

August 8, 2012

Mr. Betanio Chiquidama  
President and Cacique General  
de Tierras Colectivas Emberá y Wounaan  
Coordinadora Nacional de Pueblos Indígenas de Panamá

Mr. Elivardo Membache  
Secretary and Cacique General  
Congreso General de Tierras Colectivas Emberá y Wounaan

Dear Mr. Chiquidama and Mr. Membache:

This letter follows up on an earlier communication from the Resident Coordinator of the United Nations System in Panama, dated June 28<sup>th</sup>, in which she replies to your letter dated June 20<sup>th</sup>, 2012, referencing a series of events within the framework of the design and implementation of the National Joint Programme on Reducing Emissions from Deforestation and Forest Degradation in Panama (UN-REDD Panama Programme) that is being implemented by the United Nations Food and Agriculture Organisation (FAO), United Nations Environment Programme (UNEP), and Autoridad Nacional del Ambiente (ANAM, acronym in Spanish) as the national counterpart.

In accordance with the spirit of respect, goodwill, and collaboration that has always guided the UN-REDD programme, the undersigned wish to, on behalf of ANAM and UN-REDD, invite Mr. Betanio Chiquidama, Cacique General of the Emberá-Wounaan Comarca and President of the National Coordinator of Indigenous Peoples of Panama (Coordinadora Nacional de Pueblos Indígenas - COONAPIP, in Spanish) and Mr. Elivardo Membache, General Congress of Emberá and Wounaan Collective Lands (Congreso General de Tierras Colectivas Emberá y Wounaan) and Secretary of COONAPIP to a meeting to discuss the following matters:

- a) The strengthening of COONAPIP within the framework of UN-REDD, and
- b) The procedures proposed by COONAPIP to speed up consultations with all Indigenous People involved, at the national and sub-national levels.

ANAM and UN-REDD reiterate their willingness to work together with COONAPIP and clarify interpretations and understandings that may exist regarding the two issues above and other items that COONAPIP may wish to discuss during the meeting mentioned above. Please set the date and time when you wish to meet

and advise us as early as possible so the respective representatives can program the date in their agendas.

As part of the effort to clarify the situations described in your letter of June 20, 2012, we also deem it appropriate to provide some replies contained in the Annex to this letter below.

In reiterating the willingness, goodwill, and trust that characterizes the UN-REDD Programme, we remain,

Truly yours,

Katyna Argueta  
Assistant Country Director  
UNDP

Margarita Astralaga  
Regional Director  
Regional Office for LAC  
UNEP

Deep Ford  
Assistant Regional Coordinator  
for Central America and  
Representative to Panama  
FAO

Silvano Vergara  
Deputy Administrator General  
ANAM

C.C.

Office of the Secretary General of the United Nations, H.E. Ban Ki - moon, Secretary General.  
Secretariat UN-REDD Programme, Mr. Señor Yemi Katerere, Director.  
World Bank Forest Carbon Partnership Facility, Mr. Benoir Bosquet, Director.  
United Nations Development Programme, Ms. Helen Clark, Administrator.  
United Nations Environment Programme, Mr. Achim Steiner, Executive Director.  
United Nations Food and Agriculture Organisation, Mr. Graziano da Silva, Director General.  
United Nations Forum on Forests, Ms. Jan McAlpine.  
United Nations Permanent Forum on Indigenous Issues, Ms. Mirna Cunningham.  
UN Special Rapporteur on the Rights of Indigenous Peoples, Mr. James Anaya.  
Presidency of the Republic of Panama, H.E Ricardo Martinelli, President.  
Panamanian Ministry of Foreign Affairs, H.E Francisco Alvarez De Soto.  
Norwegian Government Initiative on Forests and Climate, Mr. Hans Brattskar, Director.  
Norwegian Ministry of the Environment, Ms. Ellen Bruzelius Backer, Adviser.  
NORAD REDD, Mr. Ivan Jorgensen.  
Embassy of Norway in Guatemala.  
Embassy of the United States of America in Panama, H.E Jonathan D. Farrar, Ambassador.  
Central American Commission on Environment and Labour, Mr. Nelson Trejo, Executive Director.  
Regional REDD GIZ – CCAD Programme, Mr. Laszlo Pancel.  
Mesoamerican Alliance of Peoples and Forests, Mr. Levi Sucre.  
Indigenous Council of Central America (CICA), Senior Councillor, Mr. Amadeo Martínez.  
Confederation of the Autochthonous/First Peoples of Honduras (CONPAH), Mr. Bayardo Alemán.  
National Indigenous Council of Mexico, Mr. Aldo González.  
Confederation of the Indigenous Nationalities of Ecuador (CONIAE).  
National Indigenous Organization of Colombia (ONIC), Mr. Luis Evelis Andrade.  
Ford Foundation, Dr. David Kaimowitz.  
International Union for Conservation of Nature, Regional Office for Mesoamerica and the Caribbean Initiative (UICN – ORMA /IC), Ms. Grethel Aguilar.  
Inter-Church Organization for Development Cooperation (ICCO), Ms. María Pía Hernández.  
Salvadorian Research Programme on Development and Environment (PRISMA), Ms. Susan Kandel.  
General Congress of the Guna Yala Comarca, Mr. Inocencio Martínez.  
General Congress of the Guna Comarca of Madungandi, Mr. Manuel Pérez.  
General Congress of the Guna Comarca of Wargandi, Mr. José Pérez.  
General Congress of the Ngäbe Buglé Comarca, Ms. Silvia Carrera.  
Buglé General Congress, Mr. Marcelo Guerra.  
Wounáan National Congress, Mr. Gardemio Mémbora.  
Naso Tjërdi General Council, Mr. Reinaldo Santana.  
Bribri General Council, Mr. Joaquín González.  
Emberá General Congress of Alto Bayano, Mr. Guillermo Ramírez.  
Guna General Congress of Dagargunyala, Mr. Luis Tovar.

## Annex

### Clarifications of some points raised in the COONAPIP letter of June 20, 2012

The UN-REDD Panama Programme shows an implementation rate clearly below that which United Nations agencies consider optimum. Delays, due to various factors, some of them beyond the control of the UN agencies, have affected all phases of project, including those involving indigenous groups. Although it is important to recall that Panama is one of the first countries in the region to have such a project, it requires a learning curve in terms of coordination. It is also important to reiterate that both ANAM and the UN agencies consider it a priority to significantly improve the rate of programme execution.

Nevertheless, we hope that neither the various points mentioned in COONAPIP's letter of this past June 2012, nor the delays in programme implementation, be regarded as a lack of commitment by ANAM and the UN agencies to include the genuine participation of indigenous peoples in the UN-REDD process. We, therefore, include clarifications and information in this Annex with the sole purpose to enable the continued participation of the indigenous peoples in UN-REDD and to arrive at solutions that expedite progress in these activities.

#### **1. In regards to the process of consultation and participation prior to the programme's approval including the validation meeting.**

- A letter to ANAM's Directorate of Protected Areas and Wildlife dated February 12<sup>th</sup> 2009 and signed, among others, by Caciques Mr. Gilberto Arias y Mr. Betanio Chiquidama, as members of the Board of Directors of the Original Authorities of the Indigenous Peoples of Panama, stated that there was no knowledge of the content of Panama's proposal on REDD and that they were ready to review all documentation provided on the subject.
- With regards to this, in September 2009, the UN agencies, and particularly FAO, provided financial support for a technical team from COONAPIP to analyse the UN-REDD Panama programme document. As a result of that review, various documents detailing the analysis carried out by COONAPIP with respect to the REDD proposal were prepared, among them: Minutes 001, dated October 6, 2009, regarding the submission of the UN-REDD document; Framework of Principles for REDD operation, dated October 13<sup>th</sup>, 2009; and a document entitled "Indigenous Peoples and REDD."
- The meeting to validate the UN-REDD Panama programme document was held on October 13<sup>th</sup>, 2009. Present at that meeting was COONAPIP's President, Mr. Betanio Chiquidama, who at the time expressed his agreement with the validation process and witnessed that COONAPIP, together with the Government, had been

consulted by the UN agencies in the preparation of the document mentioned above. The United Nations Organization in Panama, in turn, recognized COONAPIP as the organization authorized by the indigenous peoples of Panama to act on their behalf and requested the President to increase efforts to include and represent the interests of all the country's indigenous peoples and campesino communities as a means of ensuring the effective engagement of all key stakeholders in the UN-REDD Panama process. (*Annex 1: Minutes of Validation Meeting*).

- Having fulfilled the requirements of the UN-REDD Secretariat, including convening a validation meeting, the UN-REDD Panama programme, with a budget totalling 5.3 million dollars, was approved at the Third Session of the Policy Board held in October 2009. We have been unable to locate any minutes specifying an agreement to provide for an indigenous coordinator to be paid from UN-REDD funds. However, provided that policies and procedures in place are followed, the UN agencies are willing to support contracts that may, as part of the strengthening of COONAPIP, facilitate the full participation of indigenous groups in the UN-REDD programme.

## **2. In regards to support for COONAPIP through the PEIP**

- a) As a result of coordinated actions by ANAM and the agencies of the United Nations System involved in the UN-REDD programme, at the end of 2010 the German Agency for International Cooperation (GIZ) agreed to fund the preparation of COONAPIP's statutes, procedures manual, and strategic plan. GIZ assigned this task to the International Union for Conservation of Nature (IUCN), which undertook the work of assisting COONAPIP in starting the process of institutional support and ensuring the success of the consultation process and the participation of indigenous people in UN-REDD. This process ended in mid-2011 and yielded the Strategic Plan for Political Impact (referred to as the PEIP).
- b) It is essential to highlight that the PEIP's scope ended up being broader than the framework of the UN-REDD Panama programme in scope and results; therefore, at all meetings to review the PEIP's content and budget, the UN agencies emphasized the fact that UN-REDD could not fund the entire content of the PEIP and its activities. In this regard, several working meetings were held among COONAPIP, UNDP, and ANAM delegates with the goal of identifying PEIP components aligned with the UN-REDD programme's framework for results (September 21, October 28, and November 1<sup>st</sup>, 2011). It is crucial to indicate that the PEIP's budget significantly exceeds UN-REDD's budgetary allocation for participation of indigenous groups and that several of the PEIP's activities lie outside the UN-REDD framework. Although we have been and remain committed to facilitating the broadest participation possible of indigenous peoples in UN-REDD, neither ANAM nor the agencies of the UN System ever made a formal counter-proposal for support in the amount of US\$1.3 million. The documentation supporting this includes the minutes of meetings and their annexes, as mentioned above, which are attached to this letter (*Annex 2: Minutes of the Meeting of September 21, Annex 3: Minutes of the Meeting of October 28, and Annex 4: Minutes of the Meeting of November 1<sup>st</sup>, 2011*).

- c) In review of the final report of the “Mesoamerican Consultation on the Joint UNFCCC Approach to Environmental and Social Safeguards within the REDD+ Framework,” we found no documentation regarding the alleged statement made during the meeting’s plenary of US\$1.7 million in official support from UN-REDD. On the contrary, Ms. Vanessa Retana, Adviser to the UNDP Regional Centre, indicates that following the announcement made by a COONAPIP member that UN-REDD would transfer US\$1.7 million to COONAPIP, she took the opportunity to clarify that any specific amount would be defined by the parties at a later date.
- d) The proposal introduced through your letter of June 2012, and which would involve the direct transfer of all funds (US\$1.7 million) to the General Congress of the Emberá-Wounaan Comarca, does not correspond to the legal instruments and/or format that UN agencies are authorized to sign and neither does it comply with the fiduciary standards that regulate them.
- e) In this regard, at the last meeting to review the PEIP, held on November 1<sup>st</sup>, 2011, UNDP officer Ms. Gisele Didier explained the five ways to create joint actions with civil society organizations, emphasizing the need for the organization to obtain legal status. Among the five strategies, she indicated that only two would be appropriate in the case of COONAPIP: a) a special agreement – Grant Agreement - that allows for funding of \$150,000 for one year, up to an accumulated total of \$300,000 throughout the life of the project; or b) a competitive process in order to make a direct contract with COONAPIP. Ms. Didier expressed UNDP’s willingness to undertake the necessary consultations with the parties involved in order to seek a waiver of the competitive process and in order to sign a direct agreement with COONAPIP. See the minutes of the meeting held on November 1<sup>st</sup>, 2011, attached. (*Annex 4: Minutes of the Meeting of November 1<sup>st</sup>, 2011*). We reiterate our commitment to facilitate actions that can expedite implementation of the process of consultation and participation of indigenous peoples in the UN-REDD programme, within the framework of the agencies’ required procedures and policies.

### **3. In regards to the legal status (personería jurídica) of COONAPIP and the agencies’ support**

- a) After meetings began in September 2011, UN-REDD specified the requirement that COONAPIP obtain legal status in order to be able to formalize its relationship as a responsible party for implementing UN-REDD, and through a letter dated September 22<sup>nd</sup> 2011, COONAPIP asked UNDP for financial support to do this. UNDP agreed to the request and offered to finance the amount of US\$1,300.00 to the lawyer designated by COONAPIP. Although an advance of \$500.00 was disbursed, we have received no letter or information regarding the progress made towards this effort. See the invoice attached (*Annex 5: Invoice and proof of payment*).
- b) We note the fact that, although COONAPIP formally requested financial support for processing its legal status in September 2011, in its letter dated June 2012 it informs

us that this is no longer a goal of those represented in the Coordination, arguing that there is a contradiction between having a legal status and playing the role of adviser to the traditional leaders of indigenous peoples. The UN agencies absolutely respect COONAPIP's change in thinking but reiterate that the lack of legal recognition is the reason why it has been impossible to channel funds directly to COONAPIP, using the strategies explained in part (e) above.

- c) Although COONAPIP does not comply with the formal requirements to receive and implement programme funds, the UN agencies involved in the programme showed their commitment to the indigenous peoples and were, as an exception, able to support COONAPIP with an amount of about US\$ 35,000 during the period 2009 – 2012 (see *Annex 6 about Financial Contributions to COONAPIP*). This includes support channelled through UNEP that provides rent for the COONAPIP offices in the city of Panama as well as resources for activities related to the consultation processes. It is worth mentioning that UNEP had to request an extraordinary authorization to provide these funds on time and in response to COONAPIP's need to have an office in the city of Panama.
- d) There is no evidence in UNDP files of a request for the amount of US\$ 54,880 to hire staff and we reiterate that funds cannot be transferred because the lack of legal status would not enable such a transfer. The UN agencies are nevertheless willing to find other ways to provide support for such things as hiring as part of the process of consultation and participation of indigenous peoples in UN-REDD, provided it is done in compliance with current procedures and policies.
- e) UN-REDD's annual work plans are dynamic planning tools that incorporate both projections and information about implementing programmes and reflect an estimate of what is possible during a given period. The amount of funds assigned to strengthen COONAPIP are, therefore, proposed figures of what may be achieved in 2012 and were estimated by taking into account the existing difficulties in transferring funds as described in previous sections.

#### **4. Communication with COONAPIP**

- a) There has been open and uninterrupted communication between the UN-REDD programme and COONAPIP, thus far directed through Mr. Alexis Baules, Coordinator of the UN-REDD Programme. When requested, he has provided timely information, as shown in the communication exchanges documented in programme files, including a recent request to lend support for COONAPIP's General Assembly, scheduled July 2012. See the latest communications during the last trimester (*Annex 7*).

Based on the considerations expressed under numerals 1-4, we wish to state the following:

- UN-REDD and ANAM are fully aware of COONAPIP's social function and legal status; acknowledge the nature of this fact, as expressed in its Statutes, approved on May 5<sup>th</sup> and 6<sup>th</sup> 2011; and value its goal to consolidate, sustain, and strengthen the unity of all indigenous peoples and their traditional political, juridical, social, cultural, and environmental groups and institutions and their traditional knowledge, as expressed through their identity and cultural worldview. The assertion contained in the letter of June 2012 to the effect that COONAPIP is being regarded as a mere "operations entity" does not reflect the reality of the treatment that it, and all representatives of the indigenous peoples grouped into Panama's seven indigenous groups, receive by both the UN System agencies and ANAM.
- The UN agencies have played a key role to advance recognition of the rights of Panama's indigenous peoples, not just by disseminating the principles and rights published in the UN Declaration on the Rights of Indigenous Peoples, but also by promoting and protecting those rights through strengthening the capacities of indigenous organizations. This is in addition to the follow-up of the recommendations made in-country by the UN Special Rapporteur on the Rights of Indigenous Peoples. A recent example is the publication of Law 11 of 2012, achieved under UN auspices through the well-known dialogue process between the Government and the Ngäbe people.
- All actions undertaken thus far in Panama by UN-REDD adhere to programme and donor guidelines, which must be locally and nationally implemented in strict accordance with the rules and procedures regulating such projects. The guidelines have been consistently applied even before the approval of the UN-REDD programme, at the stage when the agencies involved and ANAM began exploring strategies to directly or indirectly support COONAPIP.
- ANAM is currently considering to issue a resolution that creates the National REDD Committee, which involves the participation of key stakeholders, as part of the consultation process for the National REDD Strategy due to begin in the near future. The committee, following UN-REDD guidelines, will adopt all necessary provisions to create an entirely participatory process that ensures the involvement of indigenous peoples and representatives of other communities that depend on forests. We hope that we can count on your participation in this process.
- The review of COONAPIP's PEIP (with a total budget of US\$1.7 million) sought to identify those activities planned by COONAPIP that could be financed through the UN-REDD programme, under the 'Indigenous Consultation and Institutional Strengthening' component of the programme's framework for results. The joint review did not mean that the UN-REDD programme was committed to transferring US\$ 1.7 million to COONAPIP in order to finance the entire PEIP and its activities.



- There is no agreement in force between COONAPIP and UN-REDD because the UN agencies participating in the programme cannot sign a legal instrument with an authority lacking legal status.
- The proposal introduced through your letter of June 2012, which involves a request to transfer all funds (US\$ 1.7 million) to the General Congress of the Emberá Wounáan Comarca, does not comply with the legal instruments and/or formats through which the agencies of the United Nations System can sign, and neither does it comply with the fiduciary standards that regulate them.
- Finally, although COONAPIP has indicated that it has changed its original intention to obtain legal status in order to receive funds from UN-REDD, the UN agencies remain interested in, and committed to, finding other strategies that may be proposed by the indigenous peoples and found in compliance with the fiduciary rules that regulate these relationships.

We trust the content of this Annex helps clarify historical issues and we reiterate our interest in, and commitment to, working together with Indigenous Peoples of Panama in the implementation of the UN-REDD programme.