

IDB Management response to the ICIM Request regarding “Bayport Colombia: Financial Inclusion for BOP Public Employees (CO-L1147)”

This document establishes Management’s response to the Request filed by Mr. Fernando Sanabria on August 3, 2015 with the Independent Consultation and Investigation Mechanism (the “ICIM”) in relation to the above-mentioned project. Any terms that are not expressly defined in this document shall have the meaning ascribed to such terms in the Policy of the Independent Consultation and Investigation Mechanism (the “ICIM Policy”).

Management would like to thank the ICIM for its time and collaboration particularly with the explanation of the new ICIM Policy.

After a thorough review of the Request, Management’s position is that:

1. The Bank correctly applied all Relevant Operational policies; and
2. The Request does not meet important content criteria established by the ICIM Policy in paragraph 14 and therefore the request should not have been accepted by the ICIM as per paragraph 20.b.i and should not proceed pursuant to paragraph 22 of the ICIM Policy.

In regards to the information contained in the Request, Management would like to express the following:

- i. **The Request does not make reference to a Relevant Operational Policy and fails to explain the relation of the harm with a non-compliance of a Relevant Operational Policy in a Bank financed operation.**

Paragraph 22 (c) of the ICIM Policy indicates that a Request must describe the “Harm that could result from potential noncompliance with one or more Relevant Operational Policies”. The latter are listed in Paragraph 11 of the ICIM policy. Even though the Requester alleges that he suffered Harm, the Request fails to clearly establish or allege any relation between the Harm and the non-compliance of a Relevant Operational Policy¹ in the context of a Bank-Financed Operation.

- ii. **The ICIM shall be a mechanism of last-resort for addressing the concerns of the Requesters, after reasonable attempts to bring such allegations to the attention of Management have been made.**

Paragraph 22 (d) of the ICIM Policy stipulates that in order for a Request to be deemed eligible, it must “describe the efforts that the Requesters have made to address the issues in the Request with Management and include a description of the results of those efforts, or an explanation of why contacting Management was not possible”. The Request does not provide information of efforts that the Requesters have made to address the issues with Management, nor include a description of the results of those efforts.

Additionally, Management would like to point out the following:

1. During the due diligence phase, the Project Team reviewed Bayport’s operations and verified, among other things, that the interest rates and fees charged by Bayport to its clients were aligned

¹ The only reference included in the request to a policy of the Bank is related to the *Policies for the procurement of works and goods financed by the IDB (GN-2349-9)* (“Procurement Policy”), which is not listed in Paragraph 11 of the ICIM Policy

with the market and compliant with the maximum interest rate established by the *Superintendencia Financiera de Colombia*².

2. The loan agreement between the Bank and Bayport includes: (i) Bayport's obligation to conduct its business in accordance with the financing documents and prudent industry practice, all applicable laws and authorizations and (ii) Bayport's representation that it is in compliance with all applicable laws in all material respects. Management confirms that they have no knowledge of a breach of such obligation and representation.
3. Finally, in addition to all the above, the documents presented by the Requesters indicate that on March 24th, 2015, one of the Requesters [REDACTED] received a document from Bayport Colombia S.A.S confirming the status of its loan. If indeed there was an applicable Relevant Operational Policy that was not complied with in this case, which we determined above is not the case, there still would not be a link between the alleged harm and the policy non-compliance since the IDB loan was closed on May 11, 2015 and was only disbursed on June 17, 2015. As such, the loan to this Requester was not originated with IDB resources.

In conclusion and for the above-mentioned reasons, Management considers the Request to be without substance, not compliant with the formal criteria set forth in the ICIM Policy and consequently should not be given any further consideration by the ICIM.

² The maximum interest rate, in this case the usury rate for consumer lending (*Tasa de Usura*), is set on a semi-annual basis by the *Superintendencia Financiera de Colombia*, applies to all financial intermediaries and includes both the current interest rate and all administrative related fees such as analysis fees ("*estudio de crédito*").