

PUBLIC

**DOCUMENT OF THE INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM**

AR-MICI004-2012

**AGRIFOOD HEALTH AND QUALITY MANAGEMENT PROGRAM
ARGENTINA**

This document was prepared by the Project Ombudsperson for the Consultation Phase.

Under the Access to Information Policy, this document is subject to public disclosure.

**CONSULTATION PHASE
DETERMINATION OF ELIGIBILITY**

TO: Requester, Board of Executive Directors, the President of the Bank, Country Office, Project Team, and Executing Agency¹
FROM: Isabel Lavadenz Paccieri, Project Ombudsperson
VIA: Victoria Márquez-Mees, Executive Secretary
CC: Independent Consultation and Investigation Mechanism
REFERENCE: Agrifood Health and Quality Management Program (Operation 1950/OC-AR)
COUNTRY: Argentina
DATE: 23 April 2012
ELIGIBILITY: The Request is **eligible** for the Consultation Phase.

I. Processing and summary of the Request

- 1.1 On 12 January 2012, the Independent Consultation and Investigation Mechanism (ICIM) received a Request from Mrs. Graciela Gómez (Requester), concerning the Agrifood Health and Quality Management Program (“the Project” or “the Program”), financed by the Inter-American Development Bank (IDB) in Argentina.² (See Annex 1. Original Request)
- 1.2 On 23 January 2012, the Office of the Executive Secretary forwarded the Request to the Project Ombudsperson for a decision on eligibility within 15 business days.
- 1.3 On 27 February 2012, pursuant to Section 40(h) of the Policy of the Mechanism (“the Policy”) and its guidelines, the Project Ombudsperson informed the Executive Secretary of her decision to suspend the Eligibility Analysis in order to provide Bank Management the opportunity to address directly with the Requester the concerns expressed in her Request, within no more than 45 days, as of 23 January.
- 1.4 On 5 March 2012, the Requester and the IDB project team met in Argentina to discuss the content of the Request and, subsequently exchanged correspondence

¹ The terms Mechanism, Management, Executive Secretary, Project Ombudsperson, Panel, Policies of the Mechanism, Eligibility, Consultation Phase, Review, Executing Agency, and other relevant terms in this memorandum are defined in the Policy of the Independent Consultation and Investigation Mechanism (ICIM), approved on 17 February 2010 and available at: www.iadb.org/ICIM.

² A copy of the Request submitted to the ICIM was sent by the Requester to the Bank’s Office of Institutional Integrity.

concerning the Project. On 26 March 2012, the Requester expressed her decision to continue pursuing the process through the ICIM.

- 1.5 The Request describes the environmental hazards and significant impact on human health that could be perpetuated by the Project. In particular, the Requester alleges that:

(i) the Project promotes the adoption of a method for classifying agrochemicals that perpetuates the classification of the herbicide “glyphosate” as a low-toxicity agrochemical.³ This classification of glyphosate contrasts with the classification agreed to by renowned scientists and the 2011 review by the United Nations Economic Commission for Europe (UNECE). The present classification, endorsed in the Project-sponsored studies, would result in the continued use of the aforementioned compound in fumigations in Argentina, thereby perpetuating the risks and dangers to the health of people exposed to it; and

(ii) the results of the public consultation on the “Review of the criteria for the toxicological classification of plant health products,” carried out between 30 June and 30 August 2011 by the National Agrifood Health and Quality Service (SENASA), have not been published to date.

- 1.6 A *prima facie* analysis of the Request suggests that the concerns alleged by the Requester may be related to the IDB’s Environment and Safeguards Compliance Policy (Operational Policy OP-703).⁴

II. Background on the Project

A. Loan and credit line operation

- 2.1 Conditional credit line AR-X1007 was approved by the IDB’s Board of Executive Directors on 9 January 2008, for an amount of up to US\$300 million, to finance operations to implement the SENASA modernization plan. On that date, the Board of Executive Directors approved the Project (AR-L1032, Operation 1950/OC-AR), in the amount of US\$100 million, as the “first program” under that credit line. The Executing Agency of the Project is SENASA, through the “Program Management Unit.”⁵
- 2.2 The loan contract was signed by the parties on 17 April 2008 and, by the closing date of the month of February 2012, the Bank had disbursed US\$32,776,730 of the first loan⁶ and its corresponding credit line.

³ The Requester alleges that the herbicide is currently classified in Argentina as: “Green band – Category IV – harmless.”

⁴ The Disclosure of Information Policy (Operational Policy OP-102) approved in 2006 covers information or documents prepared from 1 January 2004 and through 31 December 2010. The 2010 Access to Information Policy (Operational Policy OP-102) applies to information and documents produced as of 1 January 2011, the date it entered into effect.

⁵ Ibid, page 19, paragraph 3.3.

⁶ IDB, *Finance Data Mart*. Last access: 28 March 2012.

- 2.3 The goal of the Project and of the credit line is “to help bring about a sustained increase in the domestic and international competitiveness of Argentina’s agricultural and agroindustrial sectors. The purpose is to strengthen and expand the country’s capacity to protect and improve agricultural, agrifood, and fisheries health and quality.”⁷ It provides financing for the following components: (i) modernization of institutional management, (ii) strengthening of the animal health system, (iii) strengthening of the plant health system, (iv) strengthening of the agrifood safety system, and (v) regional integration for agricultural health.
- 2.4 The first component of the Project (modernization of institutional management) finances, among other activities, **the preparation of four codes for the regulatory framework⁸ which together will comprise the new version of SENASA’s Regulatory Digest.** The specific purpose of the component is to standardize, adapt, update, and harmonize the regulatory framework for SENASA’s work. With IDB financing, the executing agency hired specialized consultants to perform these tasks, including the work related to standards for agrochemicals. Based on the approved terms of reference, the specialist in charge of the work on agrochemicals was tasked with collaborating in the design and publication of the new digest, drafting new standards for agrochemicals, participating on the committees to analyze, discuss, and draft the texts of administrative standards, and preparing draft administrative acts as required.

B. Possible environmental and social impacts

- 2.5 The Project was classified as a Category B operation in accordance with Operational Policy OP-703.⁹ The loan proposal classifies the project’s environmental impacts as follows:
- (i) “The proposed Program will mainly have a positive socioenvironmental impact, since the purpose of its activities is to improve the country’s capacity to protect agricultural health and quality. No significant adverse impacts attributable to the construction of infrastructure, or to the operation of laboratories, checkpoints, or the animal quarantine station, were identified. The impact of construction can be easily mitigated by using good practices.”¹⁰
 - (ii) “What potential adverse environmental impacts were identified are related to some of the initial components of the phytosanitary control

⁷ IDB, Loan proposal, Agrifood Health and Quality Management Program (AR-L1032), CCLIP for the Agrifood Health and Quality Management Program (AR-X1007), 11 December 2007, page 1.

⁸ IDB, Environmental and Social Management Report (ESMR), proposed Conditional Credit Line (CCLIP) and single loan for the Agrifood Health and Quality Management Program (AR-L1032), page 4.

⁹ In accordance with Operational Policy OP-703, Category B operations “are likely to cause mostly local and short-term negative environmental and associated social impacts and for which effective mitigation measures are readily available.” Although no environmental classification was required for operation of the CCLIP pursuant to policy OP-703, some issues requiring environmental management were identified.

¹⁰ Loan proposal, note 7 above, paragraph 4.13.

programs for the fruit fly and the codling moth. ... The program calls for mitigation measures for the application of agrochemicals to ensure they are used in accordance with international and national standards, and to ensure that containers are handled appropriately.”¹¹

- (iii) The Project’s Environmental and Social Management Report (ESMR) of 31 July 2007 identified three types of activities that could have environmental and social impacts, as follows: (i) construction works for offices, laboratories, border quarantine control posts, animal quarantine station; (ii) operation of laboratories, border control posts, and quarantine stations; and (iii) plant health pest control campaigns, because of the use of pesticides in the initial stage.¹²

C. Safeguards

- 2.6 In order to prevent and/or mitigate the aforementioned impacts (paragraph 2.5 above), the Project Team prepared the ESMR, which covered the findings of an assessment of the Program’s possible environmental and social impacts; the institutional capacity assessment of SENASA; and the preliminary Environmental and Social Management Plan (ESMP) prepared for the Program.
- 2.7 As a safeguard, the IDB included the requirement that environmental assessments be conducted for each project under the Program that could cause “environmental or social harm,” and SENASA’s Environmental Unit was given the responsibility of performing a preliminary assessment of each project, preparing terms of reference for the assessments, and reviewing them. It was also charged with conducting environmental impact assessments for projects that, within the context of the IDB-financed Program, could have “significant and lasting”¹³ impact. Pursuant to policy OP-703, projects requiring an environmental impact assessment would also require public consultation.¹⁴

III. Eligibility analysis

- 3.1 The ICIM Policy establishes that the purpose of the Consultation Phase is to clarify the allegations and concerns of Requesters who believe they have been and/or could reasonably be expected to be directly, materially adversely affected by the failure of the IDB to follow its Relevant Operational Policies in a Bank-financed Operation, providing an opportunity to address those concerns using consensual and flexible approaches.
- 3.2 The eligibility analysis is performed on the basis of the criteria of exclusion and eligibility, respectively, contained in Articles 37 and 40 of the ICIM Policy. It is a *prima facie* examination of the facts alleged in the Request.

¹¹ *Ibid*, paragraph 4.14.

¹² ESMR, note 8 above, page 12.

¹³ *Ibid*, page 31.

¹⁴ *Ibid*, p .32, and section 7.2.

3.3 In this case, although the decision to reform SENASA's regulatory framework is not the Bank's responsibility, the Bank will finance the studies and ultimately the analysis that will serve as the basis for updating/adjusting the framework. Thus, the IDB must be assured that the studies and analysis are in keeping with the Bank's Operational Policies; therefore, the exclusions provided for in Sections 37(a) and (b) of the ICIM Policy do not apply.

3.4 The results of this eligibility analysis are summarized below:

Summary of Eligibility Analysis		
Eligibility Criteria	Ombudsperson Determination	Observations
Requester name and contact information	Yes	The name and contact information of the Requester are recorded.
Names and contact information of the Representatives, if any, and proof of the corresponding authorization	Not applicable	
Project or operation duly identified	Yes	Program for Agrifood Health and Quality Management (Loan AR-L1032 and Credit Line AR-X1007)
The Requester resides in the country where the project is being implemented or will be implemented (or has designated a duly qualified Representative)	Yes	The Requester resides in Argentina.
None of the exclusions in Section 37 apply	Yes	
The Requester has reasonably asserted that she has been or could be directly, materially adversely affected by an action or omission by the Bank to follow one or more of its Relevant Operational Policies.	Yes	The Request has described sufficiently the environmental and social impacts, especially on human health, which could worsen and be perpetuated as a result of some project activities, assuring that she could be directly affected.
The Parties are amenable to the Consultation Process.	Yes	During the assessment, the Project Ombudsperson will determine whether this case warrants a collaborative and facilitated process, and if so, if the parties agree and the conditions exist to initiate such process.

Summary of Eligibility Analysis		
Eligibility Criteria	Ombudsperson Determination	Observations
The Requester has taken steps to bring the matter to the attention of Management.	Yes	The Requester contacted Bank Management. On 5 March 2012, the Requester and Bank's Project Team met in Argentina and, later, exchanged information and ideas regarding the concerns described in the Request.

IV. Conclusion

In exercising the duties and authority conferred by the Policy, the Project Ombudsperson has determined that the Request described in this document is **eligible** for the Consultation Phase.

This Determination does not signify a final judgment by the ICIM regarding the merits of the issues raised in the Request, and does not ensure that a Dialogue process will take place.

The Office of the Executive Secretary will proceed to notify the Requesters, the Board of Executive Directors, the President of the Bank, the Country Office, the Project Team, and the Executing Agency of this Eligibility Determination; it will register this Eligibility Determination in the ICIM Public Registry within five (5) business days as of the date it is distributed to the Bank's Board of Executive Directors.

Isabel Lavadenz Paccieri
Project Ombudsperson

Annex 1. Original Request

“...The Bank should improve its policies, mechanisms, and operations to prevent risks to the integrity of Group-financed activities and should sanction, recommend, and/ or require effective compliance with the requirements of all investments, because in this case the following failed to: Argentine consultants, the Safeguard Policy Filter Bank Report, the Program Management Unit-SENASA-IDB Convention, and ESMR.

“The loans fulfilled the sole purpose of strengthening the productivity-focused model to the detriment of all victims of the fumigations.”

*Graciela Cristina Gomez
U.B.A. Attorney, Volume 100 Folio 874
U.N.R. Notary*

Autonomous City of Buenos Aires, 11 January 2012

**Inter-American Development Bank
Office of Institutional Integrity
1300 New York Avenue, N.W.
Washington, D.C. 20577 USA
Tel: (877) 223.4551
Hand delivered**

Dear Sirs:

The undersigned **Graciela Cristina Gomez**, national identification number 16,439,232, attorney (UBA) Volume 100 Folio 874 CPACF, Member of the CPACF Environment Commission, Notary (UNR), residing at Peña 2158, piso 3° depto 14, (1126), Capital Federal, addresses you regarding the support being provided by the Inter-American Development Bank to the Agriculture, Livestock, Fisheries, and Food Secretariat, and to the National Agrifood Health and Quality Service (SENASA) of Argentina, in the preparation of an agrifood health and quality program.

POINT (I) Clear characterization of practices prohibited by the IDB:

(omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead)

According to the “**Environmental and Social Management Report**” (ESMR) of the proposed program for a conditional credit line (CCLIP) and an individual loan for the Agrifood Health and Quality Management Program **AR-L1032, dated 24 August 2007**, Item 3.6 Agrochemicals and Pesticides – 3.6.1 Description: “SENASA is the national entity that regulates the use of agrochemicals (fertilizers and other inputs) and pesticides. It controls the federal trade, imports, and exports of products, by-products and derivatives of animal and plant origin, agrifood products, veterinary drugs and agrochemicals, fertilizers and soil dressings ...”

The “**analysis of the program’s socioenvironmental impact**” was performed taking into account the proposed works, the stage of operation of SENASA’s units, and the plant health control programs to be financed under the Program.

Using the **Bank’s Safeguard Policy Filter Report**, the preliminary analysis identified the following environmental issues to be assessed in greater depth: (i) the use of toxic materials; (ii) the emission of greenhouse gases; (iii) pesticide use and management; and (iv) the generation of hazardous waste.

In Item 6.5.2.3, “**Good Agricultural Practices**,” the Environmental Unit is charged with preparing manuals on good agricultural practices for issues of importance to SENASA, and where there is insufficient information and dissemination to ensure good environmental management. The issues included are good practices (...) and the use of agrochemicals, adapting international information and guidelines (FAO, USEPA, and other institutions) (...) for the purpose of minimizing the risk of contaminating food for human consumption as a preventive public health measure and for the protection of the environment (pages 5 and 6).

Under “Program compliance with the Bank’s environmental and social policies,” item 7.2 Public Consultation (Policy B.6): “**Public consultations will be conducted for projects that require an environmental impact study (assessment), in accordance with the process described in the Environmental and Social Management Plan (6.4.2), which complies with Bank policy.** The requirements of provincial and municipal regulatory environmental agencies will always be respected (page 9).

SENASA called the public consultations “**citizen participation,**” a right that has not been fulfilled, as enshrined in the Argentine Constitution and International Agreements; what was done is only a rough “cosmetic” job, creating the appearance that the requirement has been fulfilled, without anything having been done.

SENASA states that the consultation did occur because: “*This mechanism is framed by Resolution 466/2008 of the national health organization,*” which is even more disgraceful, since that resolution approves the “Program for the Reorganization of the Standards of the National Agrifood Health and Quality Service.”

Point (II) False citizen participation

To cite just one of the consultations, we have the “**Review of criteria for the toxicological classification of plant health products** (<http://www.senasa.gov.ar/contenido.php?to=n&in=1515&io=17104>), the procedures and conclusions of which are not known, it was never published or released under a resolution. Its purpose was supposedly the following: “These regulations are being promoted in order to update the criteria used for the toxicological classification of plant health products, cognizant of the fact that since Sagpya resolution 350/99 was approved, the World Health Organization has modified the criteria established for such classification.” **The consultation was open for 60 days, from Thursday, 30 June 2011 to Tuesday, 30 August 2011.**

Today, 11 January 2012, no one has yet received information and/or a publication with the findings and results of the consultation; therefore, those of us who participated in it feel manifestly deceived.

The public consultation received a total of 270 (two hundred seventy) inputs: 257 (two hundred fifty-seven) from private citizens, 12 (twelve) from organizations, and the remainder from the country's Chamber of Representatives. Of the total, 261 (two hundred sixty-one) **stated they were against the proposed resolution**, 4 (four) were in favor of it, and the remaining 5 (five) submitted specific and objective observations (<http://www.senasa.gov.ar/contenido.php?to=n&in=1515&io=17104>).

Most oppose the project, indicating that the 2009 classification of the World Health Organization (WHO) **uses the current classification's same method of acute lethal dose (50%)** as the current toxicological classification of pesticides by hazard and value. The WHO itself does not guarantee the classification in any way; its criteria serve only as a supplementary guide and are based on outdated and biased research that disregard important studies by independent researchers in Argentina and other countries.

Senasa Resolution 401 of 14 June 2010, the Senasa-EU Program to Support Institutional Strengthening of Senasa, states that Resolution 466/2008, approves the "Program for the Reorganization of the Standards of the National Agrifood Health and Quality Service" which, as Annex I, is an integral part of this resolution. "Having seen file S01:0050692/2008 of the Registry of the Ministry of Economy and Production, and that with regard to said proposal the Legal Affairs Department agrees in full with the conclusions of the given report, (...) since these elements are essential requirements of same, pursuant to Article 7, paragraphs (b), (d), (e), and (f) of the National Law on Administrative Procedures 19,549. **That is not correct, because it is not being done.**

It also states that, "in turn, it should be noted that these tasks have been prioritized as activities to be undertaken within the framework of the SENASA Institutional Support Component of the **ALA Agreement/2006/18-398 CE-Senasa**, and of the Modernization of Institutional Management Component of the Agreement for the **Conditional Credit Line and loan contract 1950/OC-AR with the Inter-American Development Bank (IDB)** to finance the Agrifood Health and Quality Management Program in our country."

“It aims to contribute to institutional change at Senasa, to move the organization toward a new management model for agrifood health and quality through the preparation of four (4) integrated codes for the regulatory framework.”

Other directives include: “Determination of techniques for the review and comparison of standards. Preparation of a manual of standardized guidelines for the drafting of the new regulations. Determination of suitable tools for systematizing and computerizing the new Digest; and in item 2.3. Review of the current thematic organization” (2.4. Review of the content of current standards. 2.5. Reformulation of standards. 3.5. Ongoing updating of standards, etc.)

The following, among others, are involved in the program: **the Program Management Unit–Senasa-IDB Agreement.**

The resolution also states that the elements that should be included in the file for the preparation of a standard are: “Clear identification of the activity to be regulated or of the standard that needs to be updated and/or modified.”

Findings of the consultation with organizations, agencies, sectors, commissions, and/or working groups involved with the topic addressed by the proposal, duly documented with copy of the corresponding background information.”

Point (III) Cosmetic changes with no substantive impact:

Resolution 401/2010 also states that “the activities mentioned have been FULLY executed (...) **the first stage of the Program for the Reorganization of Standards is complete** (...) National Departments and line departments are entrusted, **within 45 (forty-five) days** following the date of approval of this resolution, with **proceeding with a full review of the standards in force.**”

But we do not see this to be the case, because if it were, we would not be protesting.

Moreover, in the aforementioned public consultation, SENASA stated that the substitution of the toxicological classification of current pesticides according to hazards and values for those of the 2009 WHO classification uses the same method of acute lethal dose (50%), only with different values. WHO clearly states that the criteria for classification **only serve as a supplementary guide.**

Furthermore, the United Nations Economic Commission for Europe (UNECE Globally Harmonized System of Classification and Labeling of Chemicals (GHS)) **in 2011 already reviewed** the Globally Harmonized System of Classification and Labeling of Chemicals (GHS), Fourth revised edition, United Nations, 2011 GHS (Rev.4) **Part 3 Health Hazards:** “The substance is classified in this category (Category 5), through extrapolation, [... if assignment to a more hazardous category] is not warranted, and reliable information is available indicating significant toxic effects in humans (...); where expert judgment confirms significant clinical signs of toxicity,” (http://www.unece.org/trans/danger/publi/ghs/ghs_rev04/04files_e.html), which has been reported, proven, and clearly demonstrated by scientists throughout the world.

Only the active ingredients of each substance are considered and not the coadjuvants, which are three to five times more toxic than the active ingredient, as for example those in glyphosate (AMPA and POEA). Not to mention the “cocktails” used in Argentina, their synergy, and danger to the health of inhabitants who are “fumigated in a criminal and genocidal manner” with uncontrolled substances that have been improperly approved as HARMLESS. Therefore, the values of the 2009 WHO classification are outdated, inadequate, and implausible.

Point (IV) Consequences of the false citizen participation:

Opposing citizens and agencies petitioned the Argentine Ministry of Agriculture, Livestock, and Fisheries, as well as the National Ombudsman, through Resolution 00147/2010 dated 12 November 2010, action 1680/10, entitled “**Request for intervention regarding the modification of the methodology used to classify**

agrochemicals” signed by more than 9,300 (nine thousand three hundred) people, admitted at the Ministry’s Filing Office.

In response to the petition of the Ombudsman, the Ministry answered EVASIVELY in a memorandum sent to the Ombudsman in March 2011. There is no intention to change the methodology of Resolution 350/1999. After 13 years, said legislation has not been “modernized” at all. A markedly soy-producing country, its huge tons of exports positioning it at the top of the grains market, has legislation that, in addition to being obsolete, adopts the acute toxicity of the product formulated using the LD50 method for acute lethal dose 50% as the sole method of classification, without considering sublethal toxicity, which does not cause immediate death but causes harm and becomes lethal over a longer term, nor chronic toxicity, which causes injury or death through continuous exposure. **As a result, item 2 of Resolution 147/10 has not been fulfilled, as the Ministry affirms, because it follows the archaic principle of “substantial equivalence” which was discarded in 2001 by the European Union,** and in Regulation 1829/2003, which rejects this principle as an appropriate criterion for assessing the biosafety of a genetically modified food. This is something that Argentina, the great world food exporter, is decades late in matching, aspiring to sustainable agriculture as a utopia only in speeches.

For its part, **Argentina’s House of Representatives** expressed during the consultation that if the proposed resolution were approved, this erroneous classification of agrochemicals as “benign” and harmless would allow these products to be applied near populations, **which would therefore be at risk for cancer, congenital malformations, and miscarriages, among other damages indicated by official and unofficial studies.**

All of this illustrates the serious consequences of the substantial and indiscriminate use of the herbicide GLYPHOSATE, the largest selling herbicide in the country, which **SHOULD BE RECLASSIFIED** because treating it as **Green band–Class IV–harmless** is scientific fraud, proven by studies conducted by renowned academic centers and scientists throughout the world who have demonstrated that not only it is not harmless, it is also **LETHAL** to humans, flora and fauna, and ultimately to biodiversity itself.

This hazard level is also mentioned in the report on glyphosate by the **Universidad Nacional del Litoral file 542212, Legal Affairs Department UNL 9/09/2010**, Bv Pellegrini 2750 3000 Santa Fe-Argentina phone/fax +54 (342) 4571110. (<http://www.unl.edu.ar/noticias/media/docs/Informe%20Glifosato%20UNL.pdf>)

These are the damages caused by the most widely used herbicide in Argentina:

GLYPHOSATE IN THE ENVIRONMENT:

There is the potential risk of transporting glyphosate and the metabolite AMPA to groundwater and surface water, which is increased by the use of phosphate fertilizers (page 39).

Long-term interactions between the herbicide glyphosate and soil microbiota lead to qualitative changes in the soil's fungal population. These changes can produce changes in the food chain and associated biological soil processes (pages 39-40).

Glyphosate cannot be said to be harmless for terrestrial invertebrate organisms (page 40).

Glyphosate can be airborne away from the point of use by the drift effect (or the transport of spray and particles) (page 45).

Commercial products containing glyphosate have “the capacity to induce changes in the food structures of communities, altering the cycles of matter and the flow of energy in continental aquatic ecosystems” (page 75).

EFFECTS ON HUMANS:

Association with multiple myeloma (page 116) (statistical, epidemiological study).

Toxic and mutagenic effects at low doses in cells associated with reproduction, such as embryonic, fetal, and placenta cells (page 117) (in vitro).

Different glyphosate-based products are toxic and create endocrine disruptions in human cell lines. Antiandrogenic, cytotoxic, genotoxic, and antiestrogenic effects (page 117) (in vitro).

Cytotoxicity and genotoxicity on two human cell lines (page 122) (in vitro).

Genotoxicity and oxidative potential of glyphosate in human lymphocytes at probable concentrations in occupational and residential exposures (page 122) (in vitro).

Genotoxicity of AMPA (a metabolite of glyphosate) in human cells (page 122) (in vitro).

PROVEN TOXIC EFFECTS ON BIOLOGICAL MECHANISMS OF NONHUMAN VERTEBRATES:

Damages to DNA (pages 58, 61, 70, 72, 74).

Changes in enzyme activity (superoxide dismutase and catalase) indicating oxidative injury in the liver and muscles (page 71).

Inhibition of the activity of B-esterase enzymes (acetylcholinesterase, butyrylcholinesterase, and carboxylesterase) and of oxidative stress. (page 71).

Enzymatic alterations (AST, ALT, and CK) (page 74).

Inhibition in the intracellular transport of calcium, and in the morphology and integrity of the cytoskeleton (page 71).

Teratogenic effects due to an increase in retinoic acid during early stages of vertebrate development (page 71).

Damage to DNA in liver and kidney cells, and chromosome damage in bone marrow cells (page 72).

Delayed development of fetal skeletons (dose-dependent) (page 72).

Stimulates the action of other compounds that initiate tumorigenesis (page 73).

Point (V) Is the IDB blind or naïve?

Amusingly, so as not to say *DISGRACEFULLY*, the “**PROGRESS MONITORING REPORT**” of the Inter-American Development Bank (IDB) for AR-L1032 –

Agrifood Health and Quality Management Program (CLIPP), Office of Strategic Planning and Development Effectiveness, 2010 2nd period, closing date (31 March 2011), last updated on 22 March 2011, **ERRONEOUSLY reports complete fulfillment of “Modernization of Institutional Management,” standards updated, systematized, integrated, and available in an integrated digest (pages 6 and 7), which is not true; all the legislation has been “drafted” but not modernized, updated, or anything of the sort. In Lampedusa’s almost cynical style: “If we want things to stay as they are, things will have to change.”**

This unequivocally constitutes **prohibited practices at the IDB Group:**

Corrupt practice, fraudulent practice (any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation), **coercive practice, collusive practice, or obstructive practice.**

Point (VI):

(a) Cases undertaken by the undersigned and legal proceedings initiated:

All of this stems from a notice sent by the undersigned to the Argentine Ministry of Agriculture, Livestock, and Fisheries, of which Senasa is a part, on 27 June 2011. Not having received a response I filed a request for expedited processing on 24 August 2011. **The internal processing number of my note to the Ministry is G-1187/2011, SAGyP Note 369/2011.**

In it I stated to former Minister Julián Domínguez that “The current approval system is not transparent; it depends exclusively on industry studies for safety evaluations, with the inherent conflicts of interests, and antiquated protocols that should be submitted to more rigorous and up-to-date standards.” “The invalidity of the act that gave rise to SAGPyA Resolution 167/1996 authorizing transgenic glyphosate-resistant soybeans is just the beginning of all kinds of abuse, illegalities, and manipulation by multinational companies, with the collusion of various agencies.

I received a response on 8 September 2011 that was full of evasions, and continued to insist on the same obsolete method for classifying agrochemicals, referring to the public consultation that I detailed above, and which to date HAS NOT BEEN RESOLVED, “as the great solution,” and that its deadline of 30 August 2011, had expired **five months earlier.**

The industry, including Monsanto, has known since 1980 that glyphosate causes malformations in animals subjected to high doses in experiments; it has also been known since 1993 that these effects can also occur at low and average doses.

The German government has known that glyphosate causes malformations since at least 1998, when it submitted its study on glyphosate to the Commission of the European Union. The EU Commission of peer review experts has known since 1999 that glyphosate causes malformations, and the European Commission has known since 2002. Even so, they have postponed dealing with that and 38 other substances; the file to renew glyphosate must be submitted on 31 May 2012, and that reevaluation will apply Directive 1107/2009, which entered into effect on 14 June 2011.

(b) Some fumigation-related lawsuits filed by me throughout the country:

(1) Néstor Vargas was 27 years old when he died in Vera Santa Fe after handling herbicide 2-4-D that he unloaded from a truck without protection. A widow and five orphans is the balance left by the rural worker who was paid under the table; his employer paid “little attention” to him; and to that is added the “lack of care of a physician” at the local hospital, who treated him for a sore throat. Three months passed before receiving the autopsy on the cause of death; it was disguised as death caused by leptospirosis. No one has been indicted, not even for malpractice. File 1433/2011 of Correctional Criminal Court of Judicial District 13 in the charge of Dr. Eduardo German Fabbro of Vera, Santa Fe Province, in the proceeding “Vargas, Hector Juan s/Complaint” continues to date without a change to the cover of the file. For that reason on 28 October 2011, I filed a complaint with the Prosecutor’s Office for the Investigation of Environmental Issues (UFIMA), and a criminal proceeding was opened **File 984/2011**

“Preliminary investigation to determine health damages to Nestor Vargas due to the use of agrochemicals in Vera Santa Fe.” (link:

<http://tiempo.infonews.com/notas/denuncian-muerte-de-peon-rural-tras-usar-agroquimicos>
http://www.youtube.com/watch?v=ugOdI74FO_4&feature=mfu_in_order&list=UL).

(2) **In Firmat Santa Fe, the Fontanellaz family had to MOVE** from its home because of fumigations in a neighboring field, on the orders of the family’s obstetrician, to preserve the health of a pregnant woman. **“The patient, pregnant with twins and with the complication of one twin dead and still in utero and the other twin alive at 33 weeks of gestation, should not be exposed to the airborne agrotoxins** present in her home to avoid the risk of potential complications to her health and her live fetus currently in utero. A criminal proceeding was opened as a result of my complaint filed with the Prosecutor’s Office for the Investigation of Environmental Issues (UFIMA) on 9 September 2011. **File 959/2011 proceeding “Preliminary investigation to determine glyphosate contamination and health effects in Firmat, Santa Fe Province,”** and an action for protection (*amparo*) File 865/2011 C.C. and Labor Court in the charge of Dr. Sylvia Pozzi . Her other daughter, **Wanda, 7 years old, recently had a transplant due to a hearing problem, has prostheses in her ears and is in delicate health.** Again, the information on the medical certificate reads as follows: “The patient has severe congenital bilateral sensorineural hearing loss and has bilateral cochlear implants. She has frequent inflammatory and catarrhal episodes in the upper airways, which affects her respiratory and auditory tracts. Considering the aforementioned background and that she is exposed to agrochemicals, which is detrimental to her health, the patient should not be exposed to this variable. I order a change of residence.”

<http://tiempo.infonews.com/notas/denuncia-que-perdio-bebe-estar-expuesta-al-glifosato>)

(3) **Mariano Lavena, a 9-year old child,** was poisoned by the insecticide for soybeans Karate by Syngenta in September 2010. This led to the filing of criminal proceedings File 834/2010 following the complaint I filed with UFIMA . On 16 September 2011, Federal Prosecutor Ramiro Gonzalez filed the relevant complaint in the Lower District Court for Criminal Investigation No. 2 in Rosario, Third Nomination Court Dr. Luis Maria Caterina proceedings “Complainant Gonzalez Ramiro Federal Prosecutor.” This was

because my action of protection (*amparo*), submitted on 23 December 2010 to judge Dr. Néstor Osvaldo Garcia, was rejected. File 1294/10 entitled “Bravo María Celeste v. Comuna de Ibarlucea et al. s/*Amparo*.”

(<http://www.pagina12.com.ar/diario/suplementos/rosario/10-26849-2011-01-04.html>)

(4) Julieta Sandoval, seven months old, died on 13 December 2010 in Bandera Santiago del Estero as a result of her many malformations caused by agrochemicals. Her genetic studies found **on two occasions “normal female 46 chromosomes”** (“<http://tiempo.infonews.com/notas/denuncian-que-una-beba-murio-santiago-del-estero-glifosato>”)

Similarly, the case of a 3-year old child in Vienne, France was sent to me by mail after seeing the photo and video of Julieta. **Theo Grataloup has already had 38 operations** on his stomach and esophagus, like the girl in Santiago; he breathes by tracheotomy. His mother was fumigated with glyphosate when she was four weeks pregnant. (<http://www.theo.sg/Communique-desherbants-malformations.pdf>) On 17 December 2010 Julieta’s case led to an official legal proceeding after I took the case to Channel 26’s program “Cuarto Día,” where I was joined by Dr. Andres Carrasco, biologist, professor of molecular embryology at UBA and researcher at Conicet. The court of AÑATUYA Santiago del Estero opened **File 1394/10** “Judicial brief to establish the existence of unlawful facts.” I filed a complaint with UFIMA, which initiated a proceeding under **File 638/10**. Neither the president nor any minister granted me the interview I formally requested in writing for the purpose of requesting help for that baby. (http://www.youtube.com/watch?v=s6fYM4OXIQ&feature=player_embedded)

(5) Juan Estanislao Milesi is 5 years old and was diagnosed with acute lymphoblastic leukemia (ALL) after being drenched by an aerial fumigation in Mercedes Buenos Aires when he was 2 years old. The town does not have ordinances that regulate fumigations. A criminal proceeding was opened after I filed a complaint with the Prosecutor’s Office for the Investigation of Environmental Issues (UFIMA), **File 965/11 “Preliminary investigation.”** Juan continues to receive ongoing treatment at Garrahan Hospital. (<http://www.elcivismo.com.ar/nota.php?nota=9555>). Oncologist Francisco Gutiérrez

Delgado, member of the National Research System of Mexico said that: “If there is a direct relationship between exposure to agrochemicals and the development of leukemia in Mexico we infer it because we do not have figures or studies to back it up.” **This notwithstanding, leukemia and aplastic anemia are associated with 70 or 80% of the cases involving agrochemicals**

(<http://www.defensorba.org.ar/pdfs/resoluciones/Resolucion-32-11.pdf>)

(6) **Fernando Ángel Caceres**, 4 years old, died of ALL on 8 June 2008 in Venado Tuerto Santa Fe; the physicians said it was the result of the fumigations in the area. There are hundreds of cases of deaths of children between the ages of 4 and 8, and others under treatment in Garrahan Hospital in Buenos Aires or in Rosario. Cases that are never covered by the press in Argentina

(http://www.laguiasemanal.com.ar/2011-11-30/noticia_titulares0.asp?id=5141)

(http://www.youtube.com/watch?v=KEb-FEh7ApY&feature=player_embedded).

Point (VII) Warning signs ignored:

In the province of Misiones, the cases of malformation due to contact with agrottoxins are more than ten times higher than the average: 12 cases per 1000 as compared to the normal average of 1 per 1000, according to the Chief of Surgery at the Children’s Hospital, Hospital de Posadas, Dr. Hugo Gomez Demaio. **Eighty-seven percent of malformations occur in people who live in rural areas and who are in continuous contact with pesticides**. Malformations can be detected in the fourth week of pregnancy. This pathology is produced by myelomeningocele, which impedes the normal closing of the neural tube. No one is unaware of what is happening in Chaco, where the statistics are overwhelming, nor throughout the entire humid pampas area. Complaints are multiplying. Malformations are not a sensation: they can be seen, their origin recognized, and they are being treated by every surgeon of *Operativo Patria Solidaria* [Operation Homeland Solidarity] coordinated by Dr. Hector Lanza. The cases of leukemia are not a new development for Garrahan Hospital, where physicians ask parents “if they live in an agricultural area.” The reality can no longer be concealed, and we are all on the list, even

those of us who live in the city, where railway tracks are fumigated and poison arrives with the food (<http://www.youtube.com/watch?v=mdWedmmuqOk&feature=related>).

“Various publications have demonstrated the existence of cancer in patients who have not been exposed directly to agrochemicals, but whose parents or grandparents had.” This occurs when the chemical impacts the genetic structure, which is then reproduced generation after generation. Or else it is passed through the mother’s uterus, affirmed **Dr. Alejandro Oliva, renowned urologist of Rosario**, director of another research effort, who warned **“with regard to public health, several generations are being directly adversely affected.”**

Because of their smaller size, children are poisoned by lower amounts of pesticides than adults. Because of their immature development, they are more susceptible than adults to the effects of poison. Children’s livers and other organs often do not have the capacity to break down certain pesticides. Their immune systems are not fully developed, which heightens the risk of acquiring diseases. Children living in the countryside are in contact with the pesticides used in the agricultural environment that surrounds them; therefore, there are more and growing opportunities for potential exposure. **For this reason, the WHO (World Health Organization) states that children are one of the population groups at greatest risk due to environmental contaminants.**

The Ombudsman of the Nation, together with the United Nations system and agencies, UNDP, UNICEF, ILO, and PAHO/WHO, have completed the first atlas of children’s environmental risks in Argentina, with a full chapter devoted to the analysis of the risk posed by agrochemicals; it reports that an estimated **3 million boys and girls are at environmental risk due to agrochemicals.**

FAO appropriately states that “Runoff of pesticides leads to contamination of surface water and biota; dysfunction of ecological system in surface waters by loss of top predators due to growth inhibition and reproductive failure; public health impacts from eating contaminated fish. Pesticides are carried as dust by wind over very long distances and contaminate aquatic systems thousands of miles away. Some

pesticides may leach into groundwater, causing human health problems from contaminated wells.” (“Agricultural pollution of water resources”) For this reason, Professor Mártir of Honduras stated that **“By abusing agrochemicals, we are planting skeletons instead of plants.”** (Participatory analysis of natural resources, San Francisco Candelaria, Lempira).

For its part, the WHO recognizes weaknesses in the public health system, where Argentina is a clear example:

“There are very few surveillance systems that collect data on incidents on the ground and in communities, inability to recognize and detect the symptoms of poisoning, and public health personnel lack the means to handle or treat these effects.”

This is the consequence of a lack of communication, the failure to communicate, and insufficient access to information; lack of information on less toxic methods for combating pests; very little dialogue between the business, agricultural, and public health sectors; and the fear that affected people have of losing their jobs, which limits information gathering and the reporting of incidents (“*Intergovernmental Forum on Chemical Safety*”).

Point (VIII) REQUEST:

Senasa thus violates Law 19,549 of Administrative Procedure, Articles 10, 11, and 12. The fact that the public consultation is nonbinding does not excuse the agency from using deceptive practices that, when applied to certain “poisons,” do not benefit the productivity-focused model where profits are more important than the health of the people of Argentina.

Citizen participation in environmental matters stems from Principle 10 of the Declaration of Rio of Janeiro, our 1994 reformed National Constitution that enshrines the right to a healthy environment and establishes legal tools and guarantees for effective enforcement, but as the Italian jurist Norberto Bobbio said, **“the problem of basic rights no longer**

consists in their recognition, but rather in the possibility of enforcing them"; thus, Argentina has failed to respect this participation.

Article 41 of the Argentine Constitution addresses the following: the concept of right-duty to a healthy environment with regard to the "content" of that right, the legal good protected, and the corresponding duty make inhabitants the true "agents" of environmental care. These duties also correspond to the State. The intergenerational commitment to preserve the environment: "Natural resources must be used in ways that do not create ecological debts by overexploiting the carrying and productive capacity of the earth" (1987 *World Commission on Environment and Development*).

"States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health (...) to diminish child mortality (...) provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution ..." (Convention on the Rights of the Child, Arts. 24 and 27), similarly Universal Declaration of Human Rights, Art. 22, 25, and 27. International Covenant on Social, Economic and Cultural Rights, Art. 1, 6, 7, 11, 12, 13, and 15. Convention on the Elimination of All Forms of Discrimination against Women, Art., 11 and 14. International Convention on the Elimination of All Forms of Racial Discrimination, Art. 2 and 14. The ILO Indigenous and Tribal Peoples Convention (No.169), Art. 7.

Argentina's law on occupational hazards (Law 24,557) has been violated for years in every field that has been planted with soybeans, corn, cotton, or rice, all of which are transgenic crops, where **fumigators do not respect any of the "good practices"** established by the Organization for Economic Cooperation and Development (OECD), an organization devoted not to public health, but to the promotion of international trade and economic development, and whose sole objective is to establish a series of standardized tests acceptable to all WTO member countries for the purpose of facilitating international trade.

In Argentina fumigations are applied at any distance, above rural schools, watercourses, animals, and humans, **criminally and from the air**, when Directive 2009/128/EC of the European Parliament and Council prohibited such practices on 21 October 2009.

Some 70% of Argentine crops are fumigated by land, which means that it can be affirmed that **IT WOULD IN NO WAY AFFECT** production to prohibit or restrict aerial fumigations because they pose the gravest danger to health, and to keep land-based fumigation away from urban centers.

I have traveled for more than five years through the provinces, investigating, interviewing, and publishing on the subject, I have seen affected children and adults, I have fought for legislation to protect them even if with a simple ordinance, **given the systematic omission and abandonment of the State, both at the provincial and national levels**, and by this means, **I DENOUNCE to the IDB, the irregularities, omissions, falsification of information, sketchy reports, failure to investigate and to perform proper audits, and monitoring by IDB controllers** in the granting of loans, and the proper use of funds for the purposes that the Bank claims as “Project Monitoring Reports” or that “fulfill Bank policy,” when it is not true.

If the loans granted so lightly move forward, without due audits and thorough monitoring of the conditions that must be met both for future loans and for those granted (**IDB contract 899/OC-AR 1 and 2 - Amendment IDB contract 899/OC-AR 1 and 2 - IDB contract 1956/OC-AR**).

A good **monitoring and evaluation system** is not sufficient, even if it is rigorous, if the information generated is not used to improve the design of policies and ensure accountability for the development effectiveness of the financed interventions. Based on the foregoing, the IDB could be a coperpetrator and/or coparticipant by failing to uphold, as has Senasa, the guidelines the Bank calls “**prohibited practices at the IDB**.”

On all the reasons set forth above, Senasa should be investigated, with objectivity and the highest levels of integrity. The IDB should improve its policies, mechanisms, and

operations to prevent risks to the integrity of Group-financed activities and it should sanction, recommend, and/or require effective compliance with the requirements of all investments, because in this case **the following failed to do so:** the Argentine consultants, the Bank's Safeguard Policy Filter Report, the Senasa/IDB Agreement Program Management Unit, and the ESMR.

The loans fulfilled the sole purpose of **strengthening the productivity-focused model** to the detriment of all victims of fumigations.

Awaiting an expeditious response to my request, I remain at your disposal,

Sincerely yours.

- Enclosed: photos of victims
- Database of persons affected by fumigations in Argentina (summarized)
- Resolution 00147/2010 of the Office of the Ombudsman of the Nation.
(<http://www.dpn.gob.ar/areas/area3367001.pdf>)

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Member of the CPACF Commission on the Environment