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AND INVESTIGATION MECHANISM

**MICI-BO-2014-079**

**COMPLIANCE REVIEW REPORT  
REVISED VERSION**

**DRAINAGE IN THE MUNICIPIOS OF LA PAZ AND EL ALTO**

**(BO-L1028)**

**(2440/BL-BO)**

This document was prepared by Arantxa Villanueva, Coordinator of the Compliance Review Phase, and Julio Patiño, Case Officer, with contributions from experts Helen Russell and Ione Novoa, under the supervision of Victoria Márquez-Mees, MICI Director.

This document contains confidential information relating to one or more of the ten exceptions of the Access to Information Policy and will be initially treated as confidential and made available only to Bank employees. The document will be disclosed and made available to the public upon approval.

## **ABOUT THE MICI COMPLIANCE REVIEW PROCESS**

The purpose of the Compliance Review is to investigate allegations by Requesters who claim that their rights or interests have been and/or could be directly affected by actions or omissions of the Inter-American Development Bank that may constitute noncompliance with one or more of its Relevant Operational Policies in relation to an operation. A Compliance Review investigation is intended to establish whether any Bank action or omission related to a Bank-financed operation has resulted in noncompliance with its Relevant Operational Policies and caused direct, material harm to the Requesters.

The Compliance Review is a fact-finding process to assist the Board of Executive Directors in promoting compliance with the Bank's Operational Policies, supporting positive development outcomes of Bank-financed operations, and fostering institutional learning. The Compliance Review only addresses the Bank's compliance with the Relevant Operational Policies and reaches no conclusions regarding the actions of any other party in relation to the corresponding Bank-financed operation.

## **ACKNOWLEDGEMENTS**

The Independent Consultation and Investigation Mechanism (MICI) thanks the Requester, IDB Management, and the Bank's Board of Executive Directors for their support during the investigation process. This work would not have been possible without their cooperation.

We thank the Requester for his trust, availability, and cooperation during the process, particularly given its length. The MICI acknowledges that this case took longer than expected because it coincided with the revision, modification, and implementation of a new MICI Policy that led to structural changes and changes in the handling of requests. We are aware that these circumstances have been trying for the Requester and thank him for his patience and willingness to continue responding to the demands that have arisen during the process.

We thank IDB Management for its willingness during the investigation to respond to requests for information and attend the many meetings called by the MICI team, and for the clarifications made to the MICI in its comments on the preliminary draft of this report.

We are grateful to both the current and former chairs for Bolivia at the IDB for their support throughout this process, which began in 2014.

In sum, the MICI acknowledges the Bank's environment of cooperation, support, and institutional maturity, which enabled it to carry out this, and hopes that the findings will enrich the contribution of the Bank's work to the region of Latin America and the Caribbean.

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<b>ELECTRONIC LINKS</b>	
1.	Case file in the MICI's Public Registry <a href="http://www.iadb.org/es/mici/complaint-detail-2014,1804.html?id=MICI-BO-2014-079">http://www.iadb.org/es/mici/complaint-detail-2014,1804.html?id=MICI-BO-2014-079</a>
2.	Original Request <a href="http://www.iadb.org/document.cfm?id=38942187">http://www.iadb.org/document.cfm?id=38942187</a>
3.	Management's Response to the Request <a href="https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-92946236-1170">https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-92946236-1170</a>
4.	Eligibility Memorandum for the Consultation Phase <a href="http://www.iadb.org/Document.cfm?id=38976486">http://www.iadb.org/Document.cfm?id=38976486</a>
5.	Eligibility Memorandum for the Compliance Review Phase <a href="http://www.iadb.org/document.cfm?id=39056222">http://www.iadb.org/document.cfm?id=39056222</a>
6.	Recommendation for a Compliance Review and Terms of Reference <a href="http://www.iadb.org/document.cfm?id=40793375">http://www.iadb.org/document.cfm?id=40793375</a>
7.	Project profile <a href="http://www.iadb.org/Document.cfm?id=35232200">http://www.iadb.org/Document.cfm?id=35232200</a>
8.	Loan proposal <a href="http://www.iadb.org/Document.cfm?id=35430878">http://www.iadb.org/Document.cfm?id=35430878</a>
9.	Plan of operations BO-T1058 <a href="http://www.iadb.org/Document.cfm?id=944587">http://www.iadb.org/Document.cfm?id=944587</a>
10.	Environmental analysis <a href="http://www.iadb.org/Document.cfm?id=35327744">http://www.iadb.org/Document.cfm?id=35327744</a>
11.	Environmental and social management report (ESMR) <a href="https://www.iadb.org/Document.cfm?id=92946236-900">https://www.iadb.org/Document.cfm?id=92946236-900</a>
12.	Bibliography <a href="http://www.iadb.org/document.cfm?id=92946236-875">http://www.iadb.org/document.cfm?id=92946236-875</a>

## ABBREVIATIONS

ESMP	Environmental and social management plan
ESMR	Environmental and social management report
MICI	Independent Consultation and Investigation Mechanism
OP-102	Access to Information Policy
OP-703	Environment and Safeguards Compliance Policy
OP-704	Disaster Risk Management Policy
OP-710	Operational Policy on Involuntary Resettlement
PASA	Plan de aplicación y seguimiento ambiental [environmental monitoring and enforcement plan]
PPM	Programa de prevención y mitigación [prevention and mitigation program]
SEA	Strategic environmental assessment
TESA	Estudio integral técnico, económico, social y ambiental de la obra [comprehensive technical, economic, social, and environmental study of the work]

## EXECUTIVE SUMMARY

### A. Geographic and social context

La Paz, with an estimated population in 2010 of 840,209, stands on highly irregular topography ranging in altitude from 2,800 to 4,000 meters above sea level. Because of its highly complex geological, geotechnical, hydrological, and topographical conditions, maintenance of the city's urban infrastructure in general is very difficult and it faces frequent natural hazards such as floods, landslides and washouts, mud and rockslides, and flash floods. The city has average precipitation of 500 millimeters/year, concentrated in the months from December to March.

During the rainy season, due of lack of maintenance, drainage problems have resulted in emergencies associated with overflows, floods, structural collapses of the main sewers, landslides, and slope destabilization, causing human loss and property damage. On 19 February 2002, a historically unprecedented hail storm in the city of La Paz and surrounding areas caused 70 deaths and over US\$70 million in damage.

### B. The lending operations

In response to the natural disaster in La Paz in February 2002, the municipal government requested IDB support to execute a series of emergency works. The Bank determined that, given the nature and complexity of its drainage problem, the city needed a storm drainage master plan to chart long-term actions and serve as a financing instrument for structural and nonstructural interventions that would allow for the proper functioning of the storm drainage system. It was agreed that the actions to solve the problems with this system and manage risk would be included in a comprehensive short-, medium-, and long-term strategy, which would entail the Bank's involvement through various lending and technical-cooperation programs (see Table 1).

**Table 1**  
**Bank operations**

	Operation name and number	Type	Date of approval	Amount in US\$
1	Storm Drainage Master Plan of La Paz: ATN/JC-8537-BO	Technical cooperation	9 December 2003	0.75 million
2	La Paz Storm Drainage Program: BO-0223	Loan	28 November 2007	20 million
3	Drainage in the Municipios of La Paz and El Alto: BO-L1028	Loan	3 November 2010	30 million
4	Support for the Preparation and Execution of the Drainage Program (BO-L1114)	Technical cooperation	25 April 2016	0.30 million
5	Storm Drainage for the Cities of La Paz and Alto III: BO-L1114	Loan	23 November 2016	30 million

Source: MICI.

This MICI report discusses three of those operations, since they relate directly or indirectly to the subject of the Request: technical-cooperation project ATN/JC-8537-BO and programs BO-0223 and BO-L1028. Program BO-L1028 includes the work that is the subject of the Request to the MICI and, therefore, of this Compliance Review.

Technical-cooperation project ATN/JC-8537-BO identified a pipeline of emergency storm drainage projects to be executed in the short term with financing under loan BO-0223. The “La Paz Storm Drainage Program” (project BO-0223, operation 1926/BL-BO) was intended to be the first set of interventions based on the master plan. In addition to financing the first group of emergency works, it also financed the preparation of technical, economic, social, and environmental studies for the next program, BO-L1028. The Bank also anticipated that the lessons learned from program BO-0223 would be used in the design of program BO-L1028.

The program “Drainage in the Municipios of La Paz and El Alto,” BO-L1028 (operation 2440/BL-BO), approved in November 2010, was the second drainage works program to implement the master plan. This program was to finance a series of eight works in La Paz, and 13 in El Alto, with the objective of helping to improve the quality of life for inhabitants of La Paz and El Alto by reducing the human loss and property damage caused by extreme geo-hydro-meteorological events. To meet this objective, the program called for the construction of works and complementary activities to improve the storm drainage systems of La Paz and El Alto and their management, structured into two components: (1) works to control flooding, erosion, and landslides; and (2) institutional development and environmental management to guarantee the sustainability of the drainage systems.

### **C. The Request**

The Request was submitted to the MICI on 26 March 2014 by the owner<sup>1</sup> of a business selling autoparts and oil change and carwash services located in the area of the program works, who stated that the traffic restrictions required for the works over a period of 12 months had a negative impact on his business, since his customers did not have vehicular access to the premises. He affirms that the schedule for completing the works was not observed, and, as a result of the erroneous information, he had not taken the necessary precautions to deal with the drop in sales resulting from the lack of access by customers for longer than initially notified. In addition, he explains, the local business owners called attention to the impact that the road closure would have on their businesses, and the response by the executing agency was to give assurances that the works would be completed according to the announced schedule.

He affirmed that he has been unable to recoup the level of income he earned before the works and has been forced to seek additional work (operating a taxi outside his business hours) to earn extra income, to make up for the loss of customers, which directly impacted his family’s livelihood.

### **D. The MICI’s processing of the Request**

The Request was received under the Policy Establishing the MICI approved by the Board of Executive Directors in February 2010 (document GN-1830-49). It was declared ineligible for the Consultation Phase, since the Requester was not amenable to it. Subsequently, on 21 July 2014, the case was transferred to the Compliance Review Phase and the Panel chair at the time determined that it was eligible for that phase on 8 September 2014.

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<sup>1</sup> The Requester requested confidentiality citing fear of retaliation. Consequently, the public version of this document will redact any information that could reveal the Requester’s identity.



On 17 December 2014, the Board approved the new MICI Policy (document MI-47-6) and gave instructions for its immediate entry into force. Meanwhile, on 4 February 2015, the Board approved the Transition Plan (document MI-48-1), which determined that from that date forward, the case would be handled under the newly-approved policy.

On 6 December 2016, the Board approved the MICI's recommendation for a Compliance Review, with terms of reference focused on determining whether or not the Bank complied with Operational Policy OP-703 in the operation and whether any noncompliance was related to the harm alleged by the Requester.

The investigation began on 1 February 2017 and was performed by a Panel consisting of the Coordinator of the Compliance Review Phase, Arantxa Villanueva, acting as chair, and independent experts Ione Novoa and Helen Russell.

The draft version of this report was circulated to Bank Management and the Requester for comment. Once their input had been received, the changes deemed relevant by the MICI were made, and the present document is the final version. Only Management's comments were included as an annex, as none were submitted by the Requester. The Compliance Review Report for the Drainage Program in the Municipios of La Paz and El Alto is submitted to the Board of Executive Directors for consideration under the standard procedure.

#### **E. Findings of the investigation**

The investigation found the following instances of noncompliance with Operational Policy OP-703 relating to the Drainage Program in the Municipios of La Paz and El Alto (BO-L1028).

**Table 2**  
**Findings of the investigation into compliance with OP-703**

<b>Directive</b>	<b>Conclusions on compliance</b>
<b>B.5 Environmental assessment requirements</b>	The Bank <b>failed to comply</b> with Directive B.5, since it did not verify that the environmental assessment and management plans for the work complied fully with the Policy's requirements, given that it did not make certain that the environmental analysis of the work included an identification of its impact on the local business owners, nor, consequently, were any effective mitigation measures established.
<b>B.6 Consultations</b>	The Bank <b>failed to comply</b> with Directive B.6, since it did not consult the affected population; it <b>complied</b> with the requirement to keep the parties informed during program execution with regard to the mitigation measures established in the environmental and social management plans.

The MICI considers that the Bank failed to identify the impact of the works on the business owners in the area and, consequently, failed to establish mitigation measures based on consultations with the affected parties.

Operational Policy OP-703 establishes that safeguards apply throughout the project cycle. The Bank takes a precautionary approach to environmental impacts. When impacts are unavoidable, Bank-financed operations require mitigation measures. For impacts that cannot be fully mitigated, compensation or offsets should be implemented.

Generally speaking, the documents reviewed envisaged that both the program and the work would have a markedly positive environmental and social impact, since they would

improve living conditions by preventing flooding and emergencies and reducing property damage and apprehension about disasters in at-risk areas. However, it was also thought that the works could cause local adverse impacts of low to medium intensity and short duration during construction and operation, that could be mitigated through widely-known measures. Accordingly, the program was classified as environmental category "B."

*In relation to the assessment of the impacts of the work on commercial activities in the impact area*

In the present case, involving a multiple-works program, the MICI found that environmental and social assessments existed on several different levels: (1) the Storm Drainage Master Plan, which takes a broad view of the overall impacts of the works; (2) the design of the program as a whole; and (3) the specific work on the [REDACTED] culvert.

The different project documents determined that the direct area of influence is highly commercial, and that the works would create access problems.

Despite this, the MICI could find no profile of the affected population in the baseline studies, particularly the working population, and the types of tangible impacts they would suffer as a consequence of the works, the extent of those impacts, and procedures to avoid, minimize, offset, or mitigate them were not specified.

Specifically, with respect to the work, no negative impacts on the public in general, or on parties reliant on economic activities in particular, were identified. The MICI notes that the specific studies for the work indicate that it would be carried out in an area with many businesses and service establishments, specifying that [REDACTED], where the Requester's business is located, is an area where vehicles are repaired, autoparts and accessories are sold, and mechanic's services offered. However, the MICI was unable to find a detailed analysis of the commercial population to be impacted or any identification or concrete analysis of the potential impacts on the suppliers of those services or the business owners in the work's direct area of influence during the work on the culvert.

Consequently, the MICI found that the Bank failed to comply with the requirement of Directive B.5 to require the borrower to prepare analyses that included an assessment of the potential impacts and environmental risks associated with the operation. Management said in its comments on the draft Compliance Review report that it "agrees that, apart from the strategic environmental assessment prepared for the master plan,... the specific impact on business owners in the area was not identified in the subsequent environmental assessments," but emphasized that measures were established that would have mitigated that impact, if it occurred.

*In relation to establishing specific mitigation measures*

The MICI notes that environmental assessment processes are conducted to ensure that the direct and indirect environmental, social, health, and safety risks associated with an operation are correctly identified, so that, among other things, effective mitigation measures can be designed, specific to that risk or impact. Consequently, the MICI considers that the failure to identify the impacts of the culvert works on business owners in the direct area of influence led to the absence of specific measure to mitigate them.

However, since Management affirms that measures were in place to mitigate the impacts on business owners in the area, the MICI reviewed them.

With regard to ensuring that access roads to the work zone would be kept open as an impact mitigation measure, the MICI found that the program documents identified that the works would cause difficulties in access and circulation during construction and called for avoiding the blockage of access to garages, mechanics, markets, stores, and other facilities used for economic activity. However, no further details are given about this mitigation measure, and no evidence exists to show that vehicular and pedestrian circulation and access were really assured, to maintain the regular economic activities of businesses in the zone, through plans for vehicle access routes to the different affected areas. Furthermore, there is no evidence that the environmental supervisor or the Bank made certain that vehicles were able to circulate in the zone, and the photographic evidence shows difficulties for pedestrians and physical interference with normal vehicle circulation. The area where the Requester's business is located was virtually inaccessible. There is no documentation indicating that that area where the Requester's business is located would have to be closed off for safety reasons during the works.

With regard to compliance with the works schedule as a mitigation measure, the contract documents establish that the work was to begin in April 2013, but was delayed twice and got under way in June 2013. It should be noted that the lessons learned from operation BO-0223 to be incorporated the [REDACTED] culvert highlighted the need to consider administrative delays at the start of the works, paying special attention to the rainy season (November to March) when it would be necessary to halt activities. In the present case, owing to the delay in starting the works, the executing agency informed the business owners on several occasions that the works would last until December 2013. At different meetings with business owners, they expressed their concern over the impact of the delays on their incomes and over the fact that the work would coincide with the rainy season. The executing agencies adjusted the schedules on several occasions, and in the last version found by the MICI, the works would be stopped for 106 days during the rainy season and were slated to end in April 2014. Furthermore, prior to the start of the works, in response to their concerns that their businesses would be affected, the participants were informed that that the works would be built in three sections and that each would be completed in approximately two and a half months. Notwithstanding, according to Management and the program documents, the works in the zone where the Requester's business is located lasted for between five and six months.

As for the use of community communication mechanisms as a mitigation measure, the MICI notes that such mechanisms were indeed used, particularly during the construction stage. They permitted the affected parties to communicate their concerns and describe the types of impacts they were suffering, and allowed the executing agencies to report on progress, adjustments, and modifications in the works. Despite these opportunities for community interaction, the MICI did not find that procedures were put in place to assure that the concerns would be properly processed or that effective corrective measures would be taken to mitigate the impacts identified at the meetings. The MICI regards the participatory processes with the business owners as essentially informational and not an alternative for designing tangible mitigation measures for the impacts that were being identified at the workshops and meetings.

Consequently, the MICI considers that the measures referred to by Management to mitigate the impact on businesses were not effective.

*In relation to consultations with the affected parties*

The MICI considers that the affected populations of [REDACTED] were not consulted at the meetings for public awareness and acceptance of the work, particularly the business owners located [REDACTED], who were one of the most representative groups of the zone. This implies that the parties affected were not informed, and their opinions, interests, expectations, and proposals were not heeded prior to approving the work for inclusion in the program. In other words, these people had only a limited opportunity to learn about the scope of the work and comment on the course of the proposed course of action, in contravention of Directive B.6.

In addition, Directive B.6 establishes the possibility that borrowers can consider additional interaction with the public, over and above the mandatory consultations to approve a project, as an alternative contributing to improve the designs, promote better understanding of an operation, and increase the likelihood of project success and sustainability. Directive B.6 requires these information mechanisms during project execution to be implemented for the purpose of informing the populations about the environmental and social mitigation measures established in the environmental and social management plans.

In this case, the environmental and social management plans did not include measures to mitigate the impact on local businesses, although the MICI recognizes that the program did establish mechanisms for citizen participation that enabled the institutions/executing agencies to inform the public about aspects such as executing the works in sections and the different scheduling arrangements, which complied with the specific requirements of Directive B.6 relating to information mechanisms during project execution.

**F. Relationship between the harm and noncompliance with operational policies**

According to the MICI's findings relating to the obligations imposed by the Relevant Operational Policies, the Bank failed to identify, assess, and mitigate the economic impacts arising from the work. The area impacted by the work was highly commercial, particularly in the automotive sector, and the work was expected to cause problems of access to businesses. It was also known that some of those businesses were not financially solid enough to survive even a temporary drop in income.

The allegations of harm made by the Requester refer to direct and material losses or harm to his family's livelihood and, as evidence, he submitted national tax certificates issued by the local tax authority reflecting the monthly income he reported in his books before, during, and after the work. The documents show a sharp drop-off in sales in May 2013, bottoming in January 2014, and then recovering slowly but, up to the last month reported, they had not regained their initial level.

**G. Recommendations**

Based on the MICI's conclusions in this report on noncompliance with Operational Policy OP-703 and on the relationship between the noncompliance and the harm alleged by the Requester, the MICI submits the following recommendations to the Board of Executive Directors for consideration.

In this case, as in previous investigations, the MICI has found that actions and/or omissions by the Bank have resulted in noncompliance with one or more of its Relevant

Operational Policies and in actual or potential Harm<sup>2</sup> to the Requesters, and therefore recommends that the Board of Executive Directors ask Management to clarify the scope for the Bank to address such situations.

<b>Recommendation 1</b>	That the Board of Executive Directors ask Management to clarify the scope for the Bank to address situations involving actual or potential Harm resulting from noncompliance with the Relevant Operational Policies.
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Given the finding on the lack of consultations with the affected parties and the failure to identify concrete impacts on the business owners and mitigation measures, even during execution when they expressed their concerns, and given that Management reported that the new operation BO-L1114, which continues the drainage program for the city of La Paz, is implementing a new consultation and assessment procedure and that the Bank recently prepared and published guidelines for public consultations to more fully identify the groups affected by that project and to document their opinions and incorporate their proposals and concerns into a project, the MICI suggests that Management submit specific information to the Board on how the lessons learned from this case will be taken into account and how the guidelines in question will be implemented.

<b>Recommendation 2</b>	That Management report to the Board on how the work to strengthen the Bank in the area of societal engagement and public consultation is influencing projects, for example BO-L1114.
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Throughout the process, Management repeatedly noted that the works directly and indirectly impacted 330 businesses but “the Requester was the only one to complain to the MICI.” The absence of complaints to the MICI by others may be due to different factors and does not directly imply that no one else was affected by the project. To strengthen the Bank’s accountability, the MICI recommends that the Board instruct Management to systematically provide information at the project level about the existence of the mechanism, as an instance of last resort available to the public.

<b>Recommendation 3</b>	That information about the MICI be included at the project level to inform both the executing agencies and the public in the project target area about its existence and processes.
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Based on the facts and evidence presented, if accepted, it is recommended that the Board of Executive Directors instruct Bank Management to prepare, within a specific time frame, an action plan to implement the recommendations in this report, in accordance with paragraph 47 of the MICI Policy.

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<sup>2</sup> The MICI Policy defines Harm as “[a]ny direct, material damage or loss. Harm may be actual or reasonably likely to occur in the future.” MICI Policy Glossary.

## I. BACKGROUND

### A. Geographic and social context

- 1.1 The city of La Paz, with an estimated population in 2010 of 840,209,<sup>1</sup> is marked by its multiculturalism and by coexistence between the rural and urban populations. Most residents are engaged in providing services, so the city is almost completely devoted to urban use, with very few inhabitants engaged in agricultural activities.<sup>2</sup>
- 1.2 La Paz stands on highly irregular topography ranging in altitude from 2,800 to 4,000 meters above sea level. Because of its highly complex geological, geotechnical, hydrological, and topographical conditions, maintenance of the city's urban infrastructure in general is very difficult and it faces frequent natural hazards such as floods, landslides and washouts, mud and rockslides, and flash floods.<sup>3</sup> The city has average precipitation of 500 millimeters/year, concentrated in the months from December to March.<sup>4</sup>
- 1.3 The limited physical space in La Paz has led to rapid and unregulated occupation of steep slopes in geologically unstable areas. Deforestation of the slopes and removal of materials for civil construction has also favored sediment runoff into the drainage system, which, together with refuse dumped on river banks, continually obstructs channels and pipes, causing flooding.<sup>5</sup> The city lies in the Río La Paz river basin, which is comprised of five subwatersheds that act as the city's main storm water drains and collector sewers. In practical terms, the drainage system of La Paz is a combined system for storm water and sewage with a large number of cross-connections of residential and industrial.<sup>6</sup> The main collector drains are culverts in the northern part of the city, and open channels in the south.<sup>7</sup>
- 1.4 During the rainy season, due of lack of maintenance, drainage problems have resulted in emergencies associated with overflows, floods, structural collapses of the main sewers, landslides, and slope destabilization, causing human loss and property damage. On 19 February 2002, a historically unprecedented hail storm in the city of La Paz and surrounding areas caused 70 deaths and over US\$70 million in damage.<sup>8</sup>

### B. The lending operations

- 1.5 In response to the natural disaster in La Paz in February 2002 (see paragraph 1.4), the La Paz municipal government requested IDB support to execute a series of emergency works. A Bank team visited the main areas damaged by the storm and determined that, given the nature and complexity of its drainage problem, the city needed a storm drainage master plan to chart long-term interventions and serve as

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<sup>1</sup> Project profile, page 1.

<sup>2</sup> Strategic environmental assessment of the master plan, pages V. 43, 44, and 45.

<sup>3</sup> Project profile, page 1.

<sup>4</sup> Environmental analysis, page 25.

<sup>5</sup> Project profile, page 1.

<sup>6</sup> Strategic environmental assessment, page V. 10.

<sup>7</sup> Environmental analysis, page 25.

<sup>8</sup> Project profile, page 1.

a financing instrument for structural and nonstructural interventions that would allow for the proper functioning of the storm drainage system.<sup>9</sup>

- 1.6 The Bank agreed that the actions to solve the storm drainage problem and manage risk would be included in a comprehensive short-, medium-, and long-term strategy, which would entail the Bank's involvement through various lending and technical-cooperation programs (see Table 1). The MICI will discuss three of these, since they relate directly or indirectly to the subject of the Request: technical-cooperation project ATN/JC-8537-BO and programs BO-0223 and BO-L1028. Program BO-L1028 includes the work that is the subject of the Request to the MICI.

**Table 1**  
**Bank operations**

	Operation name and number	Type	Date of approval	Amount in US\$
1	Storm Drainage Master Plan of La Paz: ATN/JC-8537-BO	Technical cooperation	9 December 2003	0.75 million
2	La Paz Storm Drainage Program: BO-0223	Loan	28 November 2007	20 million
3	Drainage in the Municipios of La Paz and El Alto: BO-L1028	Loan	3 November 2010	30 million
4	Support for the Preparation and Execution of the Drainage Program (BO-L1114)	Technical cooperation	25 April 2016	0.30 million
5	Storm Drainage for the Cities of La Paz and Alto III: BO-L1114	Loan	23 November 2016	30 million

Source: MICI.

- 1.7 On 9 December 2003, the Bank approved technical-cooperation operation ATN/JC-8537-BO with financing from the Japanese Trust Fund for Consultancy Services, to revise and update the Storm Drainage Master Plan of La Paz. The operation determined the investment needs—estimated at US\$60 million—for storm water drainage for the city through 2025 and identified a pipeline of emergency storm drainage projects to be executed in the short term with financing under loan BO-0223.<sup>10</sup>
- 1.8 The "La Paz Storm Drainage Program" (project BO-0223, operation 1926/BL-BO) was a sovereign-guaranteed operation in the water and sanitation sector, now concluded, which was approved in November 2007 to support the municipal government in implementing complementary works and actions to improve the city's storm drainage system and its management. The program was conceived, and its action strategy designed, on the basis of the master plan (see paragraph 1.7).<sup>11</sup> This multiple-works program totaling US\$22 million, with US\$20 million financed by the IDB,<sup>12</sup> and US\$2 million by the municipal government of La Paz, was intended to be

<sup>9</sup> Plan of operations BO-T1058, 29 March 2007, pages 1 and 2.

<sup>10</sup> Plan of operations BO-T1058, 29 March 2007, page 2.

<sup>11</sup> Project concept document for BO-0223, 21 June 2007.

<sup>12</sup> With US\$14 million from the Bank's Ordinary Capital and US\$6 million from the Fund for Special Operations.

the first set of interventions based on the master plan, with the goal of helping to improve the quality of life of the city's inhabitants by reducing human loss and property damage caused by extreme geo-hydro-meteorological events.<sup>13</sup> In addition to financing the first group of emergency works, program BO-0223 also financed the preparation of technical, economic, social, and environmental studies for the next program, BO-L1028. The Bank also anticipated that the lessons learned from the evaluation of program BO-0223 would be used in the design of program BO-L1028.<sup>14</sup>

Operation BO-L1028

- 1.9 The program "Drainage in the Municipios of La Paz and El Alto," BO-L1028 (operation 2440/BL-BO), approved in November 2010, was the second drainage works program to implement the master plan.<sup>15</sup> Like program BO-0223, it was a sovereign-guaranteed operation in the water and sanitation sector, designed as a multiple-works program (see paragraph 2.12) totaling US\$33 million. Of that amount, US\$30 million of which was financed by the IDB,<sup>16</sup> and US\$3 million by the municipal governments of La Paz and El Alto. The program was to finance a series of eight works in La Paz, and 13 in El Alto. It was classified as a category "B" operation under the Environment and Safeguards Compliance Policy (OP-703).<sup>17</sup> According to the environmental and social management report (ESMR), the project had been analyzed from the standpoint of compliance with the following Relevant Operational Policies: Environment and Safeguards Compliance Policy (OP-703), Policy on Involuntary Resettlement (OP-710), Access to Information Policy (OP-102), and Disaster Risk Management Policy (OP-704).<sup>18</sup> The last disbursement has been made, and the closing workshop took place in May of this year.<sup>19</sup>
- 1.10 The program objective was to help improve the quality of life for inhabitants of the municipios of La Paz and El Alto by reducing the human loss and property damage caused by extreme geo-hydro-meteorological events. To meet this objective, the program called for the construction of works and complementary activities to improve the storm drainage systems of La Paz and El Alto and their management, structured into two components: (1) works to control flooding, erosion, and landslides; and (2) institutional development and environmental management to guarantee the sustainability of the drainage systems.
- 1.11 One of the eight works in the program to be conducted in La Paz was reconstruction of the [REDACTED] culvert, which will be the subject of this Compliance Review (see paragraphs 2.10 to 2.16).

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<sup>13</sup> Loan proposal 1926/BL-BO of 10 January 2007, page 4.

<sup>14</sup> Project profile, paragraphs 1.1, and 1.11.

<sup>15</sup> The Request refers to one specific work built in the Municipio of La Paz, so documentation related to the drainage works program in the Municipio of El Alto is outside the scope of this review.

<sup>16</sup> Of that amount, US\$21 million is drawn from the Ordinary Capital, and US\$9 million from the Fund for Special Operations (FSO).

<sup>17</sup> Project profile, paragraph 3.2, page 5.

<sup>18</sup> ESMR, section VI.3, page 17.

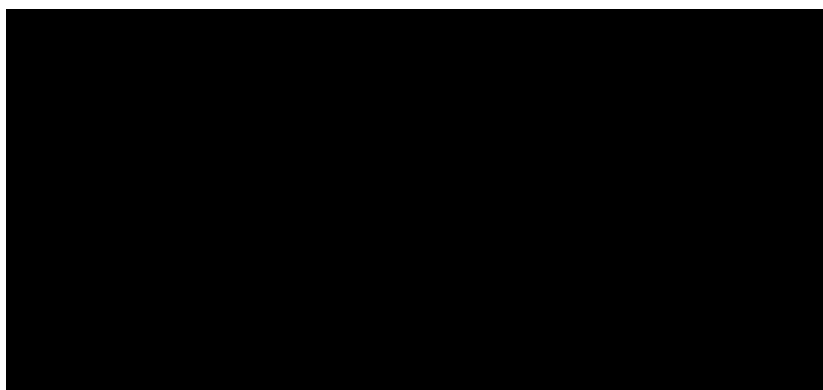
<sup>19</sup> Consultation held on 11 September 2017 on the Bank's Convergence website.



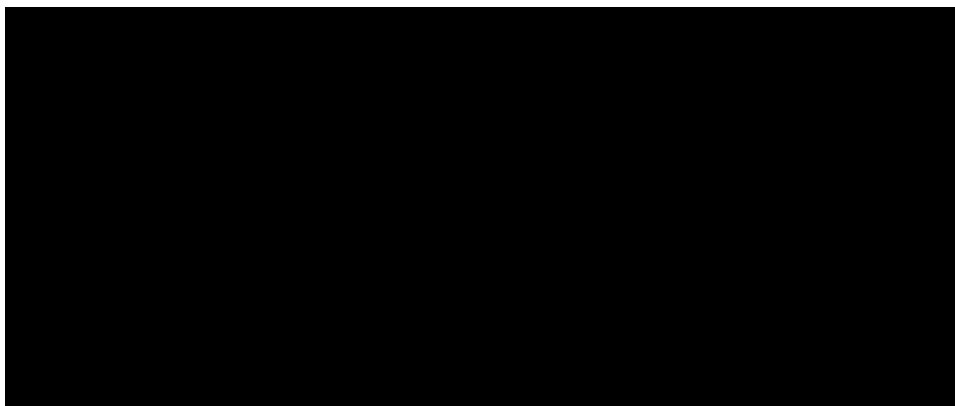
**C. The Request**

- 1.12 The Request<sup>20</sup> was submitted to the MICI on 26 March 2014 by [REDACTED], owner of a business selling autoparts and oil change and carwash services, located in the area of the program works, specifically at the [REDACTED].
- 1.13 In the Request, the business owner states that the restrictions on vehicular traffic required for the works over a period of 12 months had a negative impact on his business, since his customers did not have vehicular access to the premises. The roads were closed owing to the drainage works being built on Avenida [REDACTED] and also to the use of Calle [REDACTED] by the crews for construction materials and debris (see photos below).

**PHOTOGRAPHS OF THE WORKS IN THE AREA ADDRESSED BY THE REQUEST**



Source: Requester.



Source: Requester.

- 1.14 The Requester mentions that, at the hearing to inform the local residents, they were notified that, Avenida [REDACTED] would have to be closed up to six months for

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<sup>20</sup> A summary of the Request received is available in the electronic links section of this document.

construction of the works. However, he alleges that the construction lasted for longer (12 months) than notified, and as a result of the erroneous information, he had not taken the necessary precautions to deal with the drop in sales resulting from the lack of access. The Requester claims that, if accurate information had been provided, he would have been able to plan accordingly, and his business might not have been so badly affected.

- 1.15 In addition, he explains, at the same hearings the local business owners called attention to the impact that the road closure would have on their businesses, and the response by the executing agency was to give assurances that the works would be completed within a maximum of six months.
- 1.16 According to the Requester, because automobile services (oil change and carwash), were the backbone of his business, the closure of the road to vehicles for the alleged period caused a drop in his monthly business income of 80%. As a result of the decline in customers and income, he was forced to dismiss 7 of the 10 members of his staff when he could no longer pay their wages. These dismissals generated an additional unanticipated cost due to the severance payments he incurred, worsening the impact.
- 1.17 The lack of cash flow, the Requester claims, also caused him to default on his payment obligations to suppliers, which prevented him from restocking his inventory and led to a further decline in business income.
- 1.18 Lastly, the Requester states that he leased an adjacent property to provide some services, but given his financial situation he could no longer make the payments on the lease and had to vacate the premises, which also limited his business activities. He further states that, as a consequence of all the above, he has been forced to seek additional work (operating a taxi outside his business hours) to earn extra income, to make up for the loss of customers caused by the works, which he has been unable to recoup thus far.
- 1.19 In summary, at the time he submitted his claim, the Requester was in a very strained financial position that has directly affected his ability to support his family as a result of the drainage works financed by the Bank.

#### **D. The MICI process**

- 1.20 The Request was received under the Policy Establishing the MICI approved by the Board of Executive Directors in February 2010 (document GN-1830-49). It was declared ineligible for the Consultation Phase, since the Requester was not amenable to it. Subsequently, on 21 July 2014, the Request was transferred to the Compliance Review Phase and the Panel chair at the time<sup>21</sup> determined that it was eligible for that phase on 8 September 2014, since it met the criteria established in section 56 of the MICI Policy (document GN-1830-49).
- 1.21 On 17 December 2014, the Board approved the new MICI Policy (document MI-47-6) and gave instructions for its immediate entry into force. Meanwhile, on 4 February 2015, the Board approved the Transition Plan (document MI-48-1),

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<sup>21</sup> Mary Rose Brusewitz chaired the Panel from October 2013 to September 2015.

which determined that from that date forward, the case would be handled under the newly-approved policy.<sup>22</sup>

- 1.22 On 29 November 2016, the MICI Director submitted a recommendation to the Board to conduct a compliance review of the operation under consideration (document MI-44-2), which it endorsed on 6 December 2016. Under the MICI Policy, two independent experts on the MICI roster were identified and engaged—Ione Novoa and Helen Russell—to form the Compliance Review Panel, along with the Compliance Review Phase Coordinator, acting as chair. The investigation stage began on 1 February 2017.

**Table 2**  
**Timeline of the MICI process**

<b>Date</b>	<b>Action</b>
<b>2014</b>	
27 March	Request received
21 May	Teleconference with the Requester
23 May	Teleconference with the Project Team
12 June	Teleconference with the Requester
30 June	Teleconference with the Project Team
1 July	Teleconference with the Requester
15 July	Request declared ineligible for the consultation phase
15 July	Teleconference with the Requester
21 July	Case transferred to the Compliance Review Phase
13 August	Teleconference with the Project Team
8 September	Request declared eligible for the Compliance Review Phase
17 December	New MICI Policy (document MI-47-6) approved by the Board of Executive Directors
<b>2015</b>	
4 February	Transition Plan for the new MICI Policy (document MI-48-1) approved by the Board of Executive Directors
18 June	Meeting with the Project Team
<b>2016</b>	
29 November	Director's recommendation for a compliance review submitted to the Board of Executive Directors
6 December	Director's recommendation for a compliance review endorsed by the Board of Executive Directors by short procedure
12 December	Teleconference with the Requester
<b>2017</b>	
25 January	Meeting with the Project Team
1 February	Panel formed and start of the investigation stage

Source: MICI.

<sup>22</sup> Transition Plan (document MI-48-1), paragraph 2.4.3.

## II. COMPLIANCE REVIEW

### A. Policy framework

- 2.1 The MICI's Compliance Review process is governed by paragraphs 36 to 49 of the MICI Policy (document MI-47-6). The Policy establishes that, once the Bank's Board of Executive Directors has approved a recommendation for a Compliance Review and its terms of reference, a Panel will be formed that, assisted by the MICI's operating and administrative team, will promptly begin the review process (paragraphs 42 and 43). The Policy establishes that the time required for a Compliance Review will vary with the complexity and scope of the operation and the number of Relevant Operational Policies involved. However, it establishes an indicative term of six months for the draft report on the review, although it allows the time frame to be extended on a case-by-case basis (paragraph 43.c).
- 2.2 The Policy also provides that during the review process, the MICI will consult with the Requesters and Management (paragraph 43.d), and, as part of the process, the MICI will first prepare a draft report that it will forward to both parties for their comments (paragraph 44), and then produce a final report to be submitted to the Board for consideration (paragraphs 45 and 46).
- 2.3 The Compliance Review report takes into account all relevant facts that may have an impact on the case at hand and includes findings as to whether an action or omission by the Bank relating to the operation under consideration resulted in the failure to comply with one or more Relevant Operational Policies and in the harm alleged by the Requesters. The Policy also calls for the MICI to present recommendations, views, or observations on findings or systemic issues relating to the Relevant Operational Policies. The report should be designed to provide the factual and technical bases for a decision by the Board on preventive or corrective action in connection with the operation under investigation (paragraph 45).
- 2.4 The Board will make its final decision regarding any actions that that may be deemed appropriate or necessary in light of the Compliance Review findings and recommendations and, if deemed appropriate, instruct Management to develop, in consultation with the MICI, an action plan and present it for consideration (paragraph 47).

### B. Methodology

- 2.5 This report presents the findings of the review directed by the Compliance Review Phase Coordinator. The Compliance Review reflects the input of the independent experts (see paragraph 1.22) and was based on the terms of reference<sup>23</sup> approved by the Board of Executive Directors for the case, which provided for a desk review and targeted interviews with the Project Team as the primary method of inquiry.
- 2.6 The methodology was proposed because the case presented distinctive features compared to other processes conducted by the MICI. The Request refers to two very specific aspects (identification and mitigation of impacts on business owners and the consultation process) of a single Bank operational policy (OP-703) and relates the activities of just one of the works financed by the multiple-works program.

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<sup>23</sup> Recommendation for a Compliance Review and Terms of Reference for loan 2440/BL-BO, "Drainage in the Municipios of La Paz, and El Alto" (document MI-44-2).

Additionally, in this case the Requester asked for confidentiality for fear of reprisals, so the MICI considered it best not to conduct an investigative visit so as not to adversely impact the Requester's situation. It should be noted that, during the handling of the case, both in the Compliance Review Phase and in earlier phases, the MICI maintained regular contact with the Requester and Bank Management, which enabled it to obtain information and extensive documentation for the process.

- 2.7 Also importantly, although a three-month period was initially envisaged for the investigation once the Panel had been formed, the MICI had to ask the Board for two extensions in order to obtain and review additional documentation not in Management's possession, and more time was needed to assemble and receive it.
- 2.8 The review involved a detailed study of the Bank's records of the program, interviews with the Project Team and the Requester, and a review of relevant internal and external documentation.<sup>24</sup>
- 2.9 Table 3 shows the different milestones in the investigation process that preceded the final version of this Compliance Review report.

**Table 3**  
**Timeline of the MICI investigation process**

Date	Action
<b>2017</b>	
1 February	Panel formed and start of the Compliance Review
16 February	Questionnaire submitted to Management and additional documentation requested by MICI
20 March	Extension of 21 working days requested by the MICI Director, to give Management the opportunity to provide additional information, and MICI, to review it
28 March	Extension approved by the Board of Executive Directors
7 April	Management responds to the initial MICI questionnaire
18 and 24 April	Second questionnaire submitted to Management/ executing agency, and additional documentation requested by MICI
9 May	Teleconference with the Requester
22 May	Teleconference with the Requester
23 May	Extension of 30 working days requested by the MICI Director, to hold additional meetings with the Project Team
31 May	Extension approved by the Board of Executive Directors
5 June	Meeting with the Project Team
26 June	Meeting with the Project Team
14 July	Draft report sent to the Requester and Management for comment
14 August	Comments on the draft report received from Management
24 August	Meeting with the Project Team

Source: MICI.

<sup>24</sup> The bibliography gives a complete list of the documentation consulted for this investigation.

**C. Specific context of the work related to the Request**

2.10 This Compliance Review focuses on a single work under the program: the [REDACTED] culvert in the Avenida [REDACTED] district of La Paz, which was completed in April 2014.<sup>25</sup>

2.11 Before turning to a description of the work, it should be noted that it forms part of a multiple-works program whose investment loan was designed to finance groups of similar works with the following characteristics: [REDACTED]

[REDACTED]

2.12 The work was planned as one of the eight projects to be built in the city of La Paz<sup>27</sup> but was not included in the representative sample,<sup>28</sup> so in September 2012 the municipal government of La Paz asked the Bank's Country Office in Bolivia for its no objection to the bidding documents for construction of the work.<sup>29</sup> The Bank issued its no objection in November 2012.<sup>30</sup> The technical, economic, social, and environmental studies for the work were conducted as part of operation BO-0223 (see paragraph 1.8).

2.13 The work is located in the [REDACTED] basin, which originates in the La Ceja area of El Alto and flows into downtown La Paz. The [REDACTED] is an affluent of the [REDACTED], converging at [REDACTED] and [REDACTED] in the [REDACTED] area. The river has its source between the Alto Tacagua and Bajo Tejada areas at 4,000 meters above sea level, and runs west to east. All these areas are consolidated as urban developments and are densely populated.<sup>31</sup>

<sup>25</sup> The final environmental report on the [REDACTED] culvert shows that the works were completed on 21 April 2014, page 3.

<sup>26</sup> [REDACTED]

<sup>27</sup> Environmental analysis, page 26, and master plan.

<sup>28</sup> Only those works whose engineering plans were ready were included in the program's representative sample. See Environmental analysis, page 27.

<sup>29</sup> Memo PDP No. 358/2012 of 18 September 2012.

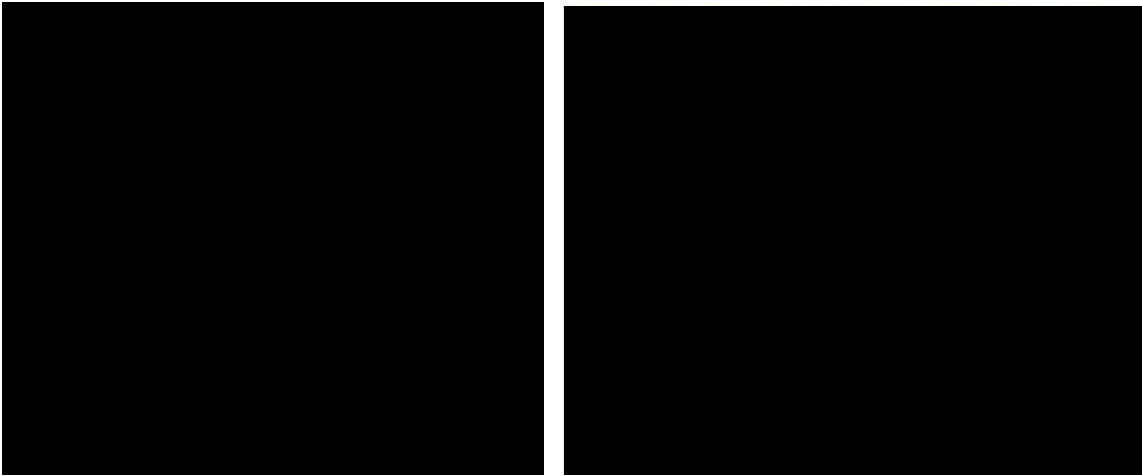
<sup>30</sup> Memo CAN/CBO/CA-3303/2012.

<sup>31</sup> TESA, study brief, page 2.

2.14 The work's area of influence is in Macrodistrict 1 (Cotahuma), specifically districts 3, 4, 5, and 6, which are heavily populated (153,655 people in 2012) and have 71 neighborhood associations.<sup>32</sup>

2.15 Execution of the work was divided into three sections corresponding to the three city blocks that it spanned:<sup>33</sup>

- [REDACTED]
- [REDACTED]
- [REDACTED]



Source: Management's response to the Request, edited by the MICI.

2.16 In terms of the work's impact, the Requester's business is located on Calle [REDACTED] [REDACTED] at the corner of Avenida [REDACTED], [REDACTED] [REDACTED]

**D. Findings of the Compliance Review**

2.17 This section presents the findings of the MICI's Compliance Review of the claims made in the Request, based on the terms of reference approved by the Board of Executive Directors, which focused on determining whether or not the Bank complied with Operational Policy OP-703 and the extent to which any identified noncompliance could be related to the harm alleged by the Requester.<sup>34</sup> The Requester's arguments, the requirements of the Policy, the Bank's actions, and the compliance determination are presented below.

<sup>32</sup> TESA, study brief, page 2, and PPM-PASA, pages 25, 30, and 33.

<sup>33</sup> Management's Comments on the Terms of Reference for the Investigation, IDB, page 2.

<sup>34</sup> Recommendation for a Compliance Review and Terms of Reference for loan 2440/BL-BO, "Drainage in the Municipios of La Paz, and El Alto" (document MI-44-2).

**1. What does the Environment and Safeguards Compliance Policy establish?**

- 2.18 The Environment and Safeguards Compliance Policy (Operational Policy OP-703) establishes that safeguards apply throughout the project cycle, to ensure the environmental sustainability of Bank-financed operations. The Bank takes a precautionary approach to environmental impacts. When impacts are unavoidable, Bank-financed operations require mitigation measures. For impacts that cannot be fully mitigated, compensation or offsets should be implemented. The Bank works with borrowers to manage environmental risks effectively and to help develop environmental management capacity, as agreed. Where in the opinion of the Bank the environmental risks are deemed to be too great, the Bank supports the proposed investment only once the plan for mitigation of the risks is agreed.
- 2.19 The word “environment” as used in Operational Policy OP-703 is defined in its broad sense, which includes physical/chemical factors (geophysical), biological factors (biotic), and associated social factors (anthropic). The policy thus encompasses social, cultural, and economic aspects to the extent that these are derived from geophysical and/or biotic changes associated with a particular operation.
- 2.20 Subsections 2 and 3 (paragraphs 2.23 to 2.111) present the findings of the investigation and the determination of compliance with the directives of Operational Policy OP-703 applicable to the arguments made in the Request, which are Directives B.5 and B.6.

**2. In relation to Directive B.5 of the Environment and Safeguards Compliance Policy on environmental assessment requirements**

**a. Requester’s allegations**

- 2.21 The Requester claims that adequate mitigation measures were not taken to protect his business from economic losses, and the measures initially announced were not adopted. Specifically, he alleges that there were material negative impacts on his business when Avenida [REDACTED] where it is located, was closed for a longer period than initially announced, blocking customer access, causing economic losses that would continue, in the long run, to affect him and his personal and family life. These losses, he alleges, were made worse by the dirt or debris that was dumped in the vicinity of his business on Calle [REDACTED].

**b. What does Directive B.5 establish?**

- 2.22 Directive B.5 of OP-703 establishes that:

Preparation of Environmental Assessments (EA) and associated management plans and their implementation are the responsibility of the borrower. The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs)... Environmental and Social Management Plans (ESMP), and environmental analyses, as defined in this Policy and detailed in the Guidelines. The operation’s executing agency... is required to submit all EA products to the Bank for review. The operation’s approval by the Bank will consider the quality of the EA process and documentation, among other factors.

...

[For Category “B” operations] an environmental analysis should be performed including an evaluation of the potential environmental, social, health, and safety



impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts.

...

The ESMP must include: a presentation of the key direct and indirect impacts and risks of the proposed operation; the design of the proposed social/environmental measures to avoid, minimize, compensate, and/or mitigate the key direct and indirect impacts and risks; the institutional responsibilities to implement these measures, including, where necessary, institutional development, capacity building and training; the schedule and budget allocated for the implementation and management of such measures; the consultation or participation program agreed for the operation; and the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities and costs. The ESMP should be ready for, and reviewed during, the analysis/due diligence mission.

**c. The MICI's findings in relation to compliance with Directive B.5**

- 2.23 A description of the program's environmental analyses is presented below, as they relate to the identification, assessment, and management of adverse impacts on economic activities in the work's area of influence.
- 2.24 Since a multiple-works program is involved, the environmental assessment was carried out on three levels, and the Compliance Review analyses was based on that structure. The three levels are: (1) the Storm Drainage Master Plan, which takes a broad view of the overall impacts of the works; (2) the design of the program as a whole; and (3) the specific work on the [REDACTED] culvert. Table 4 presents the documents relating to the environmental assessments conducted at each stage of the program.

**Table 4  
Environmental assessments**

Documents by level	Date
<b>Master plan</b>	
Strategic environmental assessment	October 2007
<b>Program</b>	
Program environmental and social strategy	25 June 2010
Program environmental analysis	27 August 2010
Program environmental and social management plan	27 August 2010
Program environmental and social management report	October 2010
<b>Specific work</b>	
Comprehensive technical, economic, social, and environmental study (TESA) of the work	February 2011 – February 2012
Prevention and mitigation program (PPM)	February 2011
Environmental monitoring and enforcement plan (PASA)	February 2011

Source: MICI based on information from the program documents.

- 2.25 Generally speaking, the documents reviewed envisaged that both the program and the work would have a markedly positive environmental and social impact, since they would improve living conditions by preventing flooding and emergencies and

reducing property damage and apprehension about disasters in at-risk areas. However, it was also thought that the works could cause local adverse impacts of low to medium intensity and short duration during construction and operation, that could be mitigated through widely-known measures.<sup>35</sup> Accordingly, the program was classified as environmental category “B.”

Environmental assessment for the Storm Drainage Master Plan of La Paz

- 2.26 The strategic environmental assessment (SEA) for the master plan was issued in October 2007 during program preparation. The SEA identified and evaluated the potential environmental impacts that could result from implementing the master plan and established a work plan to put solutions or measures in place to avoid or mitigate the potential adverse impacts of the different interventions planned. The structural interventions addressed in the SEA include the [REDACTED] culvert. The SEA also established the need to describe basic aspects of the environmental assessment process, to serve as a guide for the different works in the drainage master plan, with a view to assuring that the content and quality of each would be similar. It stated that all environmental impact studies should identify, predict, and assess impacts and contain a prevention and mitigation program and an environmental monitoring and enforcement plan. It specified that there were works in the program that would require separate environmental impact assessments, chiefly in view of the scope of the works and their construction in sectors with certain special features, such as high vehicle or pedestrian traffic and certain socioeconomic activities.<sup>36</sup>
- 2.27 The economic and social impacts during the works stage identified in the SEA<sup>37</sup> include:
- a. Disruption of normal daily travel;
  - b. Disruption of informal and formal socioeconomic activities;
  - c. Impact on other subsistence activities;
  - d. Impact on private property values;
  - e. Job creation; and
  - f. Creation of commercial instability.<sup>38</sup>
- 2.28 In terms of mitigation measures, the SEA recommended verifying that all environmental studies for the works stressed good community relations and fulfilment of the commitments made with respect to the works execution schedule.<sup>39</sup> In particular and, given its importance, the SEA established that special attention should be paid to the work on Avenida [REDACTED] and that it be performed in sections and within the specified time frames, avoiding impacts on business owners by closing just one lane of the road and posting signage both at the work site and in

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<sup>35</sup> Environmental analysis, page 82.

<sup>36</sup> Strategic environmental assessment of the master plan, pages V.3, 77, 93, and 94.

<sup>37</sup> The MICI is referring only to impacts related to the subject of the request and therefore does not reproduce the entire list of impacts identified in the SEA.

<sup>38</sup> Strategic environmental assessment of the master plan, page V.65.

<sup>39</sup> Strategic environmental assessment of the master plan, page V.96.

neighboring areas to prevent vehicles from entering that sector, which would affect traffic congestion.<sup>40</sup>

Environmental assessments for the program as a whole

- 2.29 An environmental analysis was prepared for the program, which the Bank reflected in the environmental and social management report (ESMR). Both documents establish that the storm drainage works would generate positive direct benefits for the population living in the areas of influence of the works, since they would reduce the risk of flooding caused by overflows, landslides, and slope destabilization. They identify the program's direct area of influence as the cities of La Paz and El Alto, whose inhabitants would benefit from the improvements generated by the program in terms of habitability, reduction of environmental pollution, improvement in sanitation and safety in the rainy season, all of which would contribute to the quality of life.<sup>41</sup>
- 2.30 The documents judged that the program complied fully with Operational Policy OP-703, and would bring long-term development benefits through the environmental sustainability results and goals and strengthened environmental capacity of the executing agencies. No resettlement of individuals or relocation of businesses was foreseen as a result of the program, and it was established that the principles of Operational Policy OP-710<sup>42</sup> would be followed if the need for resettlement arose during the operation.
- 2.31 The environmental analysis and the ESMR identify both positive and negative impacts of the program and precede preparation of the PPM-PASA.<sup>43</sup> The following were identified as economic and social impacts in the works stage:
- a. Lifestyles;
  - b. Job creation;
  - c. Private property;
  - d. Community needs, and
  - e. Traffic disruptions.<sup>44</sup>
- 2.32 Mitigation measures included: (1) planning of work fronts and opening of access ways for vehicles and pedestrians; and (2) temporary access, to the extent possible, to garages and businesses in the work areas.<sup>45</sup>
- 2.33 The environmental analysis and the ESMR note certain environmental issues (lessons learned) identified under operation BO-0223, to be emulated or corrected in program execution. The main lessons learned to be implemented in the program include:
- a. Take account in the planning of the limitations imposed by the rainy season;

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<sup>40</sup> Strategic environmental assessment of the master plan, page V.98.

<sup>41</sup> Environmental analysis, page 36; ESMR, pages 5 and 42.

<sup>42</sup> Environmental analysis, pages 82 and 83; ESMR, page 17.

<sup>43</sup> Environmental analysis, page 87.

<sup>44</sup> Environmental analysis, pages 88 and 92; ESMR pages 26 and 30.

<sup>45</sup> Environmental analysis, page 92; ESMR, page 29.

- b. Take account of the administrative delays that often occur at the start of the works, since if the works are delayed, the rainy season would stop them, resulting in a lengthier impact on vehicle and pedestrian circulation than anticipated;
  - c. Provide additional mechanisms for civil society participation in all stages of program execution.<sup>46</sup>
- 2.34 However, unlike the SEA (see paragraph 2.27), neither the environmental analysis nor the ESMR mention possible adverse impacts on formal and informal economic activities in the area.

Environmental assessments for the work

- 2.35 The specific comprehensive technical, economic, social, and environmental study (TESA) for the [REDACTED] culvert work was completed in February 2012.<sup>47</sup> The study noted that the direct area of influence of the work—districts 4, 5, and 6 in the Cotahuma macrodistrict—had a total population of 43,380 (2001 data), with 17,508 people employed.<sup>48</sup> It also identified that the culvert would be built in an area with many businesses and services,<sup>49</sup> but did not specifically identify which businesses were to be affected by the works.
- 2.36 In terms of identification of impacts, the TESA study established that the main adverse impacts of the work would be the generation of pollution, water contamination, and noise, among other factors. Accordingly, it laid out the main mitigation measures to offset those impacts.<sup>50</sup> None of the economic and social impacts identified for the construction stage in the environmental analysis or the ESMR were identified or assessed in the TESA for the work, nor were those noted in the SEA. Despite not addressing those impacts, it identified the following as critical points for execution: (1) temporary restriction of access to garages and encumbered access to private property; and (2) temporary closure of Avenida [REDACTED] to build the culvert.<sup>51</sup>
- 2.37 The TESA included a prevention and mitigation program (PPM) and an environmental monitoring and enforcement plan (PASA). The PPM was intended to identify the impact that the projects and the works could have on the public, in order to establish and put the necessary measures in place to prevent and mitigate the adverse impacts, and the PASA was to establish mechanisms for tracking compliance with those measures. The PPM identified that in the Cotahuma macrodistrict 76% of the population worked in commercial or service activities, and 12% were microentrepreneurs. It stated that the program's area of influence included Avenida [REDACTED], which is a commercial area devoted largely to car

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<sup>46</sup> Environmental analysis, page 115; ESMR, page 41.

<sup>47</sup> The TESA study was conducted pursuant to the Environment Act (Law 1333), to identify the positive and negative impacts that could arise as a result of the work, reflected in an environmental brief submitted to the relevant authority. The outcome was a Category III classification, which required the preparation of the PPM and the PASA. See TESA, study brief, page 83.

<sup>48</sup> TESA, Volume VI, Socioeconomic assessment, pages 18 and 21.

<sup>49</sup> TESA, Volume II, study brief, page 18.

<sup>50</sup> TESA, Volume I, pages 37, and 38, and study brief, pages 83-84.

<sup>51</sup> TESA, Volume II, study brief, page 113.

repairs, sale of autoparts and accessories, and mechanical and electrical services, brake repairs, tire stores, commercial shops, and others.<sup>52</sup>

- 2.38 The document divided the impact analysis by program stages (execution/works, operation, and maintenance). However, in the works stage, it only identified job creation as a socioeconomic impact. The other impacts identified corresponded to the operation and maintenance stages: improvement in life style, road system improvements, job creation, and a better economy owing to housing appreciation. They are all positive project impacts.<sup>53</sup>
- 2.39 Although no negative socioeconomic impacts were identified, the PPM included general mitigation measures in that regard, such as:
- a. The contractor was to provide the environmental supervisor at the start of the works with a detailed program of routes for access to the works. The routes would avoid, insofar as possible, schools, hospitals, churches, and recreational areas, to prevent public inconvenience;
  - b. Maintain and keep the access roads to the zone clear during and after construction, so that existing streets and avenues could be used;
  - c. Prohibit unauthorized access by pedestrians and others to the construction areas, in order to prevent accidents; and
  - d. Prohibit the storage of materials and debris at accesses to housing and businesses in the sector.

As a mitigation measure under “economic resources,” it also established that blocking the entrances to garages, mechanics, markets, stores, and other premises used for economic activities would be avoided.<sup>54</sup>

- 2.40 The PASA was intended as a mechanism to track and ensure compliance with the impact mitigation measures identified, as well as a system to facilitate the assessment of real impacts, adopt new measures, and modify ones that were ineffective. The PASA called for a mechanism to “notify the parties involved and/or the environmental supervisor of unanticipated adverse environmental impacts... or sudden changes in the course of previously-evaluated impacts,” and report immediately when an impact indicator approached its critical level.<sup>55</sup>
- 2.41 In terms of tracking the mitigation measures, the PASA indicated that, in general, “the relationship of the La Paz municipal government, its contractors, and supervisors with the residents of the area should be given importance during the project implementation stage.” It also called for supervision during construction through the preparation of initial, monthly, and final reports.<sup>56</sup> The environmental monitoring was to be based on the general mitigation measures, the environmental program for the works, and the Civic Culture Plan, which included the social and

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<sup>52</sup> PPM-PASA, pages 2, 3, and 36.

<sup>53</sup> PPM-PASA, pages 46, 49, 50, and 51.

<sup>54</sup> PPM-PASA, pages 57 and 58.

<sup>55</sup> PPM-PASA, page 79.

<sup>56</sup> PPM-PASA, pages 78 and 80.

institutional relations program. Specifically, the following mitigation measures were to be supervised, among others:

- a. Management of debris from demolition and removal after the culvert was completed;
- b. General sociocultural mitigation measures;
- c. Participation by local residents in building a civic culture through workshops and the distribution of materials; and
- d. Active participation by local representatives in developing the project, which included keeping the leaders of the neighborhood associations informed about all project activities, and reporting any changes in plans to the authorities in advance and, through them and the media, informing the public.<sup>57</sup>

2.42 The document containing technical and administrative specifications for the [REDACTED] culvert, which includes the environmental measures to be observed in all stages of the work, identifies as an impact that problems may arise during construction among the contractors, property owners, the community at large, and the authorities. It states that the builders should take steps to ensure friendly relations among all stakeholders. The document also recognizes that, in the event that the residents encounter difficulties in circulation during the works, it is important and necessary for the supervisor and contractor to provide information on the work zones well in advance, and explain the benefits of the works to the local residents and the inconveniences they would encounter during execution. The information provided was to be clear, accessible, and up-to-date.<sup>58</sup> The document also discusses the following social impacts: hiring of labor, surroundings affected by noise, emissions, changes in water use, erosion, impact on existing infrastructure, and worksite and traffic accidents in the absence of proper signage. Issues related to access to the businesses are not specifically addressed.

*Identification of impacts and mitigation measures through citizen participation in processes relating to the work*

2.43 Two community workshops were held in October and December 2011, before the work was included in the program—the first for presentation and consultation of the TESA, and the second for identification and sociocultural diagnostic assessment. At the first meeting, attendees heard about the technical aspects of the work and were told that more information would be made available at the following meeting. The residents asked to be given more than two days' advance notice of the next meeting to ensure that more people could attend. At the second meeting, the affected parties on Avenida [REDACTED] were identified in general (businesses), as were social organizations in the vicinity of the project, and the main problems with health, education, public transportation, and public safety related to construction of the work.<sup>59</sup> No documentation is available on the sociocultural diagnostic assessment or the list of businesses affected by the works.

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<sup>57</sup> PPM-PASA, page 84.

<sup>58</sup> TESA, technical and administrative specifications, page 102.

<sup>59</sup> Minutes of the meeting of 13 December 2011.

- 2.44 Another meeting was held with local residents in February 2012, also before the work was included in the program, to explain the technical engineering and environmental scope of the reconstruction of the [REDACTED] culvert, yielding the following conclusions: (i) the representatives of the neighborhood associations and their members supported execution of the project; (ii) the residents of districts 5 and 6 proposed public workshops to learn about the scope of the project; and (iii) they proposed to establish a project committee.<sup>60</sup> The documents reviewed show that in May 2013 representatives of property owners and auto repair shops on Avenida [REDACTED] informed the deputy mayor in writing that they had been unaware of the project and in February 2012. After examining the minutes of that meeting, they pointed out that the awareness workshop mentioned in the minutes never took place.
- 2.45 In the weeks prior to starting the work, two meetings were held with local residents in April and June 2013. At the first meeting, the attendees expressed concern about the work, since their “income is day-to-day,” They were told that the works would be completed and ready for use in stages, and the execution time would be approximately two and a half months each. The residents asked whether the existing businesses on Avenida [REDACTED] would be relocated. There is no record of a reply to that question beyond the statement that the works would begin on 20 May on Calle [REDACTED].<sup>61</sup> The residents also asked whether the street was going to be paved; they were told that the material had to be replaced and paving would be considered later. They asked whether there would be fencing and vehicle detours and were told that there would be coordination to assure public safety. The residents wanted the works execution schedules to be observed, so that greater economic losses could be avoided for owners and auto repair shops, since it was a commercial zone.<sup>62</sup>
- 2.46 Subsequently, in May 2013, the representatives of property owners and auto repair shops requested that the execution schedules be honored (270 days, 90 days per block), to avoid greater economic losses in that commercial area. Since the work on Calle [REDACTED] was slated to begin on 20 November, they asked for it to be performed in parallel to the start of the work on Calle [REDACTED] since the period of November to February was the rainy season, and it was a longer city block.
- 2.47 At the 5 June 2013 meeting, they were informed that the works were being delayed, since the IDB had “objected to starting the works because no external supervision had been arranged,”<sup>63</sup> and would begin on 17 June 2013. The local residents were also told that the work would be executed in subsections. It was specified that the work would end on 14 December 2013. The local residents and business owners: (i) were annoyed that the work was to be delayed; (ii) asked the municipal government to change the working methodology, suspend the works, relocate the

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<sup>60</sup> Minutes of the meeting of 1 February 2012.

<sup>61</sup> Minutes of the public meeting, 18 April 2013, La Paz municipal government.

<sup>62</sup> Letter of 17 May 2013 to the deputy mayor of Cotahuma district by representatives of property owners and auto repair shops.

<sup>63</sup> The project documents indicate that the works were supervised internally by the La Paz municipal government from the time of the Bank’s no objection to the works until 17 July 2013, when the consulting firm engaged to supervise the work took over.

- auto repair shops, and open up an alternate access road where they could operate temporarily;<sup>64</sup> (iii) requested a meeting with municipal government's area coordinator to discuss the economic harm to property owners and residents of Avenida [REDACTED] being caused by the delay in execution; and (iv) asked for better coordination with the works managers. The record does not indicate responses to the specific requests by local residents and business owners but states that the local residents agreed to the new schedule.<sup>65</sup>
- 2.48 As a consequence of that meeting, on 18 June 2013 the La Paz municipal government informed the representatives of the residents and owners on Avenida [REDACTED] that, pursuant to the agreement with the local residents after the meeting of 5 June, the works schedule would be changed from 270 days, with a stoppage of 100 days, to 180 days and a parallel intervention, confirming the starting date as 17 June 2013, and the completion date as 14 December 2013.<sup>66</sup> They were told that, once the sections of the works were completed, the full width of the road and the sidewalks would be opened up. No mention is made of paving work.
- 2.49 On 10 July 2013, the Bank paid a technical visit to the works site, after which it only recommended that more signage be posted around the works enclosure to ensure the safety of local residents and workers. No reference is made to the public meetings or the requests made at them by the affected parties.<sup>67</sup>
- 2.50 On 12 August 2013, neighborhood representatives asked the deputy mayor of Cotahuma, as agreed at a meeting on 8 August,<sup>68</sup> to ensure that the new schedule for the works would be observed: (i) section 1 completed before 15 September; (ii) section 2 completed by the end of October; (iii) section 3, which was divided into subsections, would begin in 2014 after the rainy season.
- 2.51 On 11 September 2013, the residents were informed in a note updating the schedule that work would be stopped for 106 days during the rainy season, from 17 November 2013 to 3 March 2014. However, the note indicated that, after the coordination meetings between the residents and the deputy mayor's office, a tentative schedule had been arrived at, so as to "not increase the adverse impact on economic activities in the sector," with the construction company opening up parallel work fronts based on the following proposal to reduce the period by 38 days: (i) section 1 would be completed in October 2013; (ii) section 2 would be completed in November 2013; (iii) section 3, subsection A, would be completed in November 2013, and subsection B in May 2014, after being halted on account of the rainy season.
- 2.52 In addition, Avenida [REDACTED] local residents and business owners complained to the Public Ombudsman that the delay in the works had caused them serious economic harm, since for several months tenants and owners had been unable to conduct their work activities under the minimum conditions necessary to support

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<sup>64</sup> Minutes of the public meeting, 5 June 2013, La Paz municipal government.

<sup>65</sup> Letter of 24 October from representatives of the auto repair shops on Avenida [REDACTED] to the municipal government's area coordinator.

<sup>66</sup> Note 194/13 from the La Paz municipal government dated 18 June 2013.

<sup>67</sup> Report on the technical visit of 10 July 2013.

<sup>68</sup> The MICI has not had access to the documentation on this meeting.



their families, given that it was a commercial zone. With the then imminent onset of the rainy season, they expected the works to be completely stopped.<sup>69</sup>

- 2.53 The documents indicate that the works began on 18 June 2013 and ended on 21 April 2014 (approximately nine months, or 270 calendar days).<sup>70</sup>

Requirements for adding the work to the program

- 2.54 The loan contract<sup>71</sup> required that new works added to the program meet the following specifications, among others:

a. Prior to the start of the bidding process:

1. Include the final designs for each work in the bid;
2. Include the specific requirements established in the environmental permit, the PPM, the PASA, the environmental and social analysis, and the program environmental and social management plan (ESMP) in the bid;
3. The public must have been consulted in accordance with the Bank's safeguards policy;<sup>72</sup>
4. Should it be necessary to relocate families and businesses on account of the works, a business expropriation and family and business relocation plan should be implemented that complies with the Bank's current policies (OP-710).

b. Prior to the start of the works:

1. Produce evidence that the corresponding works supervision firm and the technical and environmental inspectors have been contracted.

c. Require that execution conform to the environmental and social analysis and the ESMP and that any changes or updates to those documents be made in consultation with the Bank and in accordance with the Bank's safeguard policies.

- 2.55 On 30 October 2012, the Bank declared that the special conditions precedent to the start of bidding on the works had been partially fulfilled and, as an exception, authorized the executing agency to continue with the process. However, it required that "the environmental permit issued by the relevant authority for the present work be added to the documentation" prior to awarding the contract.<sup>73</sup> The Bank issued its final no objection to the work on 7 November 2012.

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<sup>69</sup> Letter of 24 October 2013 from local residents and auto repair shop owners on Avenida ██████ to the Public Ombudsman.

<sup>70</sup> Final environmental report, "Supervision, construction, and repair of the ██████ culvert," page 5.

<sup>71</sup> Loan contract, clause 4.02.

<sup>72</sup> The plan of operations establishes that, for a work to be eligible for the program, it must be demonstrated that the community has been consulted, understands the scope of the work and its environmental and social impacts, and consents to it; that an environmental and social impact study has been conducted in accordance with national legislation or IDB policies; that recommendations have been made to mitigate the impacts; that the PPM and the PASA and any other instrument necessary to obtain a national environmental permit for the work be ready (page 11, paragraph 3.2.4).

<sup>73</sup> Final environmental report, "Supervision, construction, and repair of the ██████ culvert," page 5.

**d. Determination of compliance with Directive B.5**

- 2.56 Below, the MICI will present its analysis and determination of whether the environmental assessments were performed, and the environmental management plans required by policy OP-703 for the [REDACTED] culvert works were established, based on its findings. The MICI will focus on an analysis of whether the potential impacts and risks for the area businesses were identified and assessed, and whether effective mitigation measures were incorporated to avoid, minimize, or offset them.
- 2.57 For category “B” projects, Directive B.5 requires an environmental analysis to be performed, which includes an assessment of potential environmental, social, health, and safety risks associated with an operation, and measures to be established to control those risks and impacts.

*In relation to the assessment of the impacts of the work on commercial activities in the impact area*

- 2.58 In the present case, involving a multiple-works program, the MICI corroborated the existence of numerous documents intended to determine the environmental impacts that would arise from the general La Paz drainage program and, more specifically, from the program and the work that is the subject of this Compliance Review. It confirmed that strategic environmental studies were prepared for the master plan, and environmental analyses and management plans existed for the program and for the work.
- 2.59 Since a multiple-works program is involved, the environmental analyses for the specific work were performed after the program was approved. Although the work was envisaged in the master plan, it was not included in the representative sample because the designs were not ready at the time of approval. Under Bank procedures for multiple-works programs, works added after the program is approved must meet the technical and environmental specifications established in the loan contract.<sup>74</sup>
- 2.60 From the information reviewed in the chapter on findings, the MICI notes that:
- a. The positive impacts of the program in general, and the work in particular, on the population of La Paz and El Alto were clearly identified.
  - b. The negative impacts of the program were identified in general, and included impacts on formal and informal economic activities and disruptions in normal daily travel and life style. However, with respect to the work, no negative impacts on the public in general, or on parties reliant on economic activities in particular, were identified.
  - c. At different times and in different documents it was noted that the direct area of influence of the work is highly commercial and includes one of the main streets where automotive concerns are located, and that the work would create problems of access to the streets involved. However, the affected parties were not profiled, particularly the working population, and the types of tangible impacts they would suffer as a consequence of the works, the extent of those

impacts, and procedures to avoid, minimize, offset, or mitigate them were not specified.

- 2.61 The master plan's SEA was configured as the instrument that defined guidelines for preparing the program's environmental assessments and identified potential impacts that could occur during the works and during operation of the program. The document identified disruptions in formal and informal socioeconomic activities and normal daily travel and the creation of commercial instability. And, despite the fact that it is a general framework for the entire program, the SEA specified that for Avenida [REDACTED] it would be necessary to carry out the work in sections and within the specified timeframes, "avoiding impacts on business owners by closing just one lane of the road" and providing signage throughout the zone and in the environs to avoid the entry of vehicles into the entire sector.
- 2.62 The MICI found that this is the only identification of impacts on commercial/economic activities included in the program's framework. The environmental assessments conducted for the program in general, and the work in particular, did not identify specific impacts on the business owners in the areas of influence. Furthermore, the specific studies for the work indicate that it would be carried out in an area with many businesses and service establishments, specifying that Avenida [REDACTED] is an area where vehicles are repaired, autoparts and accessories are sold, and mechanic's services offered. However, the MICI was unable to find a detailed analysis of the commercial population to be impacted or any identification<sup>75</sup> or concrete analysis of the potential impacts on the suppliers of those services or the business owners in the work's direct area of influence.
- 2.63 A workshop was held in December 2011 for the TESA identification and sociocultural diagnostic assessment. The record of the workshop indicates that the parties affected (commercial sectors) on Avenida [REDACTED] were identified in general. However, the MICI was unable to find any reference in the environmental assessments of the work that discussed the findings of any such study of the affected parties.
- 2.64 Management noted that the work area had more than 330 businesses of different kinds, with 100 in the area of intervention, mainly automotive concerns.<sup>76</sup> It stated that Directive B.5 had been complied with, given that an environmental analysis and the corresponding ESMP had been prepared that identified impacts and mitigation measures, and that during program implementation the corresponding environmental brief, the PPM, and the PASA had been prepared, identifying possible positive and negative impacts throughout life of the project.<sup>77</sup> It also noted that the execution unit had complied with the Environmental Authority's requirements and the Bank's safeguards, reporting periodically on progress and actions taken when possible adverse environmental impacts had been identified during construction.

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<sup>75</sup> The MICI had access to a socioeconomic study for the work, prepared as part of the TESA, that was intended to determine the general profiles of the beneficiaries. TESA, Vol. VI, Socioeconomic assessment and financial analysis, page 17.

<sup>76</sup> Management's Comments on the MICI Recommendation, page 4, and Management's Comments on the Draft Compliance Review Report, page 4.

<sup>77</sup> Management's Comments on the MICI Recommendation, page 5.

- 2.65 Although the environmental analysis, the ESMR, the TESA, and the PPM did in fact identify positive impacts, only the environmental analysis and the ESMR mention negative impacts on life style during the works construction stage,<sup>78</sup> and impacts related to pollution, water contamination, noise, etc. Even the impact of “disrupting normal daily travel” identified in the SEA, the environmental analysis, and the ESMR are not reflected in the PPM for the work, which only mentions “the improvement in the road system” once the work is finished.
- 2.66 Prior to the start of the works, the business owners voiced their concern over their duration and impacts on their businesses, since they relied on their day-to-day income. They even asked about the possibility of being relocated. The MICI did not find that those concerns were reflected during implementation of the work, nor did it find any response to the possibility of temporary relocation as a measure to prevent adverse economic impacts. The report on the technical visit by the Bank’s specialist at the time does not make any reference to those concerns or take them into consideration.
- 2.67 The MICI found in its investigation that the environmental and social assessment processes required by Operational Policy OP-703 had, in fact, been performed for the program, and detailed documents had been prepared to determine impacts, design mitigation measures, and establish monitoring and review processes. However, in a highly commercial zone, they failed to identify the impacts of the [REDACTED] culvert works on businesses. Management said in its comments on the draft Compliance Review report that it “agrees that, apart from the strategic environmental assessment prepared for the master plan, ... the specific impact on business owners in the area was not identified in the subsequent environmental assessments.”<sup>79</sup>
- 2.68 The MICI considers that the absence of specific socioeconomic diagnostic assessments/studies containing baseline data on the commercial activities in the direct area of influence of the work that would have enabled an analysis of their specific situation and the real impact of the temporary and/or partial street closures on normal activities, and the risks of losing customers and, hence, income, fails to comply with the requirements of Directive B.5. Furthermore, the failure to establish how the program intended in the medium and long term to restore the original situation, or offset it, if that was not possible, also failed to comply. The Bank did not fulfil its obligation to require the borrower to prepare analyses that included an assessment of the potential impacts and environmental risks associated with the operation.

*In relation to establishing specific mitigation measures*

- 2.69 Management indicated that the program had mitigation measures such as a program of access routes to the works, that would avoid schools, hospitals, churches, and recreational areas to prevent public inconvenience; planning the start and completion of the works to avoid, to the extent possible, difficulties in access to businesses and housing; the access roads to the project zone were maintained and kept clear during and after construction, permitting the use of adjacent streets and avenues; and the prohibition on storing materials or debris at the accesses to

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<sup>78</sup> Environmental analysis, page 88.

<sup>79</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 2.5.

- dwellings and businesses.<sup>80</sup> Additionally, in its comments on the draft Compliance Review report, Management noted the following mitigation measures: dividing the work into three sections and leaving pedestrian walkways open on the sides; the use of cross streets was facilitated during execution, “to be used for serving customers;” intersections were kept open to vehicles for more than 80% of execution time, to minimize the impact on vehicular traffic and doing business; the program was largely executed according to schedule, except for delays caused by bad weather; and the section where the Requester was located was built between 12 August 2013 and 1 March 2014.<sup>81</sup>
- 2.70 In the project documents reviewed, the MICI found that mitigation measures had, in fact, been provided for, such as: (i) maintaining and leaving the access roads to the project zone clear during and after construction, enabling existing streets and avenues to be used; (ii) prohibiting the storage of materials or debris at accesses to housing and businesses in the sector;<sup>82</sup> and (iii) avoiding blocking entrances to garages, mechanics, markets, stores, and other installations used for economic activity.<sup>83</sup>
- 2.71 The MICI notes that environmental assessment processes are conducted to ensure that the direct and indirect environmental, social, health, and safety risks associated with an operation are correctly identified, so that effective mitigation measures can be designed. In the present case, the fact that the program failed to identify the impacts of the works on business owners in the direct area of influence during implementation led to the absence of specific measures to mitigate them.
- 2.72 In contrast to the above, Management affirms that “even though the impact on the economies of businesses on Avenida [REDACTED] was not explicitly identified, measures were established that would have mitigated that impact, if it occurred.”<sup>84</sup> Therefore, the mitigation measures included in the work are examined below with the goal of determining whether they might have indirectly shielded the businesses from that impact.
- 2.73 The program documents identified that the works would cause difficulties in access and circulation during construction and called for avoiding the blockage of access to garages, mechanics, markets, stores, and other facilities used for economic activity. However, no further details are given about this mitigation measure, and no evidence exists to show that vehicular and pedestrian circulation and access were really assured, to maintain the regular economic activities of businesses in the zone. Management affirmed that intersections were kept open to vehicles for more than 80% of execution time, to minimize the impact on vehicular traffic and doing business. However, the MICI did not find any document on the work containing specific information on the planning and monitoring of vehicle access routes to the different areas affected.
- 2.74 On the contrary, the MICI had access to works monitoring and supervision documents that mention the impacts on life style and focus on the supervision of

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<sup>80</sup> Management’s Comments on the MICI Recommendation, page 8.

<sup>81</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017.

<sup>82</sup> PPM-PASA, pages 57 and 58.

<sup>83</sup> PPM-PASA, page 58.

<sup>84</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, page 2.

such aspects as signage to alert residents and passers-by to the work and prevent injury, communication with the residents to keep them informed and respond to their questions and concerns, and aspects related to the safety of construction workers. These documents report on measures involving signage for excavations and measures to keep passageways clear, which are limited only to foot traffic.<sup>85</sup> The PPM for the work specifies that the contractor was to present a plan for the routes it intended use to bring machinery to the site; that accesses to the project zone would be maintained and kept open during and after construction; and that unauthorized access to the works by pedestrians and others would be prevented to avoid accidents.<sup>86</sup>

2.75 Photographs from the final environmental report on the work show temporary accesses for pedestrians and some zones that are apparently inaccessible.<sup>87</sup> However, the numerous documents studied do not provide additional information on areas where the businesses needed pedestrian and vehicular access to be maintained for their customers or how it was going to be guaranteed. As mentioned earlier, there is no evidence that the work had baseline data on the parties affected that could be used to design alternatives for prevention, mitigation, or even offsets to be implemented during the works, which were subject to monitoring by the works supervisor.

PHOTOGRAPHS FROM THE PROJECT ZONE DURING THE WORKS<sup>88</sup>



Source: Final environmental report.

<sup>85</sup> Final environmental supervision report, pages 17 and 22-25.

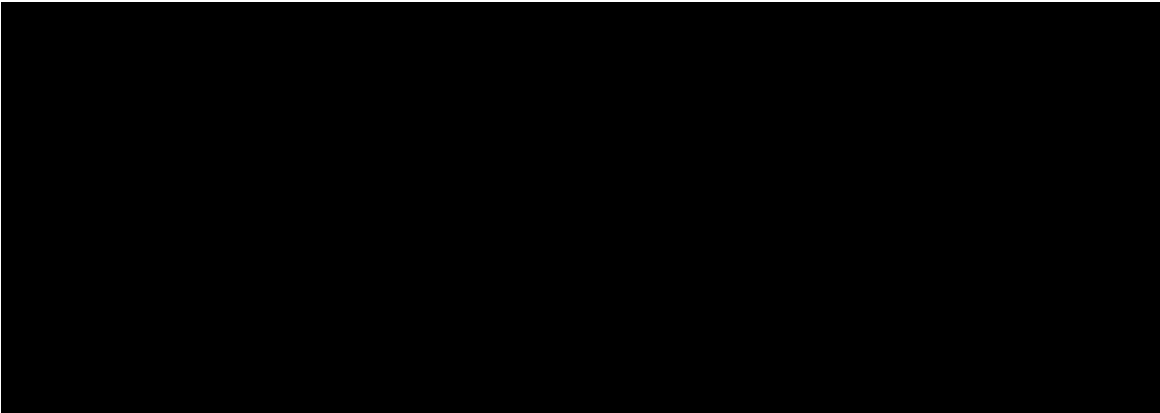
<sup>86</sup> PPM, pages 57 and 58.

<sup>87</sup> These are photographs of the work in general. [REDACTED].

<sup>88</sup> These photographs are presented to give a visual sense of the pedestrian accesses opened during the works. [REDACTED].

- 2.76 With specific regard to the area where the Requester's business is located, Management assured that that section was only partially affected, since his business [REDACTED] that was never completely cut off.<sup>89</sup>
- 2.77 The documents reviewed by the MICI suggest that accesses were obstructed during the works. The final environmental report on the work<sup>90</sup> stated that the second block was closed for construction of the new culvert in section 2, i.e., up to the corner of Calle [REDACTED], with work on that section beginning on the corner. For section 3, a third work front was opened between the corner of Calle [REDACTED] [REDACTED]. It is also noted that, in the case of sections [REDACTED] "since they are used by both pedestrians and construction machinery... it was necessary to put up tapes and signs to block pedestrian access;" "on another occasion it was necessary to close off pedestrian access with barricade tape and signs to prevent accidents caused by construction machinery."<sup>91</sup> The photographs included in that document show that the streets blocked off with tape are the streets where the Requester's business is located [REDACTED] [REDACTED]). The photographs in the final environmental report on the work and the photographs submitted by the Requester show that construction materials were stored, and vehicular access was apparently blocked, on both streets where his business is located, and even show difficulties in pedestrian access. However, it should be noted that there is no evidence regarding the duration of the obstructions, apart from what was reported by the Requester, and the date record of the total duration of the works.

**PHOTOGRAPHS OF [REDACTED] AND [REDACTED]  
[REDACTED] DURING THE WORKS**

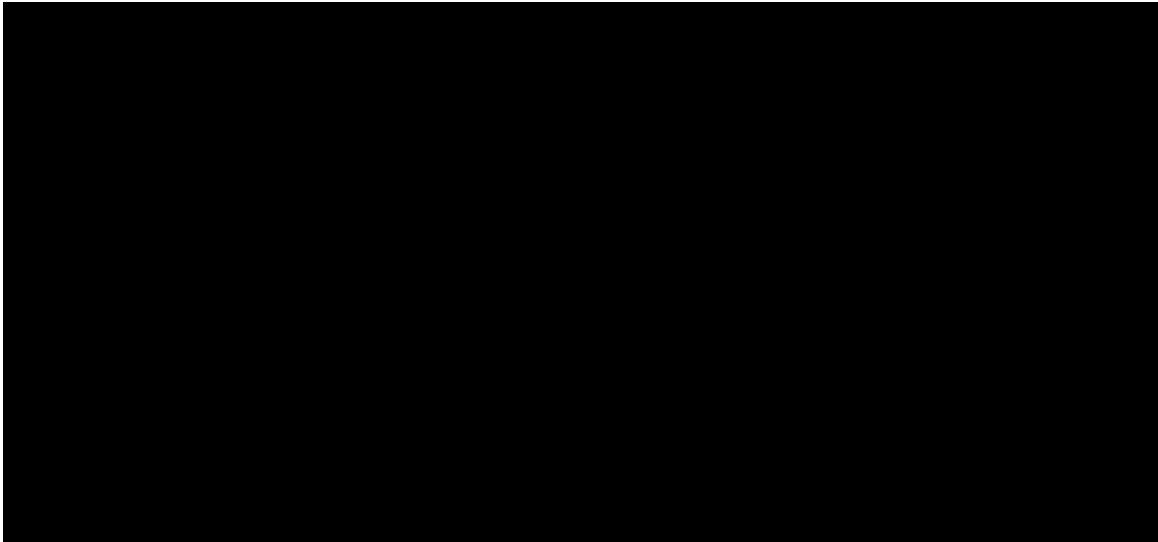


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<sup>89</sup> Management's Comments on the MICI Recommendation, page 3.

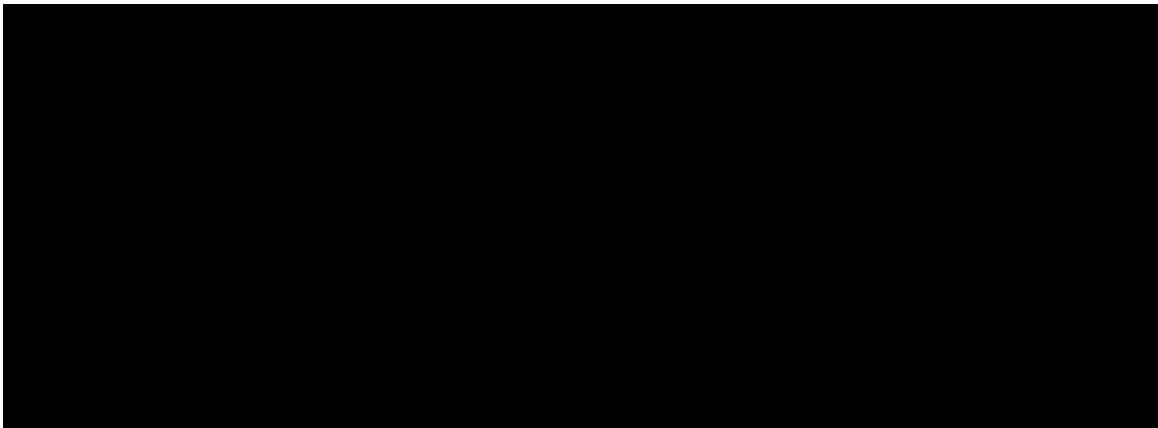
<sup>90</sup> Information taken from the final environmental report on the work, page 9.

<sup>91</sup> Final environmental supervision report, pages 25 and 28.



Source: Final environmental report on the work.

**PHOTOGRAPHS OF THE IMPACT OF THE WORKS ON THE LOCATION OF THE  
REQUESTER'S BUSINESS**



Source: Material sent by the Requester.

- 2.78 The TESA identified temporary restrictions on entrances to garages, damage to private property accesses, and the temporary closure of Avenida [REDACTED] to build the culvert as critical points for execution of the works.
- 2.79 Apart from the photographs and the references made in the final environmental report for the work to the need for temporary closure of access for safety reasons, the MICI has found no further information on the measures taken to guarantee access to businesses in the program documents, including the PPM-PASA. Furthermore, although the communities voiced their concern over the loss of income, no other alternatives were considered for mitigating the impact, such as temporary relocation.



- 2.80 Management gave assurances that the Bank was aware that both the work and the construction methods had been presented for public discussion starting in April 2013, with the goal of having the least possible impact on businesses and vehicular access to the sector, thus avoiding greater inconvenience to the local residents.<sup>92</sup> It added that the contractual periods had been observed and explained to the residents, including the schedule for the paving, which had not been included in the project.<sup>93</sup> However, in its comments on the draft Compliance Review report, Management mentioned delays in complying with the schedules owing to bad weather.<sup>94</sup> In addition, although Management initially stated that the section where the Requester's business is located had been affected for five months,<sup>95</sup> its most recent comments stated that the duration had been seven months (from 12 August 2013 to 11 March 2014).<sup>96</sup>
- 2.81 In relation to the above, the participation processes and compliance with the works schedules as impact mitigation measures are reviewed below.
- 2.82 As a starting point, it should be noted that the program documents included a series of lessons learned from operation BO-0223 to be incorporated into the [REDACTED] culvert works. They highlighted the need to consider administrative delays at the start of the works, paying special attention to the rainy season when it would be necessary to halt activities, and to strengthen communication mechanisms with the affected community.
- 2.83 As for the use of community communication mechanisms as a mitigation measure, the MICI notes that such mechanisms were indeed used, particularly during the construction stage. They permitted the affected parties to communicate their concerns and describe the types of impacts they were suffering, and allowed the executing agencies to report on progress, adjustments, and modifications in the works. At the community workshops, concerns were raised over the duration of the works, and the business owners said the delays were having an impact on their economic activities. They suggested relocation as a preventive measure and asked to have the schedules strictly observed, to avoid the rainy season. For their part, the executing agencies reported the delays and at one point adjusted the schedules as agreed with the affected parties. Despite these opportunities for community interaction, in the program documents the MICI did not find that procedures were put in place to assure that the concerns would be properly processed or that effective corrective measures would be taken to mitigate the impacts identified at the meetings.
- 2.84 It should be noted that the guidelines for implementing Directive B.5 establish that the environmental and social management plans are to be used and modified, if necessary, during project execution, and that the plans should include corrective measures, based on feedback from inspection and monitoring programs. The importance of strengthening mechanisms for communication with the affected

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<sup>92</sup> Management's Response to the Request, page 3.

<sup>93</sup> Management's Comments on the MICI Recommendation, page 3.

<sup>94</sup> Management's Comments on the Draft Compliance Review Report, 14 August 2017.

<sup>95</sup> Management's Response to the Request, page 7.

<sup>96</sup> Management's Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 2.11.

community was stressed in the lessons learned from the first program and in the specific documents for the work.

- 2.85 The MICI regards the participatory processes with the business owners as essentially informational and not an alternative for establishing tangible mitigation measures for the impacts that were being identified at the workshops and meetings. So much so, that no answer was made to the proposals for relocating businesses, or clarification given on the paving process after completion of the culvert, apart from indicating that the street would be usable by the end of the period. The MICI finds that the program did assure a continuous flow of information with the affected communities. But it never acted as a means of mitigating adverse economic impact. The only impact mitigation measure offered at those meetings was to perform the work in sections and abide by the schedule.
- 2.86 Regarding compliance with the schedules for the work in sections, the contractual documents established that the work would begin in April 2013, but it was delayed until May 2013 because the executing agency had not complied with the Bank's technical specifications for works supervision. The work finally began in June 2013. This delay meant that it was prolonged until December 2013. Despite the business owners and local residents stressing their concern about the impact of the rainy season from November to March on the works, the executing agencies continue to report on at least two occasions that the works would be completed in December. It was in August 2013 that the affected parties were finally told that the work would be stopped for 106 days during the rainy season and would end in April 2014.
- 2.87 At the meeting with the affected parties prior to the start of the works, in response to their concerns that their businesses would be affected, the participants were informed that the works would be constructed in three sections and that each would take about two and a half months to complete. The MICI considers that this could be an impact mitigation measure consistent with the program documents that reflected the importance of meeting the works schedule. Notwithstanding, according to Management and the program documents, the works in the zone where the Requester's business is located lasted for between five and seven months.<sup>97</sup>
- 2.88 In this case, the MICI considers that the absence of identification, description, and analysis of the impacts and risks that the works could create for businesses in their area of influence prevented the establishment, design, and implementation of specific measures to control those impacts and risks, in contravention of Directive B.5. It finds that even if the impacts were not identified, the public communication mechanisms shed light on the specific impacts that the works were having or might have for the business owners, who voiced their concerns on different occasions, particularly regarding the delays. However, these information meetings were not an effective tool for introducing additional mitigation measures. One measure identified in the TESA was to assure free access to the works zone. There is no evidence that the environmental supervisor or the Bank made certain that vehicles were able to circulate in the zone, and the photographic evidence shows obstacles blocking the way and physical interference with normal vehicle circulation. The area where the Requester's business is located was virtually inaccessible.

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<sup>97</sup> This, considering that only section ■ affected the Requester, since one of the ends of section ■ which is one of the streets where his business is located.

2.89 Given the above considerations, the MICI concludes that with respect to the allegations in the Request, the Bank failed to comply with Directive B.5, since it did not verify that the environmental assessment and management plans for the work complied fully with the Policy's requirements, given that it did not make certain that the environmental analysis of the work included an identification of its impact on the local business owners, nor, consequently, were any effective mitigation measures established.

### **3. In relation to Directive B.6 of the Environment and Safeguards Compliance Policy on consultations with the affected parties**

#### **a. Requester's allegations**

2.90 The Requester indicates that the public meetings were merely informational and adequate consultation and participation processes to engage the affected parties did not take place. Specifically, the Requester alleges that the information provided on the works was not correct, simple, or transparent and the that works were being forced on them. He said that had he known in advance how long the works would actually take, he would have taken steps to prevent the extended closure of the roads from affecting him as he claims it did.

#### **b. What does Directive B.6 establish?**

2.91 Directive B.6. establishes that:

As part of the environmental assessment process, Category "A" and "B" operations will require consultations with affected parties and consideration of their views. Consultations with other interested parties may also be undertaken in order to consider a broader range of expertise and perspectives.

...

For Category "B" operations, affected parties must be consulted at least once, preferably during the preparation or review of the ESMP, as agreed with the borrower. For consultation purposes, appropriate information will be provided in location(s), format(s) and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion and to comment on the proposed course of action. EIAs and/or other relevant environmental analyses will be made available to the public consistent with the Bank's Disclosure of Information Policy (OP- 102). During execution, affected parties should be kept informed of those project-related environmental and associated social mitigation measures affecting them, as defined in the ESMP.

#### **c. The MICI's findings in relation to compliance with Directive B.6**

2.92 For new works to be included in the program, the loan contract<sup>98</sup> required that public consultations be held before the start of the bidding process, in accordance with the Bank's safeguard policies. The plan of operations established that, for a work to be eligible for the program, it had to be demonstrated that the public had been consulted, understood the scope of the work and its environmental and social impacts, and consented to it.<sup>99</sup>

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<sup>98</sup> Loan contract, clause 4.02.

<sup>99</sup> Plan of operations, page 11, paragraph 3.2.4.

- 2.93 The program documents in general and the documents for the work in particular clearly established the need for a citizen participation program with the community, in all stages. The PPM-PASA included a citizen participation strategy<sup>100</sup> and, with regard to the design of measures to mitigate sociocultural impacts, indicated that, starting with the construction process, the consultation component was to be based on the presence of, and interaction with, different social and institutional stakeholders.<sup>101</sup> The measures included workshops to provide information about the culvert construction processes and the difficulties that could arise with infrastructure; the production of information materials on the project; a social and institutional relations plan; and a notification session prior to starting the works, to inform residents about the timelines and scope of the works, including information on timetables, location of site offices, and the most appropriate avenues for addressing contingencies. They affirmed that all residents of the area had an absolute right to information relating to concerns of all kinds, which would not be limited to the necessary and required information.<sup>102</sup>
- 2.94 Program documents and reports mention the public consultations that took place, first for the master plan (2006), then for the program and the works in the representative sample (2010), and, finally, for the particular work (2011-2013). The MICI will examine the community consultations held on the work, since they are related to the Request. It will not address the consultations under the master plan or the program in general.
- 2.95 As Table 5 shows, and as is described in paragraphs 2.43 to 2.53, at least six meetings were held for different reasons and with different participants from the affected communities between October 2011 and September 2013.

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<sup>100</sup> Page 40.

<sup>101</sup> The Civic Culture Project is a social integration project that seeks to change the behavior of local residents with respect to dumping waste and managing storm and sewage discharges.

<sup>102</sup> PPM-PASA, page 73.

**Table 5**  
**Meetings with affected communities**  
**October 2011 to September 2013**

	Date	Purpose	Minutes and attendance list	Participants	Number of participants
1	October 2011	To present the TESA	Yes	Residents of districts 4, 5, and 6, oversight committee, community associations	14
2	December 2011	To perform the sociocultural diagnostic assessment	Yes	Oversight committee and community associations	15
3	February 2012	To explain the technical, engineering, and environmental scope of the work	Yes	Representatives of community associations and residents of districts 5 and 6	19
4	Abril 2013	To present the work	Yes	██████████ ██████████████████	78
5	June 2013	To report the delay in starting the work	Yes	██████████ ██████████████████	65
6	August 2013	To present the new schedule	No	*	*

Source: MICI using information from the minutes of the different meetings.

- 2.96 At the meetings held in 2013, in particular, the participants expressed their concerns about the duration of the works and their impact on their commercial activities. In response, the executing agency reported that the works would be built in sections with each block requiring two and a half months. The concerns were heightened when the local residents were informed about the delay in starting the works and at the meeting in June 2013. They expressed their displeasure with the delays and asked for a change in the construction method, suspension of the works, relocation of auto repair shops, and the opening of an alternative route.
- 2.97 Some participants requested a meeting with the municipal government’s regional coordinator to discuss the adverse economic impact. Specifically, the representatives of the property owners and auto repair shops sent a letter to the deputy mayor in May 2013 asking that the schedule be observed, so as to avoid greater economic harm. In response to that letter, in June 2013 the deputy mayor reported that the works schedule had been shortened from 270 to 180 days, and the that work was expected to be completed in December 2013, when the road would be opened.

- 2.98 However, the late start made it necessary to suspend the work during the rainy season, and it was completed at the end of April 2014, four months later than initially reported.

**d. Determination of compliance with Directive B.6**

- 2.99 For the purposes of the present investigation, the MICI will examine whether the Bank complied with the requirements of Directive B.6 for Category “B” projects. It will look, on the one hand, to see whether at least one public consultation was held, as called for in Directive B.6, and, on the other, to see whether during execution the parties affected were informed of the environmental and social mitigation measures that would affect them, as established in the ESMP.
- 2.100 Management indicated that a public consultation was held as part of the program in September 2010, to discuss the environmental analysis and the ESMP. These documents had been made publicly available on the La Paz municipal government’s and the Bank’s websites starting in August 2010.<sup>103</sup> It added that the execution unit, in conjunction with the office of the deputy mayor of Cotahuma, held meetings to provide information on the project’s execution, scope, and benefits, and that the beneficiaries consented given the short-, medium-, and long-term benefits that the project would bring.<sup>104</sup>
- 2.101 Directive B.6 requires that the public consultation be held preferably during preparation or revision of the management plan. In this case, the PPM-PASA, which corresponds to the ESMP for the work, was completed in February 2011. The agreement with the borrower was that the public consultations would be held prior to the start of bidding for the works,<sup>105</sup> which took place on 27 January 2013.
- 2.102 The MICI has verified from the project documents that three participatory workshops were indeed held within that time frame: one on 28 October 2011, one on 13 December 2011, and one on 1 February 2012.
- 2.103 The MICI notes that the first workshop was attended by representatives of the neighborhood associations in the area of influence, and that the second workshop had the purpose of performing a sociocultural diagnostic assessment to identify the affected parties. At the first meeting, the attendees asked to be given more than two days’ advance notice of the next meeting, to ensure that more people could attend. With regard to the second meeting, no diagnostic assessment of the affected parties could be found in the documentation to which the MICI had access, as has already been mentioned.
- 2.104 This is particularly relevant, since the consent of the affected parties was required for the work to be added to the program. That consent was reported in the minutes of the February 2012 meeting, which was attended by 19 people.
- 2.105 The MICI consulted Management to determine whether business owners from Avenida [REDACTED] had attended the February 2012 workshop. Management commented that it was unable to confirm whether they had attended, because the awareness process had been conducted by the firm PCA Ingenieros. The Project

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<sup>103</sup> Management’s Comments on the MICI’s Recommendation, page 5.

<sup>104</sup> Management’s Comments on the MICI’s Recommendation, page 5.

<sup>105</sup> Loan contract, clause 4.02, Special Execution Conditions.

- Team said the invitation to the meeting had been broad in scope and extended to all the zone's representatives, and that PCA Ingenieros, with the assistance of the municipal government, had invited all residents of Avenida [REDACTED].<sup>106</sup> However, when consulted on documentation of the processes to identify the parties affected by the works, who were supposed to be consulted, Management referred the Panel to the TESA study, which only identifies the beneficiary population of the project as a whole.
- 2.106 For their part, in a letter of May 2013 to the deputy mayor of Cotahuma, the representatives of property owners and auto repair shops on Avenida [REDACTED] said they had been unaware of the project or the existence of the minutes of the meeting of February 2012. They also stated that the people who had approved the minutes were not authorized to consent to the project. The list of attendees at the meeting did not the business owners of Avenida [REDACTED], only the names of local residents and representatives of the neighborhood associations from districts 5 and 6.
- 2.107 The MICI considers that the affected populations of Avenida [REDACTED] were not consulted at the meetings for public awareness and acceptance of the work, particularly the business owners located on that [REDACTED], who were one of the most representative groups of the zone. Consequently, these people did not have the opportunity to learn about the scope of the work or comment on the proposed course of action, in contravention of Directive B.6.
- 2.108 The MICI considers that the program as a whole established citizen participation mechanisms for institutions/executing agencies to inform the public about the program and the works, and the communities to raise concerns and ask questions. As already mentioned, the need to strengthen citizen participation processes was emphasized in the lessons learned from operation BO-0223, which were drawn from the experience with the first drainage works financed by the Bank in La Paz.
- 2.109 Directive B.6 establishes the possibility that borrowers can consider additional interaction with the public, over and above the mandatory consultations to approve a project, as an alternative contributing to improve the designs, promote better understanding of an operation, and increase the likelihood of project success and sustainability.
- 2.110 The MICI considers that the citizen participation processes through information meetings enabled the population to understand the scope of the activities carried out during the works and, in particular, the importance of the positive impacts that the program would have on the lives of the inhabitants of La Paz and El Alto, as well as allowed them to voice their concerns. They were also kept informed about delays in the schedule.
- 2.111 Despite this, as mentioned earlier, the MICI considers that the processes did not meet the objective of identifying impacts and introducing mitigation measures for the commercial activities affected, particularly the impacts caused by the delays. That is because the program failed to identify this specific impact during the design and preparation of the work and during its implementation. Notwithstanding, the MICI recognizes that Directive B.6 requires these information mechanisms during project execution to be implemented for the purpose of informing the populations about the

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<sup>106</sup> Project Team's Response MICI Consultations, 7 April 2017.

environmental and social mitigation measures established in the environmental and social management plans. After project approval, efforts are supposed to continue with the reasonable provision of timely information and consultations based on the agreed plans.<sup>107</sup> In the present case, the environmental and social management plans did not include measures to mitigate the impacts on local businesses, even though the meetings informed the public about aspects such as executing the works in sections and the different scheduling arrangements.

- 2.112 Given the above, the MICI finds that the Bank failed to comply with Directive B.6, since it did not consult the affected population; and did comply with the requirement to keep the parties informed during program execution only with regard to the mitigation measures established in the environmental and social management plans.

### III. CONCLUSIONS

#### A. Conclusions on compliance with Operational Policy OP-703

- 3.1 Section II presented a detailed analysis of the findings of the investigation which found omissions by the Bank in regard to several obligations established in Operational Policy OP-703. Table 6 summarizes the instances of noncompliance that were identified.

**Table 6**  
**Conclusions**

Policy directive	Conclusions on compliance
<b>OP-703 B.5</b>	The Bank <b>failed to comply</b> with Directive B.5, since it did not verify that the environmental assessment and management plans for the work complied fully with the Policy's requirements, given that it did not make certain that the environmental analysis of the work included an identification of its impact on the local business owners, nor, consequently, were any effective mitigation measures established.
<b>OP-703 B.6</b>	The Bank <b>failed to comply</b> with Directive B.6, since it did not consult the affected population; it <b>complied</b> with the requirement to keep the parties informed during program execution with regard to the mitigation measures established in the environmental and social management plans.

#### B. Conclusions on whether the alleged harm relates to the findings of noncompliance

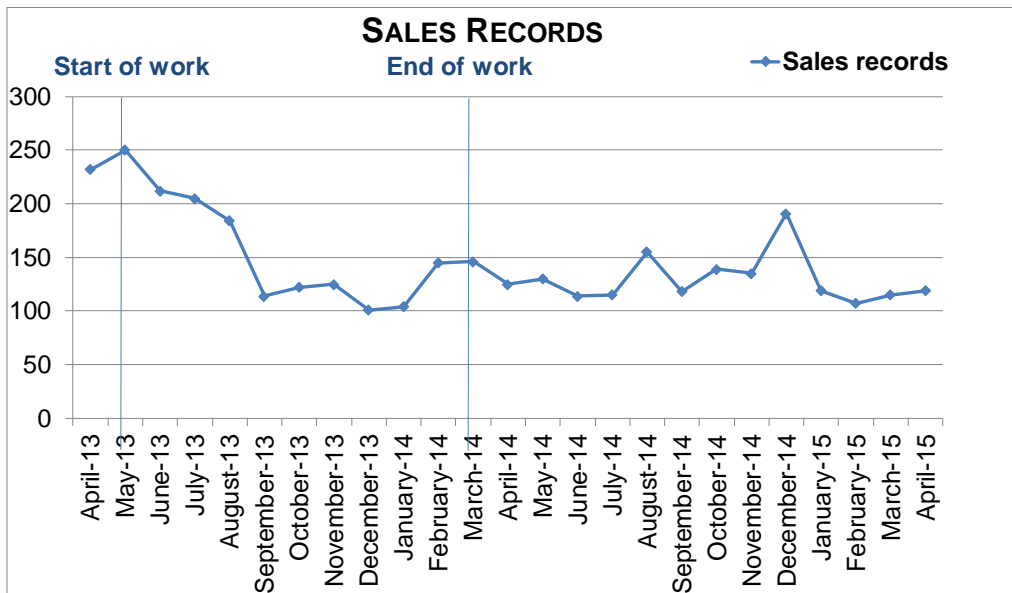
- 3.2 In relation to the alleged harm, the Requester has stated that the closure of Avenida ████████ to vehicular traffic during the works led to an 80% drop in his monthly income, since his customers had no access to his business and looked for alternative services in other parts of the city. Even now that the works are completed, he has not fully recouped his customers. He also states that he was forced to dismiss 7 of the 10 members of his staff when he could no longer pay their wages, and he also incurred severance expenditures. The lack of cash flow, claims the Requester, also caused him to default on his payment obligations with suppliers, which

<sup>107</sup> Implementing Guidelines for the Environment and Safeguards Compliance Policy (OP-703). Directive B.6.



prevented him from restocking his inventory and led to a further decline in business income, and his business lost a competitive advantage. In summary, the work directly affected his family's livelihood, and at the time it was completed he found himself in a very strained financial position that he has been unable to surmount.

- 3.3 According to the MICI's findings relating to the obligations imposed by the Relevant Operational Policies, the Bank failed to identify, assess, and mitigate the economic impacts arising from the work. Although originally included in the master plan, they were not subsequently incorporated into the environmental and social framework for the program or the work. The area impacted by the work was highly commercial, particularly in the automotive sector, and the work was expected to cause problems of access to businesses. It was also known that some of those businesses were not financially solid enough to survive even a temporary drop in income.
- 3.4 The allegations of harm made by the Requester refer to direct and material losses or harm to his family's livelihood and, as evidence, he submitted national tax certificates issued by the local tax authority reflecting the monthly income he reported in his books before, during, and after the construction stage. The work started in June 2013 and ended at the end of April 2014. The following figure shows his sales over the period from April 2013 to April 2015,<sup>108</sup> dropping sharply in May 2013, bottoming in December 2013, and then recovering slowly but, up to the last month reported, they had not regained their initial level.



Source: MICI based on the Requester's tax payment receipts.

- 3.5 The Requester also claims that the drop in sales caused him to default on his payments to suppliers. As evidence, the MICI had access to documentation indicating that on 20 May 2013 the Requester signed a repayment plan with a

<sup>108</sup> It should be noted that the figures used calculate his sales records are limited to what the Requester formally reported to the local tax authority and are the figures the MICI has used in its analysis of the harm.

supplier for debts equivalent to 8,866.78 bolivianos, under which the Requester will have installments due in 2015 and 2016. This documentation reflects his business's financial insecurity and his dependence on monthly income to meet his obligations.

3.6 In addition, the MICI considers that there is circumstantial evidence that the harm alleged by the Requester are related to the omissions identified in the context of the work. The evidence is summarized below:

1. The Requester's allegations of harm are not an isolated occurrence. The MICI found evidence that at the public meetings during construction the businesses owners on [REDACTED] repeatedly said that the works were causing them to lose money. So much so, that they asked for relocation as an alternative to forestall further losses.<sup>109</sup> The affirmation by the affected parties that they relied on their day-to-day income from their businesses is especially striking. It highlights the particular vulnerability of these people, whose economic activities are so precarious that partial and/or temporary blockage of access to their businesses causing a reduction in the number of customers has a resounding impact on their livelihoods.
2. Project documents recognize that temporary adverse impacts will occur during execution of the works. However, the project does not establish effective measures for their mitigation, and focuses mainly on project benefits, which were recognized by the affected parties and is why they would have consented to execution at during the public workshops;<sup>110</sup> but they continued to voice their concerns over the financial losses they would suffer during the works.
3. In December 2013, before turning to the MICI, the Requester contacted the Bank's Country Office in La Paz to report his financial losses caused by the works, and mentioned his fear of retaliation. Since Management suggested the alternative of having the executing agency participate in the matter, the Requester opted to trigger the mechanism.
4. Photographs in the works supervision reports and in communications sent by the Requester to the MICI show that [REDACTED] was closed to vehicles and there were deposits of debris in front of the Requester's business, which hampered access by customers, although we do not know to what extent or for what length of time.<sup>111</sup> The fact is that circulation was restricted in the zone for approximately one year on account of the works.

3.7 In view of the above, although the MICI considers it impossible to precisely determine the size of the financial loss suffered by the Requester on account of the work, it has been able to verify that his income dropped during the period the works were under way and that the drop is related to a greater or lesser extent to the work. It might not have occurred, if the Bank had fulfilled its obligation of requiring the impact of the work to be assessed, and preventive or mitigation measures to be established, which it failed to do, in contravention of OP-703.

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<sup>109</sup> Minutes of the public meetings of 18 April and 5 June 2013.

<sup>110</sup> Environmental monitoring report on the work dated 25 July 2014.

<sup>111</sup> See photographs between paragraphs 2.75 and 2.77.

- 3.8 With regard to the remaining claims of harm by the Requester, including the dismissal of 7 of his 10 employees, the MICI found no evidence to corroborate that this actually occurred and therefore takes no position in this regard.

#### IV. RECOMMENDATIONS

- 4.1 The MICI considers that the value added of a Compliance Review process resulting from the submission of a complaint is two-fold: first, the findings can assist the Board of Executive Directors in reaching decisions on promoting the environmental and social sustainability of this specific operation; and second, those same findings and the evidence reported can potentially be used as knowledge tools that offer lessons learned to support the Bank's ongoing improvement and, as in this case, they can be applied directly in subsequent operations similar to the one reviewed.
- 4.2 In this spirit, several recommendations are presented below for consideration by the Board of Executive Directors. Management and the Requester have been informed of these recommendations prior to distribution of this document to the Board.
- 4.3 In this case, as in previous investigations, the MICI has found that actions and/or omissions by the Bank have resulted in noncompliance with one or more of its Relevant Operational Policies and in actual or potential Harm<sup>112</sup> to the Requesters, and therefore recommends that the Board of Executive Directors ask Management to clarify the scope for the Bank to address such situations.

<b>Recommendation 1</b>	That the Board of Executive Directors ask Management to clarify the scope for the Bank to address situations involving actual or potential Harm resulting from noncompliance with the Relevant Operational Policies.
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- 4.4 This report has found that the Bank failed to comply with Directive B.5 of Operational Policy OP-703 when it did not make certain that the environmental and social assessment of the work included an identification of its impact on the business owners, nor, consequently, were any effective mitigation measures established. Management acknowledged that the specific impact of the work on business owners was not identified in the specific environmental analyses of the program and the work. The MICI report has also concluded that the Bank failed to comply with Directive B.6 of OP-703, since it did not consult with the affected population. Management agreed that "a consultation could have been more specifically targeted to" one of the groups affected by the project.<sup>113</sup> Additionally, the MICI found that during the work, various workshops and meetings were held with local residents and business owners in the affected area that enabled them to communicate their concerns and describe the impacts they were suffering, but that they were not used as mechanisms for corrective actions in the social management plans and did not facilitate alternatives for mitigating those impacts.

<sup>112</sup> The MICI Policy defines Harm as "[a]ny direct, material damage or loss. Harm may be actual or reasonably likely to occur in the future." MICI Policy Glossary.

<sup>113</sup> Management's Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 3.5.

- 4.5 Management reported that the new operation BO-L1114, which continues the drainage program for the city of La Paz, is under way and is implementing a new consultation and assessment procedure.<sup>114</sup> The MICI wishes to underline that the Bank recently prepared and published guidelines for public consultations to more fully identify the groups affected by that project and to document their opinions and incorporate their proposals and concerns into a project.<sup>115</sup> With this information in mind and to support the Bank in its efforts, the MICI suggests that Management submit specific information to the Board on how the lessons learned from this case will be taken into account and how the guidelines in question will be implemented.

<b>Recommendation 2</b>	That Management report to the Board on how the work to strengthen the Bank in the area of societal engagement and public consultation is influencing projects, for example BO-L1114.
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- 4.6 Throughout the process, Management repeatedly noted that the works directly and indirectly impacted 330 businesses but “the Requester was the only one to complain to the MICI,”<sup>116</sup> and stressed the positive impact of the work, saying that “the economic impact of not implementing the work was greater than would have been otherwise.”<sup>117</sup> The MICI agrees with Management that the project and the work were necessary and highly beneficial to the population; however it wishes to offer a few considerations regarding Management’s comment that only one complaint was made.
- 4.7 It is relevant to recall that the Request was submitted under the 2010 MICI Policy which established that the mechanism could receive requests from one or more persons and, therefore, was required to process such requests, if eligible. The absence of complaints to the MICI by others may be due to different factors and does not directly imply that no one else was affected by the project. Although it is possible that the work only affected one business on account of its particular nature, this report has found evidence that during different meetings on execution of the work, residents and business owners complained to the executing agency and to the Public Ombudsman of Bolivia, although the complaints did not reach the MICI (see paragraphs 2.43 to 2.52).
- 4.8 This is possibly due to economic, social, and/or cultural reasons that impeded or discouraged access to an accountability mechanism such as the MICI; but another reason that can prevent more people from turning to it, is the lack of familiarity in the region of with the existence, functions, and means of access to the mechanism. If that is true, it is vitally important to publish information on the avenues for recourse available to people who could potentially be affected.
- 4.9 Since the new MICI Policy was approved, the mechanism has made serious efforts to inform the public and civil society groups in the region about its existence, through

<sup>114</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 5.4.

<sup>115</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 5.1.

<sup>116</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 4.1.

<sup>117</sup> Management’s Comments on the Draft Compliance Review Report, 14 August 2017, paragraph 4.4.

workshops, videoconferences, and other dissemination activities, in conjunction with similar mechanisms of other international lending agencies. However, the MICI continues to face the challenge of gaining access to groups in the specific localities where projects are implemented.

- 4.10 To strengthen the Bank's accountability, the MICI recommends that the Board instruct Management to systematically provide information at the project level about the existence of the mechanism, as an instance of last resort available to the public.

<b>Recommendation 3</b>	That information about the MICI be included at the project level to inform both the executing agencies and the public in the project target area about its existence and processes.
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- 4.11 Based on the facts and evidence presented, if accepted, it is recommended that the Board of Executive Directors instruct Bank Management to prepare, within a specific time frame, an action plan to implement the recommendations in this report, in accordance with paragraph 47 of the MICI Policy.

## ANNEX I<sup>1</sup>

### MANAGEMENT'S COMMENTS ON THE DRAFT COMPLIANCE REVIEW REPORT



### MEMORANDUM

**File classification:** PO-BR-L1160-Adm

EZ SHARE# \_\_\_\_\_

**Date:** \_\_ August 2017

**To:** Victoria Márquez-Mees, MICI Director

**From:** Sergio Campos, Chief, Water and Sanitation Division

**CC:** (...)

**Reference:** Management's Comments on the Draft Compliance Review Report. Case MICI-BO-2014-079. Bolivia. Drainage in the Municipios of La Paz and El Alto (BO-L1028, loan contract 2440/BL-BO)

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#### I. OBJECTIVE

- 1.1 This memorandum is intended to present Management's comments on the draft Compliance Review Report (the "Report") submitted by the Independent Consultation and Investigation Mechanism (MICI) on 14 July 2017 in relation to case MICI-BO-2014-079, Drainage in the Municipios of La Paz and El Alto (the "Program").
- 1.2 Management considers that the Bank has largely complied with Directives B.5 and B.6 of Operational Policy OP-703 (the "Policy"), identified by the MICI in the Report's Table of Conclusions.<sup>2</sup> An analysis of the directives in question and Management's comments on compliance with them are presented below.

#### II. DIRECTIVE B.5: ENVIRONMENTAL ASSESSMENT REQUIREMENTS

- 2.1 *Directive B.5 of the Policy establishes that "Preparation of Environmental Assessments (EA) and associated management plans and their implementation are*

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<sup>1</sup> The comments presented in this annex were made in relation to the draft Compliance Review report, so the references may not coincide with the final version of the report.

<sup>2</sup> See Table 6.

*the responsibility of the borrower. The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs), Strategic Environmental Assessments (SEAs), Environmental and Social Management Plans (ESMP), and environmental analyses... The operation's executing agency or borrower is required to submit all EA products to the Bank for review. The operation's approval by the Bank will consider the quality of the EA process and documentation, among other factors."*

- 2.2 For category "B" operations, Directive B.5 requires performance of an environmental analysis *"including an evaluation of the potential environmental, social, health, and safety impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts."*
- 2.3 Since a multiple-works program is involved, the environmental assessment was carried out on three levels: (1) the Storm Drainage Master Plan; (2) the design of the program as a whole; and (3) the specific work on the [REDACTED] culvert (the "work"). The MICI report states that "The MICI found in its investigation that the environmental and social assessment processes required by Operational Policy OP-703 had, in fact, been performed." However, the Report concludes that there was partial noncompliance with Directive B.5, since the Bank "did not make certain that the environmental analysis of the work included an identification of its impact on the local business owners, nor, consequently, were any effective mitigation measures established."

*MICI conclusion. Part I: Failure to identify the impact on local business owners*

- 2.4 Given the many different environmental assessments conducted by the borrower and approved by the Bank under the specific standards required by Directive B.5, Management considers that the Bank has largely complied with the directive.
- 2.5 Regarding the failure to identify the impact on local business owners, Management agrees that, apart from the strategic environmental assessment prepared for the master plan that identified the impact on socioeconomic activities at the general level, the specific impact on business owners in the area was not identified in the subsequent environmental assessments. Management agrees that this could have been done.
- 2.6 However, even though the impact on the finances of businesses on [REDACTED] was not explicitly identified, measures were established that would have mitigated that impact, if it occurred, in the context of the master plan, the program, and the specific work.

*MICI conclusion. Part II: Absence of effective mitigation measures*

- 2.7 As mentioned, and as the MICI report itself notes,<sup>3</sup> despite the fact that the negative impact in question was not identified, mitigation measures were indeed included. The master plan's strategic environmental assessment recommended that the environmental assessments of the works should "stress good community relations and compliance with the commitments made with respect to the works execution schedule" and, in particular, that the works on [REDACTED], "performed in sections and within the specified time frames, avoiding impacts on business owners

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<sup>3</sup> See paragraph 2.39.

by closing just one lane of the road.” The prevention and mitigation program for the specific work also envisaged mitigation measures.

2.8 Management considers that these actions were largely performed, and mitigated potential impacts on the business owners.

2.9 The decision was made to divide the [REDACTED] work into three sections and to leave pedestrian walkways open on the sides. The sections corresponded to the [REDACTED] city blocks spanned by the work. This approach was used to mitigate the negative impacts of closing the streets:

- [REDACTED]
- [REDACTED]
- [REDACTED]

2.10 During execution of the work, cross streets were left open to be used for serving customers. Furthermore, the intersections were kept open to vehicles for more than 80% of execution time, to minimize the impact on vehicular traffic and doing business.

2.11 The program was largely executed according to the agreed schedule reported to affected population, except for delays caused by bad weather. As the construction log shows, Section [REDACTED] where the Requester’s business is located, was built between 12 August 2013 and 11 March 2014, when it was reopened. During that time, access to [REDACTED] was kept open and pedestrian access was never cut off.

### III. DIRECTIVE B.6: CONSULTATIONS

3.1 Directive B.6 establishes that *“Category “A” and “B” operations will require consultations with affected parties and consideration of their views... For Category “B” operations, affected parties must be consulted at least once, preferably during the preparation or review of the ESMP, as agreed with the borrower.”*

3.2 Specifically, the following steps were taken: (1) publication of the project’s call for bids; (2) billboards, publications in the press, and television campaigns to explain the project; and (3) three information meetings called by the executing agency to answer questions and concerns raised by the community.

3.3 The executing agency and the works contractor envisaged a broad invitation to attend the meetings and workshops, reaching all community representatives and parties that could potentially be affected in the zone. The program documents show that a representative cross-section of the parties affected by the work attended, including representatives of the business owners and local residents in general (see Table 5 of the Report, which includes the names of participants from [REDACTED]).

3.4 The report acknowledges that three public workshops were held.<sup>4</sup> However, it states that attendance was light and not representative of the businesses on [REDACTED]. It therefore concludes that the Bank failed to comply with Directive B.6, “since it did not meet the requirement for consultations with affected parties; It did

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<sup>4</sup> Paragraph 2.10 and Table 5.



comply with the requirement to keep the parties informed during program execution of the mitigation measures established in the environmental and social management plans.<sup>5</sup>

- 3.5 As mentioned above, Management considers that the meeting was broadly publicized and there is evidence that business owners from [REDACTED] participated in the remaining meetings. However, it agrees that a consultation could have been more specifically targeted to them.

#### IV. ADDITIONAL CONSIDERATIONS

- 4.1 The [REDACTED] works had a direct and indirect impact on the development of 330 businesses located between the confluence with the [REDACTED] and [REDACTED]. Among those, approximately 100 businesses located specifically in the target area were identified. Most were automotive-related businesses, which is the same business as stated by the Requester. However, the Requester was the only one to complain to the MICI.
- 4.2 In addition, and as mentioned in paragraph 2.12, the cross-streets were open to vehicles for 80% of the time, and the pedestrian walkways for 100%. Since the Requester's shop was [REDACTED], pedestrians always had access to its services.
- 4.3 After the work was completed, the municipal government decided to pave [REDACTED]. This work was not included in the program, was not an "associated facility" as defined in Operational Policy OP-703, and was not executed by the program executing agency. It should be pointed out that the photographs presented by the Requester and shown on page 6 of the Report correspond to paving the street. The photographs on page 31, which are taken from the Report on the Bank's visit on 31 January, are also from the paving stage, and the section photographed is not located in the Requester's sector. The only photographs that correspond to execution of the Bank-financed work are those shown on page 30, taken from the final environmental report, where it can clearly be seen that [REDACTED] was not cut off and there was access up to the intersection with [REDACTED]. For reference, the table below gives the dates of the Bank-financed work and the dates on which the road was paved.

<b>WORKS SCHEDULE</b>				
<b>Section or intersection</b>	<b>Drainage works</b>		<b>Road works</b>	
	<b>Start</b>	<b>End</b>	<b>Start</b>	<b>End</b>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

<sup>5</sup> Table 6.

- 4.4 Lastly, Management wishes to emphasize the positive impact of the work and that, without it, the economic impact could have been much greater, given that there was a risk that the existing tunnel could have caved in, leading to the collapse of houses and other infrastructure, such as sewers, electricity lines, etc.

## **V. PROGRESS IN PUBLIC CONSULTATIONS AND ENVIRONMENTAL ASSESSMENTS**

Looking ahead, the Bank envisages a strategy of continued improvement in the application of its environmental and social policies.

- 5.1 In that context, the Bank recently prepared and published Guidelines for Public Consultations, which will enable fuller identification of the groups involved, consultations based on the nature and context of the project, including their documentation, and the incorporation of citizen proposals and concerns into the design and execution of the works, among other things.
- 5.2 Protocols and specific guidelines were also distributed for the design and implementation of effective mechanisms for responding to complaints, which will allow the concerns and requests of affected parties to be documented, resolved, and settled efficiently.
- 5.3 The Bank is in the process of preparing a set of guidelines for assessment of the social impact of projects, which will improve current practices and, in the framework of the environmental and social impact assessments of Bank-financed projects, more efficiently identify a larger number of specific impacts.
- 5.4 Based on this progress, a new consultation and assessment procedure has been included in the new operation, BO-L1114, which is the third phase of the La Paz drainage program, with the goal of minimizing the adverse impacts of works of this kind.