



PUBLIC
SIMULTANEOUS DISCLOSURE

DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

COLOMBIA
MICI-BID-CO-2018-0133

CONSULTATION PHASE ASSESSMENT REPORT
SUPPORT FOR STRUCTURING THE ITUANGO HYDROPOWER PROJECT

(CO-T1250)
(ATN/OC-13351-CO)

This document was prepared by Gastón Aín, Coordinator of the MICI Consultation Phase, and María Camila Barriga, Consultation Phase Case Officer, under the supervision of Victoria Márquez-Mees, Director of the MICI.

This document is being made publicly available simultaneously with its distribution to the Board for information.

CONTENTS

ABBREVIATIONS

EXECUTIVE SUMMARY

I.	BACKGROUND	1
	A. Geographical and social context of the project	1
	B. The project and the technical cooperation operation.....	2
	C. The request	4
	D. MICI process up to the launch of the assessment stage	6
II.	CONSULTATION PHASE	7
	A. Regulatory framework	7
	B. Schedule of the assessment stage	7
	C. Assessment methodology.....	8
III.	ANALYSIS	8
	A. Current issues and context	8
	B. The parties	9
	C. Obstacles to starting a consultation or conflict resolution process	11
IV.	CONCLUSION.....	12

LINKS

1. MICI-BID-CO-2018-0133 Original Request and Annexes
<http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-133>
2. IDB Management response to the MICI-BID-CO-2018-0133 request in connection with the technical cooperation operation "Support for Structuring the Ituango Hydropower Project" (CO-T1250)
<http://www.iadb.org/document.cfm?id=EZSHARE-504054498-91>
3. MICI-BID-CO-2018-0133 Eligibility Determination Memorandum
<http://www.iadb.org/document.cfm?id=EZSHARE-504054498-108>
4. MICI-BID-CO-2018-0133 Request Detail in MICI-IDB Public Registry
<https://idblegacy.iadb.org/en/mici/Request-detail,19172.html?id=MICI-BID-CO-2018-0133>
5. MICI-CII-CO-2018-0133 Request Detail in MICI-IDB Invest Public Registry
<https://www.iadb.org/en/mici/request-detail-iic%2C19959.html?ID=MICI-%20CII-CO-2018-0133>
6. IDB. Technical Cooperation Document
<https://www.iadb.org/Document.cfm?id=37220237>

ABBREVIATIONS

AGC	Autodefensas Gaitanistas de Colombia [Gaitanist Self-Defense Forces of Colombia]
DANE	Departamento Administrativo Nacional de Estadística de Colombia [Colombia National Administrative Department of Statistics]
EPM	Empresas Publicas de Medellín
FARC	Antiguas Fuerzas Armadas Revolucionarias de Colombia [Former Revolutionary Armed Forces of Colombia]
GWh	Gigawatt hours
MICI	Independent Consultation and Investigation Mechanism of the IDB Group
MW	Megawatts

EXECUTIVE SUMMARY

The Ituango Hydropower Project, currently under construction, is a hydropower plant with an installed capacity of 2,400 MW, eight turbines, and an estimated investment of US\$5.508 billion, located on the Cauca River in the department of Antioquia, 170 km from Medellín. The project's area of influence includes municipios in the Norte, Occidente, and Bajo Cauca subregions. The region has been particularly affected by the dynamics of the armed conflict, and despite the recent peace process, multiple armed groups are still operating outside the law there.

In 2012, the IDB approved the contingent technical cooperation operation "Support for Structuring the Ituango Hydropower Project" (CO-T1250). This operation was followed by a corporate loan approved by the IIC Board of Executive Directors on 30 November 2016, in support of the construction of the Ituango Hydropower Plant (CO-11794-04). In both cases the client is Empresas Públicas de Medellín E.S.P.

In April and May 2018, an emergency occurred at the project site and in its area of influence. Obstructions of the auxiliary diversion tunnel reduced the river's flow downstream and caused the reservoir to fill upstream. In early May, one of the original diversion tunnels unexpectedly came unblocked, which caused the water level to rise suddenly, leading to grave concern in various communities in the area, especially the ones located downstream from the dam in the departments of Antioquia, Sucre, and Córdoba. In response to the emergency, the national disaster risk management system was activated. On 12 June 2018, EPM reported to the Ministry of Mines and Energy that risk conditions were favorable.

On 5 June 2018, the MICI received a request associated with the project, made by 477 residents of nine municipios in the department of Antioquia. The requesters are represented before the MICI by Isabel Zuleta and are supported by three civil society organizations. In their request, they allege that the IDB Group did not comply with its relevant operational policies in connection with the Ituango Hydropower Project. In particular, they allege damages associated with the identification and handling of social and environmental impacts. They also point out the lack of a resettlement plan, the failure to include some affected parties in the census, and various effects on biodiversity and bodies of water. Furthermore, they indicate that the emergency exacerbated the impacts and caused new ones both upstream and downstream from the dam.

The MICI Memorandum declaring the request eligible was distributed to the Board of Executive Directors on 26 September 2018, thus launching the consultation phase assessment stage. The purpose of the assessment stage is to gain an in-depth understanding of the context of the project or operation that gave rise to the request, as well as of the main issues that are cause for concern or controversy and that could potentially be addressed by the parties in a consultation process.

In the assessment stage, the project documents and background information were reviewed. Furthermore, as part of the assessment mission, numerous exchanges with key actors, meetings with IDB Management, and four working sessions (two with the requesters and two with the client) were held. In the working sessions and the various meetings, the parties exchanged opinions on a potential consultation process, guided by a 15-question survey in a semistructured interview format.

Over the course of the assessment, key issues that could have been the subject of a structured dialogue between the parties were identified. These issues include security in

the areas concerned, the de facto measures or protests that slow project progress, technical information of which the requesters are unaware, environmental and social aspects, and potential measures for restoring living conditions for the people affected.

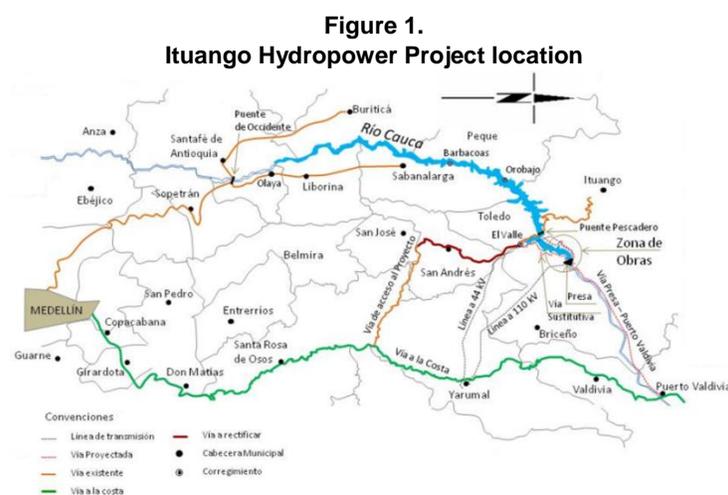
At the same time, the evaluation detected a number of difficulties and dynamics preventing joint efforts to find solutions in connection with the consultation phase. These include a lack of basic trust and engagement between the parties, whether in formal or informal venues; mutual accusations and stigmas; and recently, protests and confrontations. In addition, other State entities are conducting project-related hearings and proceedings that could affect a process of dialogue and resolution between the parties.

Based on these considerations and pursuant to paragraph 29(b) of the MICI-IDB Policy, it has been determined that at present **conditions are not favorable** for a consultation phase process. Therefore, with the distribution of this report to the IDB Board of Executive Directors, the case will be transferred to the compliance review phase, as per the request.

I. BACKGROUND¹

A. Geographical and social context of the project

- 1.1 The Ituango Hydropower Project is located on the Cauca River in what is known as the “Cauca Canyon” in northwestern Antioquia, 170 km from Medellín. The project’s area of influence in the department includes municipios in the Norte, Occidente, and Bajo Cauca subregions.² The main works are located in the municipios of Ituango and Briceño, while complementary project works will be built on properties in the municipios of Santa Fe de Antioquia, Buriticá, Peque, Liborina, Sabanalarga, Toledo, Olaya, San Andrés de Cuerquia, Valdivia, and Yarumal. Six percent of the population of Antioquia lives in municipios in the project’s area of influence. According to forecasts made by the National Administrative Department of Statistics (DANE), in 2018 the total population of those municipios will be 414,053 persons, of whom 44% will live in rural areas.³



Source: <http://www.skyscrapercity.com>

- 1.2 As a department, Antioquia is considered to be one of the most important to the country’s economy. In 2017, it contributed 15% of the country’s gross domestic product, the second largest share after Bogotá D.C. (26%).⁴ However, the Norte, Occidente, and Bajo Cauca subregions face significant challenges in terms of poverty and security conditions.
- 1.3 Indeed, the Bajo Cauca and Occidente subregions report the department’s highest percentages of individuals living in poverty. According to the unmet basic needs measurement, in 2016, 58.96% and 49.95% of the populations of these two subregions, respectively, were living in poverty. The same measurement shows that in the Norte subregion, 37.46% of the population was living in poverty. The poverty

¹ Information taken from the Bank’s web site and public documents on the associated operations. The documents consulted are available in the links section.

² Ituango, Briceño, Santa Fe de Antioquia, Cáceres, Buriticá, Peque, Liborina, Sabanalarga, Toledo, Olaya, San Andrés de Cuerquia, Valdivia, Yarumal, Tarazá, Caucasia, and Nechí.

³ DANE. Colombia population forecasts 2005-2020.

⁴ DANE. Departmental gross domestic product.

rates are higher in rural areas, reaching 71.44% in Bajo Cauca, 61.84% in Occidente, and 50.64% in Norte.

- 1.4 The main economic activities of the inhabitants of these subregions are agriculture, ranching, fishing, and artisanal mining. With regard to the latter, it should be noted that a significant number of people work as miners using traditional, ancestral practices, especially in the Bajo Cauca subregion. The country's open data portal lists approximately 12,564 registered gold panners (barequeros) in the three subregions.⁵ However, the number of gold panners may in fact be higher, since this figure does not include informal workers.
- 1.5 In terms of security challenges, the Antioquia municipios in general have been historically affected by the armed conflict in which the country has been immersed for more than 50 years. Due to their strategic position for drug trafficking and their significant natural resources, the Norte, Oriente, and Bajo Cauca subregions have been contested by illegal armed groups, which has victimized the civilian populations. In 2017, there were 1,897 victims of forced displacement, with the Bajo Cauca subregion being the most affected.⁶
- 1.6 The signing of the peace agreement between the national government and the FARC, and the resulting departure of the guerilla group from the territory, have led to a restructuring of the armed groups that are on the ground there. Since early 2018, groups that identify as dissidents from the FARC 36th and 18th fronts have been found to be present in the municipios of Briceño, Ituango, and Yarumal (Norte subregion). Likewise, in the past few years, the presence of groups with origins in paramilitary structures like the Autodefensas Gaitanistas de Colombia (AGC) has been noted. Recently, incursions have been made by the Caparrapos group, which is part of the AGC; certain groups from Medellín; and the Ejército de Liberación Nacional. These groups dispute control of the drug production centers and microtrafficking networks mostly found in Bajo Cauca.

B. The project and the technical cooperation operation

- 1.7 The Ituango Hydropower Project is a hydropower plant with an installed capacity of 2,400 MW, eight turbines, and an estimated investment of US\$5.508 billion. Construction began in March 2011, and the plant is to be built in two stages. The first stage includes four turbines that are expected to enter into commercial operation in 2019. The second stage includes the other four turbines, which should enter into commercial operation in 2022. Once completed, the project will provide 17% of the country's installed capacity.
- 1.8 The IDB Group has been participating in the project since the early construction stages. On 20 July 2012, the IDB approved the contingent technical cooperation operation "Support for Structuring the Ituango Hydropower Project" (CO-T1250). This operation was followed by a corporate loan approved by the IIC Board of Executive Directors on 30 November 2016, in support of the construction of the

⁵ Gold panning or barequeo is understood to be the manual washing of sand without any machinery or mechanical aids, in order to separate out and collect precious metals that may have been mixed in. Precious and semiprecious stones may also be collected through similar means. (Law 685 of 2001, Article 155). Open Data Portal. Colombia Digital Government.

⁶ Unit for Victim Assistance and Comprehensive Reparation. Master Registry of Victims.

Ituango Hydropower Plant (CO-11794-04). In both cases, the client is Empresas Públicas de Medellín E.S.P.

- 1.9 The contingent technical cooperation operation was for a total value of US\$2 million. The IDB would contribute US\$1.5 million, and the client would contribute US\$500,000. The objective of the technical cooperation project, which was classified as a Category “C” operation, was to support the analysis of the financial, technical, economic, and environmental structuring of the project. The operation financed five activities, as shown below:

Table 1.
Activities financed by operation CO-T1250

Activity	Description
Financial structuring	This included the provision of financial advisory services for reviewing, validating, and updating EPM's financial model for its financial and project forecasts, as well as for defining the capital structure. This activity also included establishing a financing strategy for obtaining the financial resources needed for project execution and, upon agreement of the parties, obtaining them.
Technical studies	The objective was to verify, validate, and assess the reliability of the studies and the project's technical viability. This activity included: review of the designs of the main civil works and equipment; validation of the budget and construction and operation timeline; review and identification of critical aspects that could generate risks during construction and operation; and analysis of contingencies and quantification of their impact.
Economic analysis	This was conducted for the management and supervision of the economic evaluation of the project. The EPM team for ensuring compliance with IDB requirements for economic evaluations of infrastructure projects was responsible.
Environmental and social studies	The objective was to evaluate the project's compliance with the environmental and social requirements of the IDB and other international lenders. The aim was to identify gaps in compliance and define actions in order to ensure that those entities would issue loans. The financing of the environmental audit and four outputs were identified: "Implementation of a water quality model in the Ituango Hydropower Project," "Updating of the terrestrial flora and fauna baseline," "Fish component baseline," and "Updating of the social management plan baseline."
Execution support	This activity entailed reviewing consulting products and all aspects associated with the execution of the technical cooperation operation, to support EPM in executing the bidding processes thereunder.

- 1.10 The project includes the construction of a 225-meter-high dam, located on the Cauca River just upstream from the mouth of the Ituango River, and an underground power station with an installed capacity of 2,400 MW and an average annual energy output of 17,460 GWh. The project also includes the works on the right bank to temporarily divert the Cauca River, as well as the powerhouse access tunnel, the ventilation tunnel and emergency exit, the surge tank ventilation and exhaust shafts, and infrastructure works: camps, transmission line, and construction substation and access routes, in particular the road from Puerto Valdivia to the dam site.
- 1.11 Between late April and early May 2018, an emergency situation arose at the project and in its area of influence. Obstructions of the auxiliary diversion tunnel reduced the river's flow downstream and caused the reservoir to fill upstream. In response to this situation, the client focused on unblocking the two original tunnels that had been used to divert the river early in the works. When this became too difficult, it decided to flood the powerhouse on 10 May 2018, to allow the water to flow through it. Two

days later, a sudden increase in the river's flow unexpectedly unblocked one of the original tunnels.

- 1.12 The rising water endangered the communities in the project zone of influence, especially in municipios downstream from the dam. According to data from the Antioquia Administrative Department for Preventing and Addressing Disasters, 668,561 people from 17 municipios of Antioquia, Sucre, Bolívar, and Córdoba were put at risk.⁷ The number of people evacuated to temporary housing and shelters totaled 17,184 at the time of the emergency.⁸
- 1.13 In response to the emergency, on 9 May 2018, a unified command post was formed, the national disaster risk management system was activated, and a management plan was deployed. On 12 June 2018, EPM reported to the Ministry of Mines and Energy that risk conditions were favorable. Furthermore, on the recommendation of the Ministry and the National Environmental License Authority, the Technical Monitoring Center was established and operates 24 hours per day.
- 1.14 To date, 12,770 individuals have returned to their homes.⁹ In the month of October, 1,500 families were expected to return to their places of residence in the corregimiento [administrative division] of Puerto Valdivia.¹⁰ According to information from the unified command post, on 28 October 2018 the alert levels by municipio were as follows:

Table 1.
Municipios by alert level

Alert level	Municipios
Yellow Notice to prepare for evacuation	Caucasia, Nechí, Ayapel, San Jacinto del Cauca, Guaranda, Majagual, Achí, San Marcos, San Benito Abad, Sucre, and Magangué
Orange Ready for immediate evacuation	Cáceres and Tarazá
Red Permanent preventative evacuation	Ituango and Valdivia

Source: EPM-Unified command post daily report.

C. The request

- 1.15 On 5 June 2018, the MICI received a request associated with the operations described in section I.B hereof. The request was made by 477 residents of nine municipios in the department of Antioquia who were involved in the Movimiento Ríos Vivos Antioquia.¹¹ The requesters are represented before the MICI by Isabel Cristina Zuleta. They are also supported by three civil society organizations: the Center for International Environmental Law, the Inter-American Association for Environmental Defense, and the International Accountability Project.

⁷ Information cited by the United Nations Office for the Coordination of Humanitarian Affairs (18 May 2018).

⁸ National Disaster Risk Management Department. Informational bulletin no. 183.

⁹ Ibid.

¹⁰ EPM. Press room: Information on the Ituango Hydropower Project.

¹¹ The municipios are: Sabanalarga, Valdivia, Ituango, Caucasia, San Andrés de Cuerquia, Toledo, Briceño, Peque, and Sopetrán.

- 1.16 The request submitted to the MICI alleges current and potential harm associated with the Ituango Hydropower Project in its design, construction, and future operational stages, harm that has been exacerbated by the emergency that took place this past 28 April 2018. The following paragraphs will summarize the requesters' allegations.
- 1.17 The requesters allege harm associated with the identification and handling of social and environmental impacts. They also note the lack of access to information and the failure to guarantee effective participation.
- 1.18 With regard to the identification and management of social impacts, the requesters firstly affirm that the census did not include or accurately describe the entire affected population, either upstream or downstream from the dam. They allege that the project affected the means of subsistence of a significant number of people who work in artisanal mining, fishing, or agriculture on the river, including various requesters. The impacts were worse for women, the majority of whom serve as heads of household.
- 1.19 Second, the requesters claim that no resettlement plan was in place before construction began, and they allege that residents have been displaced, with a disproportionate use of force. They also assert that the compensation offered was insufficient. The affected individuals have been forced to relocate to areas with which they had no connections and where they are unable to continue the activities by which they make a living.
- 1.20 Third, the request points out that the project has caused the social fabric in the area to fray. The requesters' lack of access to the areas that they used to visit on a daily basis before the project has led them to experience serious material, social, and cultural alienation. Furthermore, they indicate that the migration of workers to the area has led to a perception of rising violence and insecurity, particularly for women.
- 1.21 Fourth, they note the impact of project construction and operation on 55 archeological sites along the Cauca Canyon, stating that no plan has been designed to effectively protect them.
- 1.22 Lastly, the request discusses the handling of complaints about the presence in the riverbed of the remains of the bodies of victims of massacres and homicides that were committed during the armed conflict. According to the request, the filling of the reservoir will affect forensic evidence and hamper investigative action.
- 1.23 With regard to environmental impacts, the request states that cumulative impacts were not assessed and that the project has negatively affected the species endemic to the tropical dry forest. It also indicates that there have been negative effects on the groundwater and bodies of water associated with the Cauca River, which have been polluted with domestic and industrial wastewater used in the construction of tunnels, material storage sites, and landfills. The requesters further note that the traffic of vehicles and heavy machinery has led to higher levels of particulate matter, gas emissions, and noise pollution. Consequently, higher levels of infectious, parasitic, and respiratory illnesses are being seen in the communities.
- 1.24 The request emphasizes that members of the communities, including several requesters who have opposed the project, have experienced violence and retaliation. It cites multiple death threats, physical and psychological assaults, disappearances, and even homicides.

- 1.25 Lastly, the requesters affirm that the emergency situation that began in April 2018 has exacerbated the aforementioned alleged damages. In their perspective, this emergency is the result of an inadequate assessment of risks.
- 1.26 They note that in the social sphere, the inadequate impact assessment made it difficult to fully attend to the population displaced by the emergency, and the humanitarian aid in the shelters was insufficient for the number of affected individuals. They further indicate that some communities have been cut off due to the rise in water levels. Although some transportation options were made available, the daily lives of the affected individuals have changed drastically. The request also discusses the uncertainty experienced by the people housed at the shelters, since it is unclear when they will be able to return to their homes or even if they will be able to do so.
- 1.27 With regard to the environment, the requesters add that the rise in the water level has generated more sediment than is normal, which has polluted the bodies of water, negatively affected the flora and fauna, and harmed the health of downstream communities. They further highlight the potential environmental damage from the increase in greenhouse gases due to the failure to clear the plant cover prior to the flooding of the area.
- 1.28 The requesters state that the project did not comply with Operational Policies OP-703, OP-704, OP-710, and OP-102.

D. MICI process up to the launch of the assessment stage

- 1.29 Table 3 shows the main actions taken by the MICI from receipt of the request to the determination of eligibility.

**Table 3.
Timeline of MICI actions to date**

Date	Actions
2018	
5 June	Receipt of the request and meeting with the representative of the requesters and civil society organizations providing support during the MICI process
12 June	Meeting with the chair for Colombia
14 to 21 June	Telephone calls with representatives of various organizations located in the region
22 June	Telephone call with the representative of the requesters and civil society organizations supporting the request
3 July	Registration of the request and notification thereof to the requesters and IDB Management
13 July	Approval of the extended deadline for the determination of eligibility
18 July	Telephone call with the representative of the requesters and civil society organizations supporting the request
20 July	Receipt of the IDB Management Response
30 July to 3 August	Eligibility Determination Mission to Medellín, Ituango, and Bogotá
3 to 30 August	Review of documents
30 August	Issuance of Eligibility Determination Memorandum, which determines that the issues raised in the request are eligible for a MICI process, except for the recovery of bodies thrown into the river and the analysis of national environmental standards
6 September 2018	Meeting with IDB Management
	Telephone call with the representative of the requesters and organizations supporting the request
26 September 2018	Distribution of the Eligibility Determination Memorandum to the IDB Board of Executive Directors and start of the consultation phase

II. CONSULTATION PHASE

A. Regulatory framework

- 2.1 The actions of the Independent Consultation and Investigation Mechanism in connection with IDB portfolio operations are governed by Policy MI-47-6, approved on 16 December 2015. Section H of this Policy contains the processes, stages, and deadlines that must be observed during the consultation phase. The document “Guidelines for the Consultation Phase” (MI-74) explains in detail the provisions set forth in that section.
- 2.2 The consultation phase offers an opportunity for the parties to flexibly, voluntarily, and jointly address the issues raised in the request and associated with the IDB’s potential failure to comply with its relevant operational policies. The consultation phase is based on practical and theoretical principles, methods, and considerations aimed at ensuring the participants feel comfortable enough to explore solutions together in the process. The MICI acts as an impartial third party.
- 2.3 The consultation phase consists of three sequential stages: assessment, consultation process, and monitoring. The purpose and time frames of each stage are set forth in the MICI-IDB Policy. The objective of the assessment stage is to determine if conditions are favorable to starting a conflict resolution process. The assessment stage is designed to achieve an in-depth understanding of the project context behind the request and the central topics that the parties could address in a potential consultation process. In this stage the requesters, client, and Management, as applicable, will exchange their views to determine whether or not it is feasible to start that process. Lastly, the stage should identify the individuals who could represent the parties and their methodological preferences for a potential process.

B. Schedule of the assessment stage

- 2.4 According to paragraph 29 of the MICI-IDB Policy, the maximum term for the assessment is 40 business days counted from the distribution of the Eligibility Determination Memorandum to the Board of Executive Directors. For this case, that term ended on 15 November 2018. The following activities took place during the period:

Table 4.
Timeline of assessment stage activities

Date	Actions
2018	
26 September	Start of the assessment stage as part of the consultation phase
26 September to 19 October	Review of project-related documents and the project context
26 September to 15 November	Monitoring of the media
3 October	Telephone call with the representative of the requesters
2 to 4 October	Communications with the new EPM project team
16 October	Meeting with the IDB Management environmental, social, and governance officer.
17 October	IDB Management call with member of the project team
23 to 26 October	Assessment mission for the consultation phase in Medellín
30 October	Telephone call with the representative of the requesters
5 November	Receipt of the EPM response
15 November	Issuance of the consultation phase assessment report

C. Assessment methodology

- 2.5 In line with the MICI-IDB Policy and the Guidelines for the Consultation Phase, a documentary review was conducted, telephone and in-person interviews were held, and a visit was made to Medellín. The main objectives of these activities were to study the project context, to jointly analyze the feasibility of a consultation process with the parties, and to determine their methodological preferences.
- 2.6 The documents reviewed include the request, the project documents, and reports made by the requesters, international organizations with a presence in the country and in the department, national supervisory bodies, think tanks, nongovernmental organizations, and others. The debates held in the national congress and the Medellín municipal council on the Ituango Hydropower Project were monitored.
- 2.7 Before the assessment mission, telephone and in-person meetings were held with the requesters and IDB Management. Furthermore, during the mission, four working meetings were held, two with the client and two with the requesters. During those meetings, the attendees exchanged their views on a potential consultation process, guided by a 15-question survey in a semistructured interview format. A joint exercise was also performed with the requesters to explore their expectations of a potential dialogue process.

III. ANALYSIS

A. Current issues and context

- 3.1 **The issues.** As described in section I.C hereof, the issues that gave rise to the request can be structured into four principal topics. The first includes the handling of the social impacts of the Ituango Hydropower Project, in particular the review of the census. The request alleges that the census did not include or accurately describe all of the affected individuals. The second consists of the environmental impacts of the project construction works; in particular, the requesters note the pollution of the groundwater and bodies of water associated with the Cauca River, as well as the effects on biodiversity and the tropical dry forest. The third addresses the lack of

- information and venues for effective participation. Lastly are the issues associated with the emergency that took place in April and May of this year, which include: the potential exacerbation of the damaging effects noted in the request and the censuses of the emergency, given that it is also alleged that not all of the affected individuals were counted or accurately described.
- 3.2 **Background and current context.** The first mobilization in Ituango took place in 2011, raising visibility about the controversy. In August 2012, the first public hearing on the Ituango Hydropower Project was held in the municipio of Toledo in order to start a dialogue with the Departmental Government of Antioquia, as majority partner in the project, and the EPM project management. Since 2012, the departmental government has organized two attempts at dialogue, without success.
- 3.3 The first attempt at dialogue was made in response to the August 2012 hearing. The participants were the representatives of the Movimiento Ríos Vivos Antioquia, including requesters and EPM employees. Shortly after the dialogue began, it became apparent that the conversations were stalling. A second public hearing on the Ituango Hydropower Project was organized in early 2013, with the objective of expressing dissent with the dialogue. The second attempt was convened in 2016 through an administrative act (Decree on 18 April “creating the forum for dialogue, analysis and the quest for solutions to conflicts arising from the construction of mining-energy megaprojects”). The decree convened members of the departmental government, a representative of the municipal administrations, and representatives of academia, social organizations with a presence in the area (Movimiento Ríos Vivos Antioquia among them) and the Indigenous Organization of Antioquia.
- 3.4 Various demonstrations, and in some cases blockades, have taken place throughout the construction of the project and in conjunction with the emergency. From about five months ago until the present time, 22 families who identify themselves as affected by the emergency have been assembled at the Ituango Coliseum and 120 people have occupied the EPM offices in Sabanalarga.
- 3.5 This is all compounded by the dynamics of the armed conflict, which has historically affected the area where the project is located. Both the requesters and the company have received threats from some of the armed groups present in the area.
- B. The parties**
- 3.6 In line with the definition set forth in the MICI-IDB Policy, the parties to the consultation process are the requesters, IDB Management, and the client, in this case EPM.
- 3.7 **The requesters** are members of 15 grassroots organizations brought together in the Movimiento Ríos Vivos Antioquia. These organizations are made up of families that make their livings in ways associated with the river and rural life, such as gold panning, fishing, and agriculture.
- 3.8 The requesters state that the involuntary displacement, the way in which the project has handled the impacts, and the authorities’ responses to the various demonstrations associated with the Ituango Hydropower Project have caused harm beyond what was caused by the armed conflict.
- 3.9 They note that as a result, four central issues must be analyzed. The first issue is security and the improvement of the relationship with the company. For the

- requesters, the state of relations with EPM as an actor present in the area provokes tension in the midst of a complex backdrop characterized by high levels of unrest. The second issue raised is the restitution of livelihoods, to include economic, social, and cultural dimensions. Third, they would like to address the project's environmental impact and effects. And lastly, they propose incorporating a discussion on what they call guarantees of nonrecurrence. In other words, according to the requesters, the idea is to find ways to ensure the alleged harm does not reoccur in the future.
- 3.10 **The client.** Empresas Públicas de Medellín E.S.P. is an industrial and commercial company owned by the municipio of Medellín. Its activities are governed by the country's legal regulations on the private sector. The company provides electricity, natural gas, water, and sewerage services in Colombia and in other countries in Latin America. It holds an 8% share of Colombia's electricity transmission market and a 23% share of the distribution market. It also participates heavily in electricity sales in the country and in Central America. The "Ituango Project Sustainability, Environmental, and Social Division" has been in charge of the environmental and social management of the project. This division, established due to the project's temporary nature, reports to the Office of the Vice President of Projects-Power Generation.
- 3.11 EPM states that the project has been built in full compliance with Colombian regulations and with international regulations on human rights and citizen participation. The company also indicates that the impacts have been managed pursuant to the environmental management plan, which includes protection of the social, cultural, and environmental components of the area where construction is taking place. In particular, the client notes that the social component includes measures to compensate and mitigate impacts on the affected population.
- 3.12 In terms of participation, EPM notes that it has a model in place for interacting with interest groups, including the communities in the project area of influence. Although some issues are outside its area of responsibility, the client indicates that it has always had channels for addressing complaints from the communities and correcting potential errors when presented with the relevant evidence. Among its channels of communication, the company notes the following: 12 municipal technical forums; 58 municipal technical committees; municipal and community discussions; family assemblies; 12 citizen services offices; regular meetings with local authorities; 12 employment oversight committees; two-way channels of communication (La Voz del Proyecto Ituango monthly publication and interview radio); and information on the website.
- 3.13 The company further indicates that the Ituango Hydropower Project is being executed in a complex context and an area with significant social, economic, and institutional development liabilities. It therefore understands that some members of the communities could oppose the project due to its size and the nature of the area. However, it notes that most of the communities and citizens have shown support for the project, which is generating opportunities for the area.
- 3.14 **IDB Management** participated in the Ituango Hydropower Project through a contingent technical cooperation operation to support the structuring thereof. The technical cooperation operation was approved on 30 July 2012, with the objectives of supporting the analysis of economic, technical, and financial structuring aspects,

as well as of identifying the project's environmental and social weaknesses. The Energy Division of the Infrastructure and Environment Sector was responsible for disbursements, with the support of specialists from the Environmental and Social Safeguards Unit of the Vice Presidency for Sectors.

- 3.15 The products financed by the technical cooperation operation included: technical studies, the updating of the social management plan baseline, updating of the fish component baseline, updating of the terrestrial flora and fauna components baselines, the modeling of water quality, and the environmental audit. However, the studies on the social management plan and the fish component were withdrawn from IDB financing at the client's request.
- 3.16 In the conversations held during the assessment stage, Management has emphasized that the different studies financed by the technical cooperation operation were prepared pursuant to Bank policies and guidelines. However, it further indicates that delving into how the studies in question were used by the client is beyond its scope, since the IDB did not participate in the project construction stage. It also mentions that it would be difficult to recover the historical memory of execution of the technical cooperation operation, since most of the project team members are no longer involved with the IDB.

C. Obstacles to starting a consultation or conflict resolution process

- 3.17 The reflection exercises performed and meetings held with the parties, the rigorous review of the information on the project context, and the interviews with relevant external actors have made it possible for the parties to find common ground about the importance of certain issues to the future of the project. However, at the same time a number of contextual elements were found to be hampering the launch and execution of a dialogue process aimed at finding solutions to the issues raised in the request. These elements include the following:
 - 3.18 **Lack of basic trust between the parties.** Although it is true that disputes and conflicts often reveal a lack of trust between parties, the relationships in the specific context of the request in question are characterized by very high levels of distrust and hostility. This results from a number of episodes and disagreements that have reinforced the parties' different opposing narratives on what is happening in the project zone, which attribute negative intent to the other party's acts, deeds, and statements.
 - 3.19 **Mutual accusations and reinforcement of stigmas.** As noted above, the conflict stems from years of mutual accusations between the parties regarding each other's responsibilities in situations like de facto measures, blocked access ways, office takeovers, smear campaigns, forced evictions, environmental destruction, intimidation, acts of violence and blocked traffic, etc. All of this has had the effect of reinforcing the parties' negative impressions of each other.
 - 3.20 **Lack of channels of communication.** In polarized contexts of recurring disputes over a project or initiative, communication is typically weak, inadequate, or intermittent. However, in this case there has been absolutely no communication for at least three years now.
 - 3.21 **Ongoing processes and proceedings.** Because of its strategic importance and size, the project that gave rise to the request is at the center of multiple proceedings

- brought by various public agencies like the National Environmental License Authority and the General Accounting Office, as well as legislative debates in the Medellín Municipal Council and the Congress of the Republic. The ongoing activities and the documents produced will directly impact a potential process of good-faith dialogue intended to produce results. Indeed, these actions and proceedings are modifying the actors' expectations and perceptions, and in turn, their positions and interests, while they address the issues underlying the complaint.
- 3.22 **Security context.** The security situation in the project zone is complex. The presence of armed groups operating outside the law for control of the area constitutes a serious risk for social activist movements and, therefore, for the requesters. As noted above, the requesters have received various threats and have been attacked. In September 2018, they reported the death of two relatives of Movimiento Ríos Vivos Antioquia members. At the end of October, they received a written threat from the AGC.
- 3.23 Furthermore, in July of this year, a document signed by the FARC 36th front dissidents was disclosed; it threatened EPM and other companies in Antioquia's Norte department for not paying blackmail. That same month, a vehicle transporting company workers was attacked while passing through San Andrés de Cuerquia. Clearly, a sustained dialogue cannot be held in the territories or in the city of Medellín, meaning that representatives of both parties would have to be transported to Bogotá, which would entail significant logistical and scheduling challenges for the attendees.
- 3.24 **The priority of the emergency.** Due to the events that took place in late April and early May, the client and other national and subnational entities have focused their efforts on addressing the emergency. Several central government control agencies have issued reports and imposed requirements on the company. As a result, the company has focused its human capital and resources on responding first and foremost to the emergency situation.
- 3.25 **Potential legal consequences.** A potential process to jointly seek solutions to the key issues raised in the request could result in certain additional measures to respond to some of the 477 requesters. However, this would lead to the risk that other non-requester inhabitants of the project zone who have potentially been affected could file suits with the country's judicial authorities based on the principle of equality in force in the Colombian legal system.

IV. CONCLUSION

- 4.1 Based on the analysis of the issues that gave rise to the request, the parties' perspectives, and the risks and opportunities of a potential consultation process, the conclusion is that conditions are not favorable for such a process.
- 4.2 Pursuant to paragraph 29(b) of the MICI-IDB Policy and paragraphs 5.6 and 7.6 of the Guidelines for the Consultation Phase, the treatment of this case under this phase is declared concluded. As per the request, and once this document is distributed to the Boards of Executive Directors for information, the case will be transferred to the compliance review phase.

- 4.3 This document will be sent directly to the requesters, the client, IDB Management, and the IDB Board of Executive Directors. Once it has been distributed to the latter, it will be made available to interested third parties via the MICI's Public Registry.
- 4.4 It is important to note that the determinations made in the assessment report are not a judgment of the merits of the request. Neither does the assessment report determine whether or not the IDB complied with its relevant operational policies.