con los organismos responsables de la salud en ambas márgenes y por acciones que promovieron el fortalecimiento institucional de esos organismos. En Paraguay se procedió a establecer convenios con el Ministerio de Salud Pública y Bienestar Social (MSPyBS) de la Nación, desde el año 1992 y en Argentina con el Ministerio de Salud Pública de Misiones, desde el año 1994.

<sup>15</sup> Ver, Anexo 09.

<sup>16</sup> Ver, Anexo 10.

<sup>17</sup> Ver, Anexo 11.

Los convenios señalados, se estructuraron en tres componentes principales que se ejecutan desde el inicio hasta hoy, sin interrupción. Estas partes son: (i) *Vigilancia Epidemiológica*; (ii) *Monitoreo de Vectores* y (iii) *Reforzamiento a la Atención Primaria a la Salud*.

### i. Vigilancia Epidemiológica

Para la *Vigilancia Epidemiológica*, se reforzaron los sistemas de detección y alerta de morbilidades de los Ministerios, a través de capacitación y equipamiento. El informe del MSPyBS de Paraguay, detallado en el Anexo 11, indica que a partir del año 1994 se incrementaron los casos registrados de diferentes enfermedades (entre ellas diarreas, infecciones respiratorias, etc.), pero esto se debe a que se incrementó notablemente el área de cobertura de atención.

Este incremento surge de la puesta en vigor de un convenio entre la EBY y el MSPyBS de Paraguay que incorpora áreas que no estaban bajo cobertura del organismo gubernamental. No se incrementan, por lo tanto, las tasas de dichas morbilidades. Además se indica en dicho informe, que se registra una reducción del índice de mortalidad infantil por diarreas (vinculado a la denuncia temprana). Los datos relevados por dichas instituciones, indican que no existen morbilidades cuyos índices hallan sufrido modificación luego del llenado del embalse.<sup>18</sup>

Por otra parte la casuística del paludismo, según se demuestra con los índices malaríométricos proveídos por el Servicio Nacional de Erradicación del Paludismo (SENEPA), indica que se produjeron incremento en los años 1999 (distritos de San Rafael y Yatayty) que no se encuentran en el área de influencia del embalse y 2002 (Itapúa poty, San Pedro del Paraná, José L. Oviedo y otros) produciendo casos no autóctonos en Encarnación, San Juan del Paraná, San Cosme y Damián. La Leishmaniasis es una afección cuya transmisión se efectúa en lugares boscosos y/o de deforestación, no tiene relación con el embalse.

La schistosomiasis es una afectación que se relaciona a la represa se produjo solamente dos casos antes del llenado del embalse, detectado en trabajadores brasileños que fueron tratados oportunamente, desde entonces a pesar de los estudios de colecta y clasificación conquiológica de los caracoles en el embalse, así como de los estudios coprológicos por el método de Kato (monitoreo realizado todos los años en forma recurrente) no se detectaron infección de caracoles a cercaria ni portadores de la enfermedad hasta la actualidad.

El Dengue es una afectación no relacionada con la represa y corresponde a la conducta de limpieza domiciliaria familiar que favorezca la formación de criadero para el vector. Empero ello, la EBY realiza campañas de educación y apoya campañas de limpieza de patios cuando el Ministerio de salud Pública identifica potenciales brotes de la enfermedad.

La comparación efectuada por el Ministerio de Salud del área de influencia con otras áreas sin influencia del embalse demuestra que las afectaciones tienen un comportamiento similar sin incremento de las patologías objeto de la denuncia.<sup>19</sup>

### ii. Monitoreo de Vectores

Para el *Programa de Monitoreo de Vectores*, se realizaron convenios con la Universidad Nacional de La Plata (Argentina), como formador de recursos; con el Servicio Nacional de Erradicación del Paludismo (SENEPA) de Paraguay y con la Universidad Nacional de Misiones y el Ministerio de Salud Pública de Misiones en Argentina. Estos convenios tienen por objeto, la realización de monitoreos sistemáticos de mosquitos y caracoles al efecto de evaluar la evolución de los parámetros que caracterizan dichas poblaciones.

Los informes hasta la fecha, indican que no han aparecido vectores que no existieren en la zona, ni se ha verificado incremento alguno en sus poblaciones.<sup>20</sup>

<sup>18</sup> Ver, Anexo 12.

<sup>19</sup> Ver, Anexo 12.

<sup>20</sup> Monitoreo de Vectores Hematófagos- UNAM – Mrio. Salud Pública de Misiones – SENEPA. Informe años 1998,1999,2000,2001.

### **iii. Reforzamiento de la Atención Primaria de la Salud**

Con relación al módulo de *Atención Primaria a la Salud*, se han construido Centros de Atención o Periféricos en los barrios reasentados, se han reforzado y equipado dichos centros (instrumental, ambulancias, etc.) y se entregan medicamentos a los Ministerios, con el objetivo de que los mismos sean utilizados en el marco de las políticas públicas que dichos organismos poseen.

#### **4. Copia de los empadronamientos de las familias y los Barrios a ser beneficiadas por el PDA, PARR Y PRAS**

Esta documentación existe, pero por lo voluminoso de los antecedentes, es conveniente que la misma sea consultada en oportunidad del trabajo del IP en campo.

#### **5. Copia de la Ley de Expropiaciones del Paraguay y Argentina.**

Se anexan.<sup>21</sup>

#### **6. Copia de la Ley Laboral del Paraguay**

Se ha solicitado a MD y se la tendrá en el momento de la presencia del Panel en Encarnación.

#### **7. Lista de los valores de tasación de los barrios de Santa Rosa, Arroyo Pora e Ita Paso.**

##### **Copia de las tasaciones de estos barrios.**

Se ha solicitado esta información a MD y se la tendrá en el momento de la presencia del Panel en Encarnación.

#### **8. Lista de dueños de olerías indemnizados**

Esta documentación existe, pero por lo voluminoso de los antecedentes, es conveniente que la misma sea consultada en oportunidad del trabajo del IP en campo.

#### **9. Lista del personal obrero de las olerías que no fueron indemnizados**

Se ha solicitado esta información a MD y se la tendrá en el momento de la presencia del Panel en Encarnación.

#### **10. Lista de las Reuniones de Concertación de la EBY con los grupos organizados de la sociedad civil relacionales con los planes: PDA, PARR, PRAS, PEY 2002**

Se ha solicitado esta información a MD y se la tendrá en el momento de la presencia del Panel en Encarnación.

#### **11. Lista de cursos de capacitación ofrecidos por la EBY y su impacto en la generación de empleo y trabajo.**

En el proceso de ejecución del PARR, tanto en el marco del Programa Base como del PDA, la EBY promovió la implementación de acciones de transición y rehabilitación social, orientadas a generar la apropiación del nuevo hábitat, la reconstrucción de la vida comunitaria y la participación de las familias reasentadas, en la identificación de problemas y soluciones.

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<sup>21</sup> Ver, Anexo 13.

Ejemplo de ello es el funcionamiento del Fondo para Emergencias (destinado a cubrir acciones de apoyo social para las familias afectadas por inundaciones, lluvias prolongadas, etc.); el Programa de Comunicación (para la información, comunicación y acompañamiento del proceso de reinserción comunitaria de las familias en su nuevo hábitat) y el Programa de Capacitaciones en Organización Comunitaria.

También se implementan Convenios con los Ministerios Nacionales de Salud Pública (para Atención Primaria de la Salud), de Educación (para Apoyo a la Educación en Asentamientos Rurales y Urbanos) y de Justicia y Trabajo (para cursos acelerados de formación profesional desarrollados por el Servicio Nacional de Promoción Profesional); así como, la realización de otras acciones, como Giras Educativas para familias de Arroyo Porá y San Pedro a centros de producción y comercialización, para apoyar el desarrollo de micro-emprendimientos productivos; la ejecución en Arroyo Porá de una Chacra Comunitaria para 14 familias reasentadas, 2 huertas escolares y la asistencia técnica a 120 huertas familiares; entre otras.

Con relación a los programas de reconversión laboral para las comunidades afectadas, cabe decir que la EBY ha venido desarrollando en cada instancia relocalizatoria, diversas acciones de apoyo y rehabilitación social; como por ejemplo, el Programa de Capacitación y Asistencia Técnica a Oleros Relocalizados en San Pedro (Resolución CE N° 3307/97 del 11/09/97), tendiente a unificar los criterios y metodología de mejoramiento de la producción y uso adecuado de otros tipos de materia prima (arcilla alterativa), acompañado de un Plan (en etapas) para acopio de arcilla que favorezca el desarrollo de la actividad, hasta que se produzca la reconversión y a través de un convenio con el Ministerio de Justicia y Trabajo se realizaron cursos de capacitación en oficios con excelente participación, pero sin lograr garantizar puestos de trabajo para los capacitados.

En el año 2000, la EBY creó (por Resolución CA-1100/00) el **Fondo Económico Productivo y de Reconversión Laboral**, que en la República del Paraguay se ejecuta por medio de un convenio con la Secretaría de Acción Social, dependiente de Presidencia de la Nación. Estas acciones están orientadas a atender el pasivo social derivado del proceso de llenado del embalse a cota 76.

Este proceder, orientado a fortalecer el accionar de los organismos públicos responsables de la atención social en el territorio, no ha alcanzado sin embargo a cubrir la demanda existente, habida cuenta las condiciones de vulnerabilidad social de la mayoría de las familias involucradas por el Proyecto; situación que se vio agravada además, por la profundización de la crisis socioeconómica de ambos países. Por esto, en abril de 2003, la EBY aprobó (para ser financiado con recursos propios), una metodología específica de intervención para el Plan de Rehabilitación y Apoyo Social (PRAS)<sup>22</sup> como un programa operativo del PARR, que permita definir una línea de base para las acciones de rehabilitación y el monitoreo o seguimiento de las acciones en todo el ciclo del proyecto, a fin de generar y/o mejorar las condiciones de sostenibilidad socio-institucionales de lo financiado.

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<sup>22</sup> La metodología operativa del PRAS forma parte del Anexo de la Resolución CE N° 5482/03, que define la Adecuación de las Directrices Operacionales del PARR al PEY' 2002. Ver, Anexo 03.

# **ANNEX 7**

## **SUPERVISION OF THE EXECUTION: LOAN 760/0C-RG YACYRETÁ PROJECT**

The panel noted the discrepancy between its observations in the field and the position taken by the Bank's administration and EBY with regard to social conditions in the project area and violations of IDB policy. Hence, the Panel requested information on the visits of Bank staff to the field area—to Posadas, Encarnación, the urban creeks, San Cosme y Damien, America, Rescuinque, etc.—in short, the number of days Bank personnel spent in contact with the affected people. In response, the Bank administration provided the Panel with field trip reports covering the period June 25, 1994 to November 20, 2003. The following is an analysis of these reports.

Discounting days spent in offices in Posadas or Encarnación, Bank personnel spent a total of 65 days in the field over the past 9.5 years, for an average of 6.8 days per year. But, if one considers only the time devoted to social and environmental issues, the total time spent was 45 days for an average of 4.7 days per year. Even considering only the time devoted to social and environmental issues, the great majority of that time was focused on environmental issues. To a substantial degree, social issues were neglected.

It was also noteworthy that between January, 1997 and February, 2000 there were no supervisory visits at all. That three year hiatus may correspond to the period when project disbursements were restricted. Perhaps the Bank's resources expended on staff during that long period could have been more wisely spent.

The Panel observed that from February, 2000 to November, 2003 Bank personnel in Buenos Aires and Asunción spent 20 days studying social and environmental issues and 26 days considering issues concerned with raising the operational level of the dam. Because the objective of Loan 760/OC-RG was directed at improving social and environmental conditions in the project area, one wonders if there would have been more success at fulfilling that objective if the supervisory personnel had directed a larger proportion of their efforts to that end.

# **ANNEX 8**

## **EL CASO DEL REASENTAMIENTO EN SAN MIGUEL DE POTREROS**

**Informe de Evaluación del Plan de Reasentamiento y Rehabilitación (PARR). Sector Rural Paraguay 97/98. TOMO XII. Manilia Scombatti y Raul de Carvalho.**

En Informe en Conclusiones y Recomendaciones dice:

A la luz de la metodología y respectivos indicadores adoptados, se considera que los objetivos del PARR han sido logrados en los proyectos Atinguy, **SM Potrero**, etc. Ello porque la reposición física de las perdidas ha sido asegurada. En **SM de Potrero** para 216 ha de superficie de lotes la EBY repuso 575 ha. Mas adelante se dice en el informe que la “*calidad de la tierra es más favorable*”.

El otro objetivo del PARR es la rehabilitación de las condiciones de vida de la población objetivo. La conclusión respecto a este tema es que 64% de los beneficiarios de los proyectos Atinguy, **SM Potreros**, etc. han logrado una capacidad productiva y de arraigo. Finalmente el informe dice que “*la mayoría de los beneficiarios lograron restablecer sus condiciones de supervivencia*”.

Respecto a la emancipación de los proyectos, la conclusión es que en los cuatro proyectos (incluyendo **SM Potrero**) hay posibilidades para empezar su emancipación porque entre otros aspectos se dice que: b) *los niveles de explotación de la tierra están en niveles iguales o superiores a las regiones de referencia*, c) *los grados de capacidad productiva y de arraigo de la mayoría de las familias son compatibles a una independización*.

Sin embargo para iniciar la emancipación, es necesario que la EBY tome en consideración los siguientes puntos:

Diseñar un programa de emancipación típica para cada proyecto, contemplando como mínimo:

*El concepto de emancipación.* Desde el punto de vista de los consultores la emancipación es un proceso progresivo. En un primer momento la gestión de los proyectos es trasferida a los gobiernos, o a otras instancias consideradas competentes para ello. En un segundo momento, se retira, también el acompañamiento de la referida instancia.

*Los criterios adoptados para clasificación de los proyectos aptos a la emancipación,*  
Las metas

*Un modelo de concertación social previa a la propuesta con los beneficiarios.*

Verificaciones de la Comisión en el terreno.

La Comisión visitó San Miguel de Potreros el día Jueves 15 de Enero del 2004, visitó el barrio de reasentamiento, visitó las viviendas, visitó las áreas disponibles para producción y subsistencia, llevó un constructor de casas para evaluar el precio de la construcción, dialogó con representantes de 34 familias que hasta ahora viven en el asentamiento y habló luego con algunas familias que están viviendo en el basural de Encarnación y que vivían en San Miguel de Potreros.

Sobre la base de las evidencias verificadas en San Miguel de Potreros, y en discusiones con el personal de la EBY en Buenos Aires, la Comisión determina lo siguiente:

El valor real de las viviendas es de aproximadamente 5,000 US\$ frente a 47,000 US\$ que hizo firmar la EBY a los afectados

La gente de este reasentamiento no han logrado restablecer sus condiciones de supervivencia y la calidad de la tierra no es favorable para este fin. Muy por el contrario, hay mucha pobreza que se manifiesta en viviendas inadecuadas, insalubres, viviendas reducidas, falta de empleo, áreas reducidas para agricultura o subsistencia, tierras totalmente infériles donde no crece nada, ni se puede criar nada, viviendas que se inundan con aguas cloacales con cada lluvia, poca estima por la vida y pesimismo frente al futuro.

Hay gente que antes vivió en San Miguel de Potreros y que ahora están viviendo en los basurales de Encarnación. Porque habrían de reasentarse en un basurero si tenían buenas condiciones de vida?.

Todas las familias aseguraron que ahora si tienen título de propiedad, pero que el problema por la falta de trabajo e ingresos es ahora el pago de los predios municipales.

Los objetivos del PARR no se han logrado en este reasentamiento por lo antes expuesto lo cual contradice a los resultados del informe antes mencionado

Que este barrio no se ha emancipado, por las siguientes razones: a) los niveles de explotación de la tierra no están en condiciones de asegurar la sobrevivencia alimentaria de esta gente, b) los grados de capacidad productiva no son compatibles con una emancipación, c) no hemos visto un programa de emancipación (la EBY no posee tal plan tal como recomienda el informe externo), d) no hay una definición clara por parte de la EBY del concepto de emancipación, e) no hay criterios sobre este concepto, f) no hay metas de emancipación y g) no se ha concertado con la gente en este tema.

# **ANNEX 9**

## **INFORME PARA IMPLEMENTAR EL MECANISMO DE RESOLUCION DE CONFLICTOS**

La EBY encomendó a la Fundación Green Cross en el año 2000 que realizara un estudio que explorara la posibilidad de establecer un programa de resolución de conflictos con el fin de explorar las vías para la mediación y negociación en los conflictos surgidos a partir del llenado de la represa de Yacyretá. En el documento final que fue terminado en Diciembre de 2000, se establecieron las recomendaciones para un Manual de Resolución de Conflictos que debería ser luego puesto en práctica por la EBY. Los resultados de este estudio nunca fueron implementados por la EBY.

La EBY encomendó luego a una Consultora que realizara un relevamiento para establecer un Sistema de Resolución de Conflictos. Este informe salió a la luz el 25 de septiembre de 2003. La propuesta final de la consulta fue que se pusiera en práctica un plan piloto que abarcara sólo dos barrios: Arroyo Porá y A4, que se ofreciera un servicio de mediación comunitaria, que se acompañara este servicio con difusión general en el barrio, que se ofreciera capacitación sobre el tema y que luego se incluyeran más actividades de mediación comunitaria en los programas sociales de la EBY hasta crear la Comisión de Mediación Independiente de la EBY. La EBY hasta ahora no ha implementado las propuestas de este informe.