

DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

MICI-BID-AR-2019-0150
ELIGIBILITY MEMORANDUM

CONDITIONAL CREDIT LINE FOR INVESTMENT PROJECTS (CCLIP)
METROPOLITAN RAILROADS RECOVERY PROGRAM
(AR-X1018)

COMPREHENSIVE IMPROVEMENT PROJECT FOR THE GENERAL ROCA RAILROAD:
PLAZA CONSTITUCIÓN – LA PLATA BRANCH LINE

(AR-L1158)

(2982/OC-AR)

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In accordance with the Access to Information Policy, this document is being made publicly available simultaneously with its distribution to the Board for information.

INFORMATION NOTE

On the MICI Registration Process, Eligibility Determination Analysis, and Public Registry

The Registration process begins when the Independent Consultation and Investigation Mechanism (MICI) receives a Request sent by Requesters, alleging that they have suffered or may suffer harm due to actions or omissions of the Inter-American Development Bank Group (IDB Group) that may constitute a failure to comply with one or more of its Relevant Operational Policies within the context of an operation financed by one of the institutions in the Group.

In the Registration Phase, which lasts five business days, the MICI verifies that the Request contains all information required for processing and that it is not clearly linked with any of the exclusions that limit the MICI's actions. Following the registration of a Request, Bank Management has the opportunity to provide its perspective with respect to the issues raised in the Request. Management must send this to the MICI within 21 business days after registration in the form of a document known as "Management Response."

Once it receives the Response, the MICI starts the eligibility determination process, which involves reviewing the Request against the eligibility criteria established in its Policy to determine whether or not the Request is eligible and whether it can be accepted for processing. This eligibility determination is neither an assessment of the merits of the Request or the issues raised, nor a determination of the IDB Group's compliance or noncompliance with its Relevant Operational Policies.

If the Request is declared eligible, the process will begin for the phase selected by the Requesters; otherwise, the process will be deemed concluded.

All Requests received by the MICI and their processing will be recorded in its online [Public Registry](#). Case files will disclose all public information generated in processing a case.

The MICI does not award compensation, damages, or similar benefits. It is not empowered to halt disbursements or suspend operations.

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LINKS	
1.	Request MICI-BID-AR-2019-0148 in the MICI-IDB Public Registry https://www.iadb.org/es/mici/detalle-de-la-solicitud?ID=MICI-BID-AR-2019-0150
2.	Original request MICI-BID-BR-2019-0150 http://www.iadb.org/document.cfm?id=EZSHARE-845521730-67
3.	IDB Management's Response to Request MICI-BID-AR-2019-0150 concerning the Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158) http://www.iadb.org/document.cfm?id=EZSHARE-845521730-62
4.	Loan proposal for the Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158) https://www.iadb.org/Document.cfm?id=EZSHARE-339804259-23
5.	Environmental and social management report (ESMR) for the Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158) http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=37887873
6.	Environmental and social management framework for the CCLIP for the Metropolitan Railroads Recovery Program (AR-X1018) https://www.iadb.org/Document.cfm?id=EZSHARE-339804259-18
7.	Environmental and social impact study for works for underpasses 1 and 32 of the Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158) https://www.iadb.org/Document.cfm?id=EZSHARE-339804259-71

EXECUTIVE SUMMARY

The railroad system serving the Buenos Aires Metropolitan Region (RMBA) currently has seven lines and transports approximately 430 million passengers per year. The General Roca line (or Roca railroad) is the most extensive of all rail lines in the RMBA and carries the largest number of passengers, serving the urban areas in the south and west of the RMBA. This line is further subdivided into five branches, one of them being the Constitución – La Plata Branch Line, with a total of 19 stations, served by approximately 50 trains a day in each direction between Constitución station in Buenos Aires and the city of La Plata.

However, despite the advantages this rail network offers for passenger transportation, the system is unattractive as it is unreliable and operates at low frequencies, resulting in long wait times between trains; additionally, it suffers from low levels of passenger comfort and a high accident rate, with passenger accidents associated with moving trains and collisions between trains and vehicles at level crossings.

In this context, the Inter-American Development Bank is participating through a conditional credit line for investment projects (CCLIP) titled “Metropolitan Railroads Recovery Program” (AR-X1018), which was approved by the Board of Executive Directors of the Bank on 12 September 2013. The objective of the CCLIP is to support the Argentine government in the recovery of metropolitan railroads, so as to help improve public passenger transportation services in the RMBA.

The **Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158)** is the first individual loan under the CCLIP and is a specific investment loan for US\$300 million, with a local contribution of US\$200 million, with the Argentine Republic as the guarantor. The executing agency is the Ministry of Interior and Transportation (MIT), acting through its Central Execution Unit. The operation was approved by the Board of Executive Directors on 12 September 2013 and is now in execution. The specific objective of this project is the renovation and electrification of the Plaza Constitución – La Plata branch line of the General Roca Railroad in order to reduce travel times and accident rates and improve the reliability and comfort of the service. Component 2 includes the construction, upgrading, and supervision of rail and road infrastructure and installations; inter alia, it includes the electrification of the line and construction of two high-traffic vehicle underpasses in the city of La Plata.

On 12 June 2019, the MICI received a Request concerning the project from four residents of the city of La Plata, in the Province of Buenos Aires, Argentina. These residents have asked to remain anonymous out of fear of retaliation.

The Request refers to railroad works and civil engineering for the construction and future operation of the underpass in avenue 1 and 32 of the city of La Plata, and the impacts electrification of the railroad will have on the community. The Requesters allege that the Bank has failed to comply with its operational policies, primarily OP-703 and OP-102, and that this is causing them actual and potential harm.

According to the Requesters, the works referred to do not comply with the Bank's requirements in view of the lack of full environmental and social impact studies covering all the negative impacts on the community. They also say that the current studies do not cover issues such as the impact of traffic in the area, the adverse effects on stores in neighboring streets, the impact on the city's cultural heritage due to the change to the historic layout, inconvenience for the residents of the area, etc. They also highlight the

lack of public consultations prior to project definition, noncompliance with ordinances, urban codes, and current legislation, and the lack of information about the project as a whole.

The Requesters also anticipate suffering potential harm as a result of the project owing to risks at existing urban pedestrian crosswalks (mainly used by women and children) caused by the increased speed and frequency of the railroad following its electrification. They also say that the modernization of the trains will result in the closure of level crossings along the line, increasing traffic and consequently adversely affecting the safety of the neighborhood's residents and the users of its green spaces. Additionally, they mention the impact on street-fronting businesses in neighboring streets that have been left without level crossings as a result of the underpass.

Lastly, the Requesters stated their interest in the MICI processing their Request through both the Consultation Phase and the Compliance Review Phase, if deemed eligible.

Following an analysis of the relevant documentation, the MICI Director, pursuant to section G of the MICI-IDB Policy (document [MI-47-6](#)), concluded that the Request is **eligible** as it meets all the eligibility criteria required by the IDB's Independent Consultation and Investigation Mechanism Policy. On the basis of the eligibility analysis, it was determined that the following topics are excluded from a MICI process: (i) allegations of corruption, as these are deemed to be within the purview of the Bank's Office of Institutional Integrity (OII); and (ii) allegations concerning compliance with national laws and regulations, as this is the object of an ongoing legal proceeding.

This determination of eligibility is not an assessment of the merits of the Request or the issues raised therein. Nor is it a determination of compliance or noncompliance by the Bank with its Relevant Operational Policies. It solely marks the start of the MICI process and does not in any way imply the suspension of the project or its disbursements.

This Memorandum was sent on 23 August 2019 directly to the Requesters and to Management for information. It will be distributed for information purposes to the Board of Executive Directors of the IDB and any interested third parties through the [Public Registry](#) once the English version is available.

Following notification of the Board of Executive Directors, the MICI Director will transfer the case to the Consultation Phase at the Requesters' behest and pursuant to the MICI Policy in order to start processing of the Request in that phase.

I. THE PROJECT¹

A. General context

- 1.1 The Buenos Aires Metropolitan Region comprises the Autonomous City of Buenos Aires and 43 municipios and has an estimated population of over 15 million.² It is the country's main production and consumption center, accounting for more than 40% of gross domestic product and gross industrial output. The region covers an area of 18,088 square kilometers (equivalent to 1% of the country's total area).
- 1.2 In terms of land transportation, travelers in the metropolitan region make nearly 23.9 million trips by motor vehicle each day, with 13.4 million using private means of transportation, and 10.5 million using public transportation. There are three public transportation systems in the region: (i) public motor transport; (ii) the subway system; and (iii) the urban and suburban rail system.
- 1.3 The metropolitan region's urban and suburban passenger railroad system is laid out in a hub-and-spoke configuration centered on the city of Buenos Aires and covers 831 kilometers spread over seven lines. A total of 430 million passengers are transported by rail service each year.³ In general, the quality of rail service has been deteriorating significantly, owing to the age of the rolling stock and the state of the infrastructure.
- 1.4 With a total of 546.68 kilometers of track, the General Roca line (or Roca railroad) is the longest rail line and that which transports the largest number of passengers (32% of total rail passengers), with 800 trains per day. The Roca railroad serves the southern and western part of the metropolitan region and is subdivided into five branches (three electrified and two diesel-powered). It has a total of 299 vehicular crossings (155 level crossings) and 146 pedestrian crossings, 70 stations, and signaling on 237.19 kilometers of line (see Figure 1).
- 1.5 Meanwhile, the Constitución – La Plata Branch Line (marked in yellow in Figure 1) connects the city of Buenos Aires from the Plaza Constitución terminal station and the municipios of Avellaneda, Quilmes, Berazategui and La Plata along its 52.6 kilometer length. The branch line comprises a total of 19 stations and approximately 50 trains per day run between Constitución and La Plata; a further 50 trains a day run between Constitución and Berazategui, bringing the total to approximately 100 trains per day in each direction. According to official figures, this railway corridor transports 37 million passengers per year. Travel along the corridor is primarily for work and education, as the city of La Plata is considered the political and administrative hub of the Province of Buenos Aires.

¹ Information from the Bank's website and from public documents on the operation. These documents are available in the links section.

² Instituto Nacional de Estadística y Censos [National Statistics and Census Institute] (INDEC), national population, household, and housing census 2010.

³ Source: ENMODO, Household Mobility Survey, Survey of Origin and Destination, Buenos Aires Urban Transport Project (PTUBA), Office of the Transportation Secretary.

Figure 1.
General Roca Railroad Network



Source: Unidad de Gestión Operativa Ferroviaria de Emergencia [Rail Operations Emergency Management Unit] (UGOFE)

- 1.6 The Buenos Aires-La Plata corridor has seen a significant rise in the number of journeys by motor vehicle (public or private), resulting in the congestion of streets, avenues, and highways and increased travel times. Despite the railroad's having a higher operating speed (37 kilometers per hour compared with 10 kilometers per hour for motorized transportation during the rush hour) and its own exclusive track, its low frequencies (one train every 24 minutes between the Constitución and La Plata stations at peak times), which translates into long wait times between trains, and lack of reliability (on-time trains/scheduled trains), with most cancellations and delays occurring during peak hours when demand for the system is highest, mainly as a result of the age of the locomotives and infrastructure, makes it unattractive. The branch line also has problems with passenger comfort levels and the high passenger accident rate associated with moving trains and collisions with vehicles at level crossings.

B. Participation of the Bank – Credit line and General Roca Project

- 1.7 The Bank's participation in the project is structured as a conditional credit line for investment projects (CCLIP), given the "extended period of implementation and ongoing investments," through the "Metropolitan Railroads Recovery Program" (AR-X1018), approved by the Bank's Board of Executive Directors on 12 September 2013. Its objective is to support the Government of Argentina in recovery of the metropolitan railroads, contributing to the improvement of public transportation services in the Buenos Aires Metropolitan Region. The terms of the CCLIP are: a utilization period of 10 years and a total amount of US\$1.5 billion, with US\$1.2 billion financed by the IDB and a local contribution of US\$300 million.
- 1.8 The Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158) (hereinafter "the project") is the first

- individual loan under the CCLIP and is a **specific investment loan** for US\$300 million, with a local contribution of US\$200 million, with the Argentine Republic as the guarantor. The executing agency is the Ministry of Interior and Transportation (MIT), acting through its Central Execution Unit. The operation was approved by the Board of Executive Directors of the IDB on 12 September 2013 and is now in execution.
- 1.9 The project's specific objective is the renovation and electrification of the Plaza Constitución – La Plata branch line (52.6 km) of the General Roca Railroad to help reduce travel times and accident rates, and improve the reliability and comfort of the service, thereby increasing this number of passengers using this transportation option.
 - 1.10 The proceeds of the loan will finance two components: **Component 1. Engineering and administration (US\$10.3 million)**, including technical, economic, socioenvironmental studies, and bidding documents for works execution and systems related to the project, together with project administration and auditing.
 - 1.11 **Component 2. Works, supervision, and technical support (US\$489.7 million)**, consists of the construction, upgrading, and supervision of rail and track infrastructure and installations. Specifically, this component includes the electrification of the rail line and construction of two high-traffic vehicle underpasses in the city of La Plata. It also includes a subcomponent financing prevention, mitigation, and compensation measures for works construction, as provided in the respective environmental and social management plans.
 - 1.12 The Bank's Environment and Safeguards Compliance Policy (Operational Policy OP-703) categorizes CCLIPs as a flexible lending instrument for which the ex ante classification of environmental impacts is not feasible. Consequently, no environmental classification of the program is required.
 - 1.13 The first individual loan has been classified as a Category "B" operation, since: (i) the nine subprojects will be executed on the railroad's existing route, which is surrounded by densely built up areas; (ii) the potential adverse impacts will be associated principally with the construction phase and will generally be of medium magnitude, limited in scope, reversible, and temporary; and (iii) the mitigation measures to be adopted are well known and easily implemented. It was also considered that the project would have no adverse impact on historical heritage areas or protected natural areas.
 - 1.14 Meanwhile, in the case of the two underpasses in the city of La Plata, and other subprojects, the Bank considered it would be necessary to resettle fewer than 10 families living at three different points along the route, who would be relocated in accordance with the policy on Involuntary Resettlement (Operational Policy OP-710).
 - 1.15 The social risks identified by the Bank are associated principally with social disputes related to the potential adverse impacts of the new vehicle underpasses (increased traffic, noise, losses suffered by businesses due to changes in vehicle traffic patterns, etc.).
 - 1.16 The environmental and social tools developed during the preparation of the program and the first operation include: (i) a strategic socioenvironmental assessment of the

environmental, social, and occupational impacts associated with the CCLIP projects, in the context of the plans, programs, and policies applicable to the railroad system in the Buenos Aires Metropolitan Region; (ii) an environmental and social management framework developed for the entire project cycle (design, construction, operation, and maintenance) with the objective of ensuring proper implementation and management of the program as well as the first individual loan, and compliance with the relevant environmental laws and the applicable Bank policies; and (iii) the environmental and social management report for the first operation, which includes an evaluation of the potential environmental and social impacts and occupational risks of the Plaza Constitución–La Plata branch line and the corresponding environmental and social management plan, which presents a number of measures to be implemented in order to prevent, mitigate, and/or offset such impacts and risks, including a communication and consultation plan to be implemented during the project design and implementation stages.

- 1.17 It should be noted that the requirements of the environmental and social management report and the environmental and social management framework stipulated that the project's subprojects classified as being high or moderate environmental and social risk would require an environmental and social impact study, the specific scope of which would depend on the complexity of the work to be executed. It was also stipulated that prior to bidding for the subprojects, the Bank's no objection to the environmental and social impact evaluations and resettlement plans would need to be obtained.
- 1.18 Accordingly, the Environment and Safeguards Compliance Policy (Operational Policy OP-703), the Disaster Risk Management Policy (Operational Policy OP-704), the Operational Policy on Gender Equality in Development (Operational Policy OP-761), the Involuntary Resettlement Policy (Operational Policy OP-710) and the Access to Information Policy (Operational Policy OP-102) were established as the applicable operational policies.
- 1.19 According to the Bank's systems, 87.46% of the project's resources have been disbursed as of the date of this report.

II. THE REQUEST⁴

- 2.1 On 12 June 2019⁵ the MICI received a Request concerning the project from four residents of the city of La Plata, in the Province of Buenos Aires, Argentina. These residents have asked to remain anonymous out of fear of retaliation. In its preliminary analysis, the MICI identified that the Request did not have all the information necessary for its registration, such that on 18 June, pursuant to the MICI-IDB Policy, it granted the Requesters 10 working days to complete it. The MICI received the necessary information within the stipulated period, so proceeded to register the Request with case number [MICI-BID-AR-2019-0150](#).

⁴ The Request, its annexes, and supplementary information sent are available from the links section of this document.

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[REDACTED]

- 2.2 The Request refers to the railroad and civil engineering works for the construction and future operation of the underpass on avenue 1 and 32 of the city of La Plata, planned for in the first loan operation under the CCLIP; it also refers to the impacts electrification of the railroad will have on the community. The Requesters allege that the Bank has failed to comply with its operational policies, primarily OP-703 and OP-102, causing them actual and potential harm.
- 2.3 According to the Requesters, the works referenced do not comply with the Bank's requirements in view of the lack of full environmental and social impact studies covering all the negative impacts on the community. They also say that the current studies do not cover issues such as the impact of traffic in the area, the adverse effects on stores in neighboring streets, the impact on the city's cultural heritage due to the change to the historic layout, inconvenience for the residents of the area, etc. They also highlight the lack of public consultations prior to project definition, noncompliance with ordinances, urban codes, and current legislation, and the lack of available information about the project as a whole.
- 2.4 The Request alleges the following actual and potential harms:
- Lack of information on future safety and preventive measures to avoid accidents, as the construction of this work will involve a new turnaround in precisely the area of the main gas pipeline that supplies the city of La Plata and neighboring towns; over time this will be affected by the vibration caused by vehicle traffic. The Requesters stress that Argentine legislation prohibits gas mains being buried under roads.
 - Increased segmentation of the area, adversely affecting daily traffic flows and the safety of three primary schools, one kindergarten, a first aid post, and a police station.
 - Conducting an environmental impact study without properly taking into account all the social, legal, and environmental aspects the works would affect, thereby failing to comply with the IDB's guidelines on financing works with this omission. They warn that the study is so incomplete that it did not obtain an environmental impact statement from the provincial sustainable development agency (OPDS), which is the relevant authority for works in urban areas.
 - Disregard for ordinances, urban codes, and legislation in force in the city of La Plata and the Province of Buenos Aires concerning the construction of the works.
 - Generation of significant negative impacts arising from the fact that the works are not being executed within the width of the current railroad track but impinge on socially and environmentally sensitive areas in the city of La Plata, such as the green boulevard, declared "Public National Historical Heritage," which is slated for elimination.
 - Modification and alteration of the planned layout of the city, which has been studied and is recognized worldwide for its design.
 - Absence of approval of the works by the city's highest authorities, namely the City Council of the City of La Plata (alteration of layout and breach of ordinances).

- Removal of all the trees in the area (“green lungs”) in a city near an oil refinery and which was completely flooded in April 2013, such that the Requesters believe there should have been a public hearing involving residents, and the authorization of the provincial sustainable development agency (OPDS) of the Province of Buenos Aires, which was also not the case.
- 2.5 At the meetings with the Requesters during the eligibility mission, the Requesters explained the potential harm they anticipated suffering as a consequence of the Project; in particular, these were the risks at the city’s nine urban pedestrian crossings deriving from the increased speed and frequency of trains (every three or four minutes) following electrification. In this regard they pointed out that pedestrians (particularly women and children) were crossing the line continually in the neighborhood to reach the primary schools and kindergarten in the zone.
- 2.6 Regarding the boulevard, they highlighted that the closure of vehicle crossings for safety reasons would increase the traffic taking the underpass on roads 1 and 32, as well as vehicle speeds, thus increasing the danger for the neighborhood’s residents and users of the green spaces.
- 2.7 Lastly, they mentioned the risk to street-fronting businesses on street 2 due to the closure of the crossing required for the construction and operation of the underpass.
- 2.8 The Requesters mentioned that they had not received any information at all about the second underpass at the meetings but were concerned about the impact it would have on mobility in the city.
- 2.9 Regarding contact with Management, the Requesters said that they had decided to send their complaint directly to the MICI rather than contact Management or the executing agency first, out of fear of retaliation.
- 2.10 Allegations of prohibited practices and corruption associated with the bidding process for the works were also made in the Request. The Requesters said that they sent a report of corruption and prohibited practices to the IDB Office of Institutional Integrity (OII) via email.
- 2.11 Lastly, in the supplementary information the Requesters stated their interest in the MICI processing their Request through both the Consultation Phase and the Compliance Review Phase, if deemed eligible.

III. MANAGEMENT’S RESPONSE⁶

- 3.1 IDB Management was notified of the registration of Request MICI-BID-AR-2019-0150 on 24 June 2019, and it sent its response to the MICI on 25 July. A summary of its content is set out below; the full text can be consulted in the links section.
- 3.2 In its Response, Management says that, in accordance with the provisions of the environmental and social management framework, between 2013 and 2016 an environmental and social impact study (ESIS) was prepared for the avenue 1 and 32 underpass, for which there was a two-stage public consultation process: (i) on 13 May 2016 there was an institutional consultation workshop with the participation of representatives of the La Plata municipal government, the College of Architects

⁶ Management’s Response is available in the links section.

- and Engineers, and the La Plata National University, to make the works known to the public and provide a forum at which people could express their concerns; and (ii) on 31 May 2016 a citizens' dialogue day was held, which the city's community was invited to attend, and which reported participation of 85 people. According to Management, the information gathered at these sessions was incorporated in the ESIS for subsequent forwarding to the municipal environmental authority for it to issue the "environmental impact statement" approved on 29 July 2016.
- 3.3 In its Response, Management also reported that between November and December 2018, prior to the start of the works, the La Plata municipality held a consultation with a sample of residents living near the underpass (2,610 interviews) to determine the level of awareness of the work and opinions about it.
 - 3.4 Management reports that on the date of issuing its Response, execution of work on the underpass was close to 30% of completion.
 - 3.5 Meanwhile, as concerns the allegations of potential harm to safety resulting from the construction of the works and operation of the underpass close to a main gas pipeline, Management reported that during the preparations for the works, the need to remove and relocate a medium-pressure gas main was identified. The company Camuzzi Gas Pampeana consequently drew up plans for the relocation of the gas main, in accordance with the technical specifications and regulations currently in force. The ESIS also detected the presence of a higher-pressure gas pipeline in the underpass zone, resulting in a change to the layout of the original plans to avoid affecting it.
 - 3.6 Regarding the negative impacts on residents' lives, the potential increased segmentation of the zone and adverse effects on traffic flows, in its Response Management notes that on the basis of the current and future frequency of train services and the location of the underpass, the work is expected to considerably improve the quality and safety of the vehicle and pedestrian crossings (the latter, it points out, currently have only minimal safety standards given the physical impossibility of installing z-crossing channelization). In addition, Management noted that the underpass would not affect the safety of social institutions (such as the primary schools, kindergarten, first aid post, and police station), and that their accessibility would be ensured by pedestrianized streets and crosswalks with curb ramps.
 - 3.7 Regarding the failure to comply with ordinances, urban codes, and legislation in force in the city of La Plata and the Province of Buenos Aires, Management noted that local regulations were complied with as there is a delegation of functions by the provincial environmental authority to the municipal authority in the case of the implementation of the environmental impact assessment and the subsequent environmental impact statement. It also reported that the electrification work on the branch line was approved by the La Plata city council as being of public interest.
 - 3.8 In reference to the allegations of adverse environmental impacts, in its Response, Management states that these impacts were correctly identified, described, and evaluated in the ESIS, which also included the applicable mitigation measures. Regarding the removal of trees from the boulevard on avenue 32, Management reported that the work did not require the removal of all the trees but would affect 78 of the total 253 in the area (close to 30% of the recorded trees). A tree-planting

- plan had been drawn up in which 24 of the trees would be replanted elsewhere and 54 removed and offset by the planting of 270 new trees, using solely native species.
- 3.9 Regarding contact with Management, in its Response it reported that between January and February 2019 a group of residents of the city visited the Bank's Country Office in Buenos Aires to express their opposition to the works referenced herein, and to make allegations similar to those set forth in the Request. Management advised the residents to contact the executing agency to obtain more details of the works in question and to contact the Bank's Office of Institutional Integrity (OI) to address issues of potential corrupt acts.
- 3.10 Lastly, Management mentioned the existence of a court case under way at Court no. 2 of Civil, Commercial, and Federal Administrative Law, with case number (N 37232/2017).

IV. MICI ACTIONS

- 4.1 In accordance with Section G of the MICI-IDB Policy and the eligibility criteria of paragraph 22, the intake and determination of eligibility process for the Request followed the timeline below:

Table 1
Timeline of MICI actions in the period

Date	Actions
12 June	Receipt of the Request
18 June	Notification of the extension for the Requesters to comply with certain requirements
20 June	Telephone call with the Requesters and receipt of additional information from the Requesters
24 June	Request registered and notification of the Requesters and IDB Management
10 July	Meeting with project team
12 July	Telephone call with the Requesters
16-20 July	Eligibility Determination Analysis mission to the city of Buenos Aires and the city of La Plata in the Province of Buenos Aires to hold meetings with the Requesters, the executing agency, and Management
25 July	Management's response received
26 July to 23 August	Document review and desk work
15 August	Receipt of supplementary information on the Request
23 August	Issuance of Eligibility Memorandum

- 4.2 Following receipt of the Request, in addition to the desk review that is a part of this stage, several meetings were held with the Requesters and IDB Management by telephone and in person in order to better understand the operation and the allegations made, as well as the way in which Management had addressed the complaint before it reached the MICI.
- 4.3 From 16 to 20 July 2019 the MICI conducted a mission to the city of Buenos Aires where the delegation held meetings with the project team and the executing agency at the IDB's Country Office in Argentina. It also held meetings with the Requesters in the city of La Plata, and the Requesters accompanied the delegation on a tour around the project's area of influence.

- 4.4 The MICI is grateful to all the parties for their willingness to meet with the team and provide the necessary information for this eligibility determination stage.

Visit to the city of La Plata



Source: MICI photographic archive.

V. ELIGIBILITY DETERMINATION ANALYSIS

- 5.1 As part of the process of determining eligibility, the MICI considered the information submitted with the Request, Management's Response, and a number of other Project documents associated with the Request, and other relevant⁷ documents and information gathered during the mission.
- 5.2 Pursuant to paragraph 22 of the Policy, a Request will be deemed eligible by the MICI if it is determined that it meets all the following criteria:
- a. The Request is filed by two or more persons who believe that they have been or may be affected and who reside in the country where the Bank-financed Operation is implemented. If the Request is filed by a representative, the identity of the Requesters on whose behalf the Request is filed will be indicated and written proof of representation will be attached.
 - b. The Request clearly identifies a Bank-financed Operation that has been approved by the Board, the President, or the Donors Committee.
 - c. The Request describes the Harm that could result from potential noncompliance with one or more Relevant Operational Policies.
 - d. The Request describes the efforts that the Requesters have made to address the issues in the Request with Management and includes a description of the results of those efforts, or an explanation of why contacting Management was not possible.
 - e. None of the exclusions set forth in paragraph 19 of this Policy apply.
- 5.3 In the case of Request **MICI-BID-AR-2019-0150**, the analysis of eligibility criteria established in the Policy consisted of the following:
- 5.4 The Request was submitted by four residents of the city of La Plata in the Province of Buenos Aires, Argentina. The Requesters asked for their information to be kept confidential out of fear of retaliation. The MICI has a list with the Requesters' contact information. Consequently, **criterion 22(a) has been met.**
- 5.5 The Request identified the **Comprehensive Improvement Project for the General Roca Railroad: Plaza Constitución – La Plata Branch Line (AR-L1158)**, the first individual loan under the conditional credit line for investment projects (CCLIP): "Metropolitan Railroads Recovery Program" (AR-X1018), both approved by the Board of Executive Directors of the Bank on 12 September 2013. Consequently, **criterion 22(b) has been met.**
- 5.6 The Request alleges actual and potential harm, as mentioned above, associated with the electrification of the railroad, and the increased speed and frequency of trains; and with the construction of underpasses. Consequently, **criterion 22(c) has been met.**
- 5.7 The Requesters also allege that there has been a lack of comprehensive environmental and social impact studies, an absence of public information and

⁷ The documents reviewed are available in the links section of this document.

- consultations compatible with the Bank's requirements; as well as a breach of ordinances, urban planning codes, and legislation in force.
- 5.8 The Requesters stated that they had not made prior contact with Management for fear of retaliation, as is provided for in the MICI-IDB Policy. It is worth noting that, in its response, Management said it had held meetings with other residents of the city of La Plata, who put forward arguments similar to those in the Request. The MICI considers that **criterion 22(d) has been met**.
- 5.9 Regarding the exclusions set forth in paragraph 19, **the MICI considers that the exclusions under criteria 19(b), 19(c), 19(e), and 19(f) do not apply** and that the Request includes the Requesters' information; the matters have not been reviewed by the MICI previously, and the operation concerned was approved in 2013 and is currently in execution.
- 5.10 In the case of **exclusion 19(a)**, regarding the nonapplication of the Consultation Phase and the Compliance Review Phase to matters outside the MICI's purview, such as reports of fraud, corrupt practices, and decisions in procurement processes, the Request includes allegations of corruption associated with the bidding process for the works. These allegations were submitted by the Requesters to the Bank's Office of Institutional Integrity (OI) before the MICI received this Request. However, it is relevant to clarify that the MICI considers that **exclusion 19(a) does apply** to these allegations.
- 5.11 Lastly, in relation to **exclusion 19(d)**, regarding the nonapplication of both the Consultation Phase and the Compliance Review Phase to specific topics or issues raised in a Request that are subject to arbitration or judicial proceedings in an IDB member country, the points below were examined.
- 5.12 The MICI was informed by IDB Management of an active judicial proceeding. As the documentation on this case was not forwarded, the MICI carried out a search and, examined the applicability of exclusion 19(d) based on the public information available⁸ in the Province of Buenos Aires judiciary system. Table 2 gives a summary of this information.

Table 2
Summary of on-going court proceedings

Proceeding	Court	Matter	Claimant/ Respondent
37232/2017	La Plata Court no. 2 of Civil, Commercial, and Federal Administrative Law	Class action requesting precautionary measures and declaration of invalidity of the construction of ground level railroad tracks and the underpass works under the General Roca Railroad at the crossing of streets 1 and 532 and streets 1 and 32 of the La Plata district on the grounds of unconstitutionality.	Alberto Enrique Pieroni / Ministry of Transportation

⁸ The MICI has not been able to gain access to the original suit.

- 5.13 On the basis of the analysis of the available information, the MICI finds that in 2017 a group of residents of La Plata and Tolosa submitted a class action against the project for the maintenance of the railroad existing at ground level and requested precautionary measures, which were refused. However, the right of the class action on compliance with national laws and regulations was upheld.
- 5.14 The MICI therefore considers that, given that some of the allegations in the Request refer to the **breach of national laws and regulations**, and that these are subject to an ongoing judicial proceeding, **exclusion 19(d) applies to them**. Any Consultation Phase Process or Compliance Review carried out must exclude allegations regarding compliance with national laws and regulations.

VI. CONCLUSION

- 6.1 The MICI Director, in accordance with Section G of the MICI Policy ([document MI-47-6](#)), has concluded that this Request is **eligible**, since it meets all the eligibility criteria required by the MICI Policy.
- 6.2 On the basis of the foregoing analysis, the following matters are excluded from the MICI process: (i) allegations of corruption, as these are deemed to be within the purview of the Bank's Office of Institutional Integrity (OI); and (ii) allegations concerning compliance with national laws and regulations, as they are currently the object of a legal proceeding.
- 6.3 This determination of eligibility is not an assessment of the merits of the Request or the issues raised therein. Nor is it a determination of compliance or noncompliance by the Bank with its Relevant Operational Policies. It solely marks the start of the MICI process and does not imply the suspension of the project or its disbursements.
- 6.4 This Memorandum was sent on 23 August 2019 directly to the Requesters and to Management for their information. It will be distributed for information purposes to the Board of Executive Directors of the IDB and any interested third parties through the [Public Registry](#) once the English version is available.
- 6.5 Following notification of the Board of Executive Directors, the MICI Director will transfer the case to the Consultation Phase at the Requesters' behest and pursuant to the MICI Policy in order to start processing of the Request in that phase.