

Response of IDB Invest Management to Request MICI-CII-CO-2018-0133 in Reference to the Ituango Hydropower Plant Project in Colombia

1 Introduction

- 1.1 IDB Invest Management (hereinafter “Management”) would like to present the following reflections on the request (hereinafter “the Request”) submitted by Movimiento Ríos Vivos Antioquia (hereinafter “the Requesters” or “MRVA”), in reference to the Ituango Hydropower Plant Project (hereinafter “IHP” or “the Project”) being developed by Empresas Públicas de Medellín (hereinafter “EPM” or “the Company”).
- 1.2 Management is of the opinion that the Request is broad and very general as it includes several different topics, each with multiple points of analysis. In this regard, as the process progresses, Management would appreciate it if the Independent Consultation and Investigation Mechanism (hereinafter “MICI”) could refine the scope of a possible consultation and subsequent investigation in order to ensure the relevance of the process and its potential outcomes. Management considers that the wide range of concerns raised in the Request can be summarized in the following points: i) the environmental and social due diligence (ESDD) process carried out by IDB Invest; ii) the involvement of civil society and the consultation and information disclosure processes; iii) the involuntary resettlement process; iv) the impact on vulnerable groups; v) the management of the emergency situation; and vi) human rights and the escalation of violence. With regard to all of these points, Management believes that it has complied with the Environmental and Social Sustainability Policy and the Disclosure of Information Policy of IDB Invest.

2 Environmental and Social Due Diligence (ESDD)

- 2.1 When EPM contacted IDB Invest in early 2016 to examine the possibility of obtaining corporate financing for the company to partially finance the Project, IDB Invest recognized both the complexity of the IHP and the possibility—almost *de facto*—that some groups opposed to the construction of this type of project in general would emerge. Accordingly, IDB Invest undertook a particularly rigorous ESDD.
- 2.2 Between July and October 2016, IDB Invest and Environmental Resources Management (ERM) conducted two ESDD visits, which covered the following aspects: i) a review of the Project’s environmental, social, cultural, and occupational safety and health (OSH) information;¹ ii) interviews and technical meetings with: a) EPM, b) representatives of the contractors for major building works, c) Project Supervision personnel, d) personnel from the Project’s Technical Consultant,² e) the Independent Environmental and Social Auditor,³ and f) some of the most

¹ Numerous technical studies were analyzed for environmental and social due diligence, including several studies previously prepared with IDB support.

² The Project’s Technical Consultant is in charge of monitoring the technical implementation of the works and the detailed design of any modification of any part of the Project. It is also responsible for the design of any additional structure required by the Project that was not included in the original designs, and for analyzing and giving its no objection to complex construction alternatives presented by the Project Supervisor and the Builders.

³ The Environmental Auditor was hired by EPM. This position was held by the Center for Technological Research and Development in the Electricity Sector [Centro de Investigación y Desarrollo Tecnológico del Sector Eléctrico – CIDET] until November 2017. At that time, the role

representative social actors, including some resettled families; iii) evaluation of the Project's compliance with IDB Invest's Sustainability Policy (which includes the IDB's environmental and social policies and the Performance Standards of the International Finance Corporation (IFC)) and with Colombian environmental and social legislation applicable to the Project; and iv) preparation of an Environmental and Social Action Plan⁴ (ESAP) to close any gap between what has been verified and what is prescribed by the applicable environmental and social requirements. The ESDD not only benefited from the input of ERM as an Independent Environmental and Social Consultant (IESC), but also from the input of an additional independent senior social consultant.

3 Civil Society Involvement and Consultation and Disclosure Processes

- 3.1 The public consultation process for the IHP began in 2006 and included the communities in its area of direct and indirect influence.⁵ The consultation events⁶ themselves, which consisted of hundreds of workshops, talks, and meetings involving several thousand people,⁷ addressed the following topics, among others: i) a description of the Project, explaining to the community in simple language the work that was to be done; ii) a description of the likely impacts that the Project would generate, with emphasis on those with the potential to become problematic or distressing to the population; iii) a description of proposed management measures to eliminate, mitigate, or compensate for possible adverse effects, or stimulate possible positive effects; iv) a description of the Social Management Plan,⁸ analyzing each modality to be used to compensate for the physical and economic displacement of the population; v) description of the grievance mechanism through which interested parties can present their complaints, requests for information, claims, and suggestions to the IHP; vi) analysis of employment prospects, including the demand for services that the Project could generate in each community; and vii) feedback from the community as to their concerns about the Project, as well as their suggestions for preventing undesirable impacts and inputs that informed the IHP planning and implementation process.
- 3.2 The Project also has a **Communication and Participation Program** focused on communities located in its areas of direct and indirect influence. The principal objective of this program is to keep these communities informed about the Project's progress and manage their expectations. In addition, it has specific communication mechanisms for individuals who will be physically or economically displaced, as well as an "Employment Oversight Committee," which provides information on available positions and details regarding the number of workers from the area of influence that EPM employs.
- 3.3 The Project has taken account of changes in the determination of the affected communities (such as, for instance, the recent recognition of the Nutabe de Orobajo Indigenous Council as an indigenous community), initiating prior consultation processes when required by law. In addition, the Project has undertaken an ongoing consultation process in order to fully comply with IDB

of Environmental Auditor was replaced by that of the Independent Environmental and Social Consultant (IESC), which is currently held by the firm HDR. The respective contract, signed by HDR and IDB Invest, was awarded after a competitive selection process in which 6 international firms participated.

⁴ See http://www.iic.org/sites/default/files/pdf/esrs_ituango_eng_0.pdf

⁵ Municipalities of Liborina, Santa Fe de Antioquia, Olaya, Yarumal, Valdivia, Briceño, Ituango, Peque, Sabanalarga, Buriticá, Toledo, and San Andrés de Cuerquia.

⁶ Called "outreach" events to distinguish them from the prior consultation process known in Colombia as "consultation."

⁷ The minutes and records of all these events are kept on file by EPM.

⁸ Strictly speaking, this is the Involuntary Resettlement Plan (IRP).

Invest's environmental and social standards and with national legislation, the development of which is being monitored to ensure that these policies and standards are observed.

4 Involuntary Resettlement Process

- 4.1 In accordance with IDB Invest's Sustainability Policy, the Project was designed to minimize land acquisition and involuntary resettlement of persons. To this end, the Project is implementing a Social Management Plan (SMP) with the following objectives: i) to compensate families who are being physically and economically displaced by the execution of the Project; ii) to ensure that their economic conditions after being resettled are at least equal to (or better than) what they had prior to displacement; and iii) to assist the displaced in reconstituting their social networks. The SMP has been structured in five components or programs: i) the **Communication and Participation Program**, which seeks to establish formal and informal communication channels with the affected communities while also creating spaces for their active participation; ii) the **Integral Restitution of Living Conditions Program**, which seeks to reestablish the social and economic conditions of the families to be displaced, both physically and economically; iii) the **Project-Region Integration Program**, which aims to generate virtuous circles to improve the development of neighboring communities by addressing issues such as employment, the handling of migration pressure, and participation in the development of the region; iv) the **Follow-up and Reading the Surroundings Program**, whose main objective is to detect any situation that may trigger or worsen social conflicts in the region; and v) the **Environmental Education Program**, which seeks better community understanding of the region's environmental processes.
- 4.2 As established in the Sustainability Policy, the **Integral Restitution of Living Conditions Program** (*Programa de Restitución Integral de Condiciones de Vida*, PRICV) was structured on the basis of a census of potentially affected families, which identified both those who would be physically displaced and those who would be economically displaced. The process of drawing up the final list of displaced persons took almost a year after the census cut-off date to allow for adjustments. Under current legislation, this final list may still include families or individuals who, having been displaced by the armed conflict in Colombia, were not accounted for in the census. It may also be adjusted to include any individual who, after presenting the appropriate supporting evidence, is eligible to be part of the PRICV.
- 4.3 The resettlement process carried out by the IHP was accompanied by a consultation process that included: i) having 71 affected families⁹ from the Project area visit the sites where families displaced by the PORCE II and PORCE III projects were relocated,¹⁰ ii) holding workshops and gatherings among the families of Ituango and Porce to share experiences and lessons learned about the resettlement process; and iii) conducting public outreach about the compensation alternatives that EPM was offering to involuntarily displaced families, which included: a) the integral restitution of living conditions, which in turn provided options for nucleated resettlement (families that chose to be grouped in the same place) and suggested lands (through which the families chose the land on which they would be relocated); and b) the direct purchase of land.
- 4.4 Echoing the provisions of the Sustainability Policy, an External Environmental and Social Auditor or, failing this, the IESC will conduct a final assessment of the PRICV 120 days before the end of the five-year period for the monitoring (or support) of the displaced persons. This will be done to

⁹ 35 from Orobal and 36 from Barbaçoas.

¹⁰ In these two IDB Group-funded hydropower projects, EPM carried out two involuntary resettlement programs under the terms of Policy OP-710 on Involuntary Resettlement.

provide evidence of what has been achieved versus what was planned, and to verify full compliance with the policy.

5 Impacts on Vulnerable Groups

5.1 The ESDD process verified that, as part of the Social Management Plan, the collection of socio-economic information on the affected families will also identify those families considered to be vulnerable: families with single mothers or fathers; families with a single woman as head of household; families with more than 4 children; families with older adults or infants, and families with disabled members, among the most salient criteria. The process undertaken to serve these groups included the following criteria: i) priority in the selection of properties or houses offered; ii) issuance of title deeds in women's names; iii) priority in the selection of properties closer to schools or health centers; and iv) removal of architectural barriers in new dwellings to facilitate the mobility of disabled persons. The ESDD also assessed the potential impacts of the presence of approximately 8,000 IHP workers in the region during the peak season. However, these impacts were considered low for the following reasons: a) all workers were going to be housed in IHP camps, so interaction with the community was considered low; and b) With the exception of the local workforce, which was expected to remain in the area, given the relative proximity to Medellín, most workers would leave the Project area during their free shifts. This has been verified by the IESC throughout the execution of the Project.

6 The Emergency Situation

6.1 Since April 28, 2018, the IHP has faced several *force majeure* events (heavy rains and landslides) that led to a state of emergency in the area where the major works are being carried out (dam and powerhouse). In view of this, in addition to all the technical actions to manage the contingency, EPM took the following measures:¹¹ i) the activation of the traffic management plan to keep the flow of passengers and cargo to the municipality of Ituango from being cut off;¹² and ii) Activation of the Contingency Plan to prevent impacts on human lives in communities located downstream of the dam. Thanks to the above, there has been no loss of human life to date. Since the occurrence of the contingency, the management of the situation has been transferred to the Unified Command Post (PMU), which brings together delegates from various state authorities and EPM. The PMU has been responsible for managing the situation in general, for declaring the alert levels in the area downstream of the reservoir, and for ordering the preventive evacuation of the population on the basis of the alert levels. An IDB Group and IESC mission last June verified that the general conditions of the evacuees were decent and that the ongoing efforts being made by local and regional authorities together with EPM to manage the contingency are proving to be appropriate. Since the declaration of the "high alert" status on the Project, IDB Invest has been in daily contact with EPM and has monitored the work that the Company, the regional and national authorities, the Red Cross, Civil Defense, and other government institutions are doing in connection with the emergency.

6.2 In terms of compliance with the Sustainability Policy, EPM has implemented the measures contained in the contingency plans agreed upon with IDB Invest during the ESDD process. This includes, among other aspects: communication with the affected communities; coordination with local, regional, and national emergency agencies; fish and wildlife rescue; the implementation of a traffic management plan to avoid interrupting the flow of people and cargo through the municipality

¹¹ Previously agreed with IDB Invest as part of the ESDD process.

¹² The Pescadero Bridge that connected the right bank with the left bank of the Cauca River had been covered by the waters, so the use of access roads to the dam was authorized to avoid interrupting the vehicular traffic flow.

of Ituango; the provision of food, water, and supplies to the victims affected and displaced by the contingency; the installation of alarms in the community of Puerto Valdivia; payments to the victims and affected persons to compensate for lost earnings;¹³ and, in coordination with the PMU, the preventive evacuation of people and animals, which has meant that, to date, no human life has been lost as a result of the contingency.

7 Human rights and the escalation of violence

- 7.1 As a development bank, the IDB Group is deeply committed to respect for human rights and the rule of law. In this regard, it very much regrets the killings of the persons referred to in the Request. IDB Invest has been able to verify that as soon as the two deaths occurred, EPM asked the Attorney General's Office to¹⁴ “activate all the State Entities to carry out a serious, effective, and impartial investigation that establishes the facts, identifies the perpetrators, and protects the population.” It is important to note that, despite the peace agreement signed with the guerrillas, the presence of illegal crops and unlawful armed groups has been reported in the IHP’s area of influence,¹⁵ leading to its characterization as a violent area. Unfortunately, the escalation of violence in the region has not discriminated among interest groups, and its victims include opponents of the Project, supporters of the Project, police, members of the military, state officials and, sadly, children.
- 7.2 With regard to the recovery of bodies believed to have been buried in clandestine graves in the flooded area of the reservoir during the armed conflict that has affected the region for many years, the Attorney General’s Office, through Official Letter No. 0195 - F91S DJTM /GRUBE of April 23, 2018, explains that “Empresas Públicas de Medellín EPM and the Group for the Search, Identification, and Surrender of Disappeared Persons of the Transitional Justice Department of the Attorney General’s Office (hereinafter “the Identification Group”), agreed on a “work project consisting of gathering information on persons reported missing and searching for clandestine burial sites in the twelve municipalities within the Ituango Hydroelectric Project’s area of influence.” The letter states that, beginning in 2014, the Identification Group “undertook, among other things, the task of exhuming human remains that were illegally buried in the rural areas of the 12 municipalities of the department of Antioquia affected by the Ituango Hydroelectric Project (Peque, Buriticá, Santa Fe de Antioquia, Liborina, Olaya, Sabanalarga, Yarumal, Briceño, Toledo, San Andrés de Cuerquia, Ituango, and Valdivia), especially in the sectors that would be flooded by the dam.” The Attorney General’s Office has attested to the activities carried out for the exhumation of bodies in the cemeteries of Orobajo (recovery of 178 bodies), Barbacoas (148 bodies), and La Fortuna (18 bodies), which was done with the collaboration of EPM and the University of Antioquia, as well as the exhumation of 159 additional bodies scattered throughout the twelve municipalities within the IHP’s area of influence. The human remains that have been found are being analyzed and classified by the University of Antioquia as an initial step before being sent to their families and then transferred to formal cemeteries.¹⁶

¹³ EPM has created one fund to deal with the contingency and another one to respond to the impacts on third parties.

¹⁴ Official Letters 20180130054592 and 201801300557462.

¹⁵ Dissident wings of the FARC and ELN, and criminal gangs.

¹⁶ On January 19, 2018, the Attorney General’s Office met with Movimiento Ríos Vivos Antioquia to discuss the exhumations carried out in the IHP’s area of influence. At this meeting, the Attorney General’s Office explained the entire procedure conducted by the Identification Group and pointed out that there was always the possibility of further exploration and that no additional information had been received on this subject to date.

8 Conclusions

- 8.1 Management wishes to acknowledge the Project's enormous importance for Colombia. In keeping with the mandate of the Board of Governors to be "*bold in infrastructure*," Management believes that supporting complex projects contributes significantly to the development of the region and to ensuring that these undertakings are carried out in accordance with the highest international standards. It should be recalled that the project's objective is to boost energy generation from renewable sources in Colombia, increasing the country's installed hydroelectric power capacity by 2,400 MW, thereby preventing the annual production of more than 4.3 million tons of carbon dioxide equivalent of greenhouse gases. Among its positive impacts, the Project will generate benefits for local communities, as 6% of its gross energy sales will have to be redistributed among the Regional Autonomous Corporations with jurisdiction over the river basin, and among the municipalities in its area of influence. It is also important to note that, as part of the project and on a voluntary basis, EPM has already invested an amount equivalent to US\$100 million in local business development, education, health, and community infrastructure programs, among other things.
- 8.2 In this context, Management considers that by financing the Project, it has complied with the IDB Invest Environmental and Social Sustainability Policy and Disclosure of Information Policy. Having said this, Management reiterates its willingness to constructively support an objective consultation process and possible review of the IHP's compliance with these policies, thus contributing to the continuous improvement of its work as a development bank.