

**COMPLAINT BEFORE THE
INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM
(MICI) OF THE INTER-AMERICAN DEVELOPMENT BANK (IDB)**

Ituango Hydropower Plant (IHP), Antioquia, Colombia

To:

Victoria Márquez Mees
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Inter-American Development Bank
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Re:

Project 11794-04: EPM - IIC Ituango Hydropower Plant in Colombia
<http://www.iic.org/en/projects/colombia/11794-04/epm-ituango-hydropower-plant>

Filed by:

Individuals, communities, and civil society organizations located in the municipalities of Ituango, Toledo, San Andrés de Cuerquia, Briceño, Valdivia, Sabanalarga, Peque, Caucasia, and Medellín, Antioquia, under the umbrella group Movimiento Ríos Vivos Antioquia. The following international organizations are providing support in this case: the Interamerican Association for Environmental Defense (AIDA), the Center for International Environmental Law (CIEL), and the International Accountability Project (IAP).

Points of contact:

- Isabel Cristina Zuleta López
- Pedro Vicente

With support from:

Center for International Environmental Law (CIEL)¹
Interamerican Association for Environmental Defense (AIDA)²
International Accountability Project (IAP)³

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Antioquia, Colombia, June 5, 2018

Victoria Márquez Mees
Director, Independent Consultation and Investigation Mechanism
Inter-American Development Bank
1300 New York Avenue, N.W.
Washington, D.C. 20577

Dear Ms. Márquez,

We are writing to you as Colombian citizens and members of Movimiento Ríos Vivos Antioquía (MRV) on behalf of the communities that reside in the municipalities of Briceño, Ituango, Toledo, San Andrés de Cuerquia, Valdivia, Sabanalarga, Peque and Caucasia, Antioquia. We have been affected by the Ituango Hydroelectric Plant (IHP), Project Number 11794-04 financed by the Inter-American Investment Corporation (hereinafter IIC) (now IDB Invest) of the Inter-American Development Bank (IDB), which is being implemented by Empresas Públicas de Medellín S.A. E.S.P. (EPM) in Colombia. At the end of this letter is a list of the 472 signatories to this complaint.

Based on the following considerations, we are filing this complaint with MICI in reference to the above-cited project.

Background

This complaint refers to the investment of the Inter-American Development Bank Group (IDB Group) through the Inter-American Investment Corporation (now IDB Invest) in Project Number 11794-04.

The Board of Directors of the Inter-American Investment Corporation (IIC) decided in November 2016 to provide up to US\$ 550 million in financing to Empresas Públicas de Medellín S.A. E.S.P. (EPM),⁴ the company that is building the Ituango Hydroelectric Plant (IHP) in Colombia.

In October 2012, the IDB also approved financing for technical cooperation on the same project, specifically number CO-T1250: Support for Structuring the Ituango Hydroelectric Project.⁵

In January 2018, the IDB Group announced a new investment to provide EPM with financing for the construction of the Ituango Hydroelectric Power Plant through the management of a loan package involving several banks in the amount of US\$1 billion.⁶

⁴ Inter-American Investment Corporation (IIC). 11794-04 EPM: Ituango Hydropower Plant. Available at: <http://www.iic.org/en/projects/colombia/11794-04/epm-ituango-hydropower-plant>

⁵ Inter-American Development Bank CO-T1250: Support for Structuring the Ituango Hydroelectric Project. Available at: <https://www.iadb.org/en/project/CO-T1250>

This complaint therefore concerns the impacts and harm caused by a project that has received several IDB grants in recent years. This demonstrates the years-long presence of the IDB Group in the Ituango Hydroelectric Project in connection with its client EPM.

The main works of the hydroelectric plant, which was already under construction when the Corporation's board approved the loan, are located on the Cauca River, between the mouths of the San Andrés and Ituango rivers, 8 km below the Pescadero Bridge in the department of Antioquia, and approximately 170 km from the capital of this department, Medellín.

The main works are located in the municipalities of Briceño, Ituango, and Toledo. The project's reservoir also encompasses land from the municipalities of Peque, Sabanalarga, Buriticá, Liborina, Olaya, and Santa Fe de Antioquia. The project entails the complete relocation of the towns of Orobajo (municipality of Sabanalarga) and Barbacoas (municipality of Peque), as well as a large number of families scattered throughout the Cauca Canyon. In addition, related construction work is being done on land in the municipalities of San Andrés de Cuerquia, Yarumal, and Valdivia for infrastructure projects such as the straightening of the San Andrés de Cuerquia-El Valle road, the Yarumal-Work Site transmission line construction, and the opening of the Puerto Valdivia-Dam Site road, respectively.

The IHP is slated to become the largest hydroelectric power plant in Colombia, with a finished dam measuring 225 meters in height, and a 79 km long reservoir that will flood more than 4,500 hectares. It will have an installed capacity of 2,400 MW, which will allow it to generate approximately 17,460 gigawatts per hour (GWh) every year. In the first phase of the project, four of its eight turbines are scheduled to be fully operational by 2019. During the second and final phase, the four remaining turbines will come into operation in approximately 2022.

Based on the project's potential risks, the IIC rated the IHP as category "A". Projects in this category are likely to cause significant negative environmental and associated social impacts or have profound implications affecting natural resources.

According to the Corporation:

"IIC's participation in the financing will play an important catalytic role in mobilizing new sources of long-term commercial financing for EPM. The IIC will lead a financing package to EPM, which will also mobilize additional financing from international financial institutions and investors under the IIC-B Loan as well as IIC managed funds. The transaction will be structured as an unsecured corporate loan to EPM. IIC/IDB

⁶ "IDB Invest signs largest renewable energy project in Colombia"

Available at: https://www.iadb.org/en/news/Largest_renewable_energy_project_in_Colombia

facility will support EPM's strategy through a 12-year unsecured loan (including a 4 year grace period) to EPM [...]."⁷

B. Noncompliance with IIC and IDB Operational Policies

We are of the opinion that the investment in the IHP reflects a failure to comply with the following IDB and IIC Operational Policies, and defer to MICI's assessment of them based on the facts and data of the project in question:

OP-703: Environment and Safeguards Compliance Policy

OP-710: Operational Policy on Involuntary Resettlement

OP-102: Access to Information Policy

OP- 761: Operational Policy on Gender Equality in Development

Environmental and Social Sustainability Policy (IIC)

Disclosure of Information Policy (IIC)

We also believe that the following IFC performance standards have not been met:

Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts

Performance Standard 2: Labor and Working Conditions

Performance Standard 3: Resource Efficiency and Pollution Prevention

Performance Standard 4: Community Health, Safety, and Security

Performance Standard 5: Land Acquisition and Involuntary Resettlement

C. Description of substantial and direct harm caused by non-compliance with Relevant Operational Policies

As this section will more fully explain, there have been instances of non-compliance with IDB operational policies that have caused harm to the environment and the community affected by the IHP. The most significant breaches are as follows:

- The affected community is a vulnerable population with high rates of poverty and is largely a victim of the armed conflict. It is made up of people who are

⁷ Inter-American Investment Corporation IIC. Ituango Hydropower Plant. Available at: <http://www.iic.org/en/projects/project-disclosure/11794-04/planta-hidroel%C3%A9ctrica-ituango>, last visited on May 28, 2018.

generally fishermen, gold panners, and farmers. In addition, there were many people who disappeared during the war and whose bodies were dumped into the Cauca River in the area where the project will be carried out, and there is a danger that they will not be found when the reservoir area is flooded.

- No adequate and complete environmental impact assessment was carried out, nor was there a cumulative impact assessment. This circumstance is reflected in the project's current state of crisis, which has led the Colombian government to declare a disaster alert (red, orange, and yellow).
- The environmental authority waived EPM's obligation to present an environmental diagnostic of alternatives without even stating the reasons for the exemption.⁸
- No adequate social impact assessment was carried out: not all of the affected people were identified, and there was no appropriate characterization of the population that would be affected.
- No effective procedures for citizen participation and access to information have been implemented that have involved the presence of all affected populations.
- National environmental regulations and obligations established in the environmental license have not been complied with, resulting in the initiation of eight environmental sanctions proceedings.⁹
- Communities and social leaders who have protested against the IHP have been criminalized and their rights have been affected. In some cases, they have received death threats and been murdered.
- Forced evictions of people living in the project's areas of influence have been documented, and disproportionate force has been used.
- No adequate compensation has been provided for the evictions, and no appropriate humanitarian assistance has been made available in view of the ongoing crisis the project is facing. Nor has a contingency plan been put in place to provide a modicum of assistance to the communities affected by the emergency.
- There is no plan in place for involuntary resettlement prior to the start of construction of the project.
- The IHP investment approval process did not include a gender perspective.
- Access to information about the project and its imminent risks has been difficult and in some cases non-existent.

IMPORTANT NOTE: Some web links to official and EPM information have been modified. Please request any documents from the complainants if necessary.

⁸ Ministry of the Environment. Order 432 waiving the requirement to present an environmental diagnostic of alternatives and making other determinations. June 6, 2001. ANNEX A

⁹ National Environmental Licensing Authority (ANLA). Filing No. 2017095038-2-000 of November 7, 2017. Response to the right to petition of the Office of the Inspector General of Colombia. Available at: File No. 2233 of the Ituango Hydroelectric Project. ANNEX B

1. Environmental harm

The Ituango Hydropower Plant has profound impacts on the environment and, consequently, on the area's communities. In addition, there have been oversights in the assessment of environmental impacts and in complying with the environmental license. Environmental sanctions proceedings have been initiated as a result of actions taken without authorization from the environmental authority and because the company has caused unauthorized impacts on the environment. Moreover, not of all the obligations established in the environmental license have been met.¹⁰ The multi-level alert declared by the Colombian government due to the crisis of the project is also an indication of the environmental harm caused by Hidroituango.

Those oversights¹¹ have resulted in the loss of work for fishermen and gold panners. This has serious social consequences for the local residents, as well as serious impacts on natural resources and the environment in Colombia. These situations constitute a breach of the IDB's Environment and Safeguards Compliance Policy, as well as the IIC's Environmental and Social Sustainability Policy and the IFC's performance standards on environmental and social sustainability.

Broadly speaking, one of the objectives of the IDB's Environment and Safeguards Compliance Policy is *"to ensure that all Bank operations and activities are environmentally sustainable as defined in this Policy."* As will be explained, the implementation of the IHP is not sustainable.

Below we highlight seven areas in which there were oversights in the assessment and approval of the IHP and which are related to compliance with this Policy: a) Integrated assessment to identify the environmental impacts, risks, and opportunities of the projects; b) Integrated assessment to identify social impacts, risks, and opportunities; c) Effective citizen participation; d) Resource use efficiency and pollution prevention; e) Community health and safety; f) Conservation of biodiversity and sustainable management of natural resources; and g) effects on cultural heritage. Next, we will explain how these oversights violate the directives of the IDB's Operational Policy on the environment.

a) Integrated Assessment to Identify Environmental Impacts, Risks, and Opportunities

Before implementing the project, and in accordance with the provisions of the Environmental Assessment Policy, an appropriate assessment of impacts—including cumulative impacts—and environmental risks should be performed, and measures to prevent or manage them

¹⁰ National Environmental Licensing Authority (ANLA). Filing No. 2017095038-2-000 of November 7, 2017. Response to the right to petition of the Office of the Inspector General of Colombia. Available at: File No. 2233 of the Ituango Hydroelectric Project. See Annex B.

¹¹ Ibid.

should be identified. However, these impacts were not properly identified for the project and therefore, the dam is in a severe crisis—to such an extent that the company's senior management has not denied the possibility of collapse,¹² which would lead to a tragedy of enormous proportions. At this time, some of the risks are related to a potential mountain landslide¹³ and to fluctuations in the river flow caused by the dam.

Thus, by failing to ensure an adequate environmental assessment before investing in the project, the investment disregarded one of the IDB's policies.

The IHP's areas of direct influence is at risk for flooding, deteriorating water quality, and diminished storage capacity, as well as for soil quality degradation due to loss of fertility. As evidenced by the current crisis in the IHP, which began in late April 2018 and has persisted until now, large-scale movements (landslides) are continuous in the Canyon. This poses another major risk to the surrounding communities and the environment, and could potentially entail the displacement of species, the destruction of the forest, and the loss of plants and food sources, among many other things.

Air quality is also being affected by the construction activities and vehicle traffic involved in the implementation of the IHP, leading to increased particulate matter, gas emissions, and noise pollution. These impacts have already been documented in File 2233 of the National Environmental Licensing Authority ANLA (formerly the Environmental Licensing, Permitting, and Procedures Bureau of the Ministry of Environment and Sustainable Development of Colombia), which oversees the implementation of the license for the IHP. Various impacts of the IHP evidence violations of the environmental license, for which reason eight environmental sanctions proceedings¹⁴ have been initiated and are at the administrative investigation stage.

Sediment deposits have formed downstream of the Hidroituango dam project's wall and settled in the Cauca River bed and marshes, causing species loss.¹⁵ According to Movimiento Ríos Vivos, this has affected fishing communities' right to food and led to the loss of hundreds of jobs that depended on the river.

¹² Diario El Colombiano. *No hay control total de la situación en Hidroituango: gerente de EPM* [EPM Manager: Situation in Hidroituango Not Completely under Control] <http://www.elcolombiano.com/antioquia/crisis-en-el-proyecto-hidroituango-de-epm-EC8712170>. Emisora La FM. *Nueva alerta en Hidroituango por desprendimiento de tierra en la montaña* [New Mountain Landslide Alert at Hidroituango] <https://www.lafm.com.co/colombia/nueva-alerta-en-hidroituango-por-desprendimiento-de-tierra-en-la-montana>

¹³ Diario El Tiempo. *Alerta máxima por constantes movimientos en montaña de Hidroituango*. [Highest Alert Due to Constant Movements on Mountain at Hidroituango] <http://www.eltiempo.com/colombia/medellin/alerta-maxima-por-movimientos-en-montana-de-hidroituango-224024>

¹⁴ See Annex B.

¹⁵ National Environmental Licensing Authority (ANLA). Resolution No. 0027, of January 15, 2016: Imposing a preventive measure to suspend activities. ANNEX C.

Finally, the serious crisis that the Hidroituango project is facing, which has involved unnatural and dangerous increases in the water flow,¹⁶ movements in the mountains surrounding the dam,¹⁷ and the blockage of tunnels by debris from the river,¹⁸ is evidence of an inappropriate environmental impact assessment.

b) Integrated Assessment to Identify Social Impacts, Risks, and Opportunities

According to Bank policies, social impacts should have been assessed appropriately, especially since this is a category A project. However, the IHP's EIA and environmental license show that no social impact assessment information has been available since the beginning of the project. As will be explained throughout this document and as evidenced in the environmental license,¹⁹ not all of the affected people were identified, nor was there an adequate characterization of the population that would be affected by the IHP. Moreover, the areas of direct impact were not fully identified, nor was a baseline study performed to assess the impacts.

As recognized in the environmental license and throughout IHP File 2233, this project directly affects communities and families in the population centers scattered throughout the Cauca River Canyon that depend on the dynamics of the canyon for their livelihoods. These include, for instance, the basis of their economic subsistence, the use of their territory and resources, the factors that determine their sense of identity and roots, and the complex structure of their social relationships and interactions between families and communities.

In addition, as MRV has reported, the migratory flows caused by the IHP have altered the socioeconomic and cultural environment, giving rise to trauma and social conflicts. This is exacerbating the social crisis in this area, which has historically been plagued by violence and armed conflict.

According to the environmental license for the IHP, “the impacts generated by the influx of population because of tourism, the invasion of land in protected areas, fishing in the reservoir, and the occurrence of diseases related to the presence of the reservoir were not assessed.”²⁰

¹⁶ Diario El Colombiano. *El río Cauca inundó a Puerto Valdivia* [Cauca River Floods Puerto Valdivia]. <http://www.elcolombiano.com/antioquia/el-rio-cauca-inundo-a-puerto-valdivia-GN8690668>

¹⁷ Diario El Colombiano. *Suspenden obras en Hidroituango por movimientos en la montaña* [Construction Work on Hidroituango Suspended Due to Movements on the Mountain]. <http://www.elcolombiano.com/antioquia/hidroituango-riesgo-en-el-vertedero-por-sismo-en-la-montana-CJ8784657>

¹⁸ Diario El Colombiano. *EPM asegura que superó represamiento en Hidroituango* [EPM Says It Has Cleared Blockage at Hidroituango]. <http://www.elcolombiano.com/antioquia/epm-asegura-que-supero-represamiento-en-hidroituango-DK8628360>

¹⁹ The Environmental License (Resolution No. 0155 of January 30, 2009 “granting an environmental license for the ‘Pescadero – Ituango’ hydroelectric power plant project and making other determinations”) recognized this fact when it ordered “the prior identification of the affected productive activities and all those communities and persons whose agricultural, mining, commercial, or fishing activities are affected, and their inclusion in said subproject.” ANNEX D.

²⁰ Hidroituango Environmental License p. 15. See Annex D.

Similarly, according to the MRV, the communities in the area have been fragmented, and a strong sense of physical, social, and cultural uprootedness has been created by the loss of the spaces they use and occupy on a daily basis. The MRV has also reported a breakdown in family and neighborhood relations, which are of particular importance in the building of cohesion and solidarity mechanisms among the different sectors of the local population. There are also sectors that have not been adequately represented, such as the indigenous community of Orobajo del Pueblo Nutabe,²¹ in the department of Antioquia.

In addition, as stated in the report prepared by the Office of the Ombudsman of Colombia,²² since construction work on the IHP began, several river banks and roads that led to the Cauca River from the villages of La América, Cucurucho, and Gurimán have been closed by security forces because they have been included as private property of the project. This is tantamount to a violation of the right to work, since according to the MRV no alternatives have been offered to those affected, resulting in a sharp decrease in the monthly income received by families engaged in mining and panning for metals as their main economic activity. Their diet has been affected by their inability to access the river to fish.²³ Similarly, the installation of roadblocks and fences violates the residents' right to freedom of movement.

The environmental license shows that the IHP was authorized without a full social impact assessment. According to the report, it was still necessary to “perform a baseline study of the riparian populations located downstream of the dam, determine the potential impacts of the construction and operation of the project, and establish management measures for the possible effects on those populations; on their properties; on their productive, agricultural, or mining activities, or on their properties... [sic].”²⁴ Although this had not yet been done, the IHP was still approved.

c) Effective Citizen Participation

As we will explain in greater detail in the section on participation, no effective citizen participation procedures have been implemented that have involved the presence of all the populations affected by the IHP; this is acknowledged in the environmental license and in Resolution 027 of January 15, 2016. These instruments show that the communities do not have any real knowledge of the direct consequences of the project on their territory and the change in living conditions during the project's implementation.²⁵ The information provided by EPM is unreliable, and communities have not been properly informed of the status of the

²¹ Resolution 0071 of the Ministry of the Interior, May 19, 2017. ANNEX E.

²² Office of the Ombudsman of Colombia. Risk Report No. 003-17 of February 13, 2017.

²³ National Environmental Licensing Authority. Resolution 027 of January 15, 2016 “Imposing a preventive measure to suspend activities.” See Annex C.

²⁴ Hidroituango Environmental License, p. 25. See Annex D.

²⁵ Hidroituango Environmental License, p. 23. See Annex D.

project, as the Antioquia Governor's Office has itself acknowledged.²⁶ A substantial part of the area's population is illiterate, which means that greater efforts are needed to guarantee participation and the right to information, and the mechanisms used to do so must be adapted to this reality.

d) Resource Efficiency and Pollution Prevention

The MRV has complained on multiple occasions that the IHP jeopardizes the quality and availability of drinking water, which undermines the affected communities' fundamental right to water²⁷ for human consumption. This is because an enormous amount of water is being used for construction activities and on a large scale by the project workers. In addition, IHP construction activities involving, for instance, vegetation clearing and earth moving are likely to pollute the drinking water available to communities. The waters have also been contaminated by stormwater runoff that has carried residues of gunpowder, concrete, and other chemicals used in the construction of the Cauca River diversion tunnels into the river basin. The many material storage sites and landfills authorized by the project have put hundreds of water sources at risk. This damage is already occurring, and has even led to a temporary suspension of part of the work.²⁸

ANLA reports several sanctions proceedings for the obstruction of watercourses, water abstraction in excess of authorized volumes, air pollution, negative impacts on water quality, and forest exploitation with adverse effects on biodiversity.²⁹

All these impacts are in addition to those already generated in the Cauca River by other activities and projects, which means that even greater damage is being done to this essential resource.

e) Community Health and Safety

The IHP jeopardizes the right to health of the communities involved due to the deterioration of soil, air, and water quality. However, as explained above, because the affected populations were not adequately identified before the IHP began, they are at increased risk of seeing their health and safety endangered.

In fact, as the MRV has denounced, poor water quality, noise pollution, and high levels of particulate matter in the air as a result of the project's construction can cause illness and

²⁶ Diario El Espectador: *EPM no ha dado la información completa: (gobernador) Luis Pérez sobre crisis en Hidroituango* [EPM Has Not Provided Full Information: (Governor) Luis Pérez on the Crisis at Hidroituango]. <https://www.elespectador.com/noticias/nacional/antioquia/epm-no-ha-dado-la-informacion-completa-luis-perez-sobre-crisis-en-hidroituango-articulo-791753>

²⁷ Constitutional Court of Colombia. Judgment T-641 of 2015. Available at: <http://www.corteconstitucional.gov.co/relatoria/2015/t-641-15.htm>

²⁸ National Environmental Licensing Authority (ANLA). Resolution No. 0027, of January 15, 2016: Imposing a preventive measure to suspend activities. See Annex C.

²⁹ ANLA. Response to the Office of the Inspector General of Colombia regarding sanctions proceedings related to the Hidroituango Hydroelectric Project. Official Letter 00224190. November 7, 2017. See Annex B.

affect health and basic sanitation conditions.³⁰ For instance, respiratory, infectious, and parasitic diseases can arise, especially in children.

The MRV has also asserted that the influx of outsiders will lead to increased demand for public services, which may affect the readiness of the health system. Another consequence of migration is the creation of conditions of social marginalization that are associated with alcoholism, drug addiction, and behavior inconsistent with the values of the affected communities.

In addition, the communities affected by Hidroituango are in an unsafe and unprotected situation. The MRV complained before the Inter-American Commission on Human Rights (IACHR) that the leaders of the protest movement against the hydroelectric dam were being criminalized and subjected to death threats.³¹ The presence of different armed actors in the area has also intensified, endangering the lives of MRV members.³²

In May, two MRV members were killed in the space of a week. On May 2, 2018, MRV member Hugo Albeiro George Pérez, a resident of the municipality of Ituango, was shot dead in the town of Puerto Valdivia, municipality of Valdivia, northern Antioquia. His nephew, Domar Egidio Zapata George, was also killed in the attack.³³ Hugo Albeiro George Pérez had 12 children, 10 of whom were minors. According to the MRV, the murder occurred after the start of a public demonstration by the communities of Puerto Valdivia. This action was in response to a blockage in the Cauca River diversion tunnels for the Ituango dam that could potentially cause an avalanche in the area and create a serious social and environmental emergency.³⁴

Six days later, on 8 May 2018, the MRV denounced the murder of another of its members, Mr. Luis Alberto Torres Montoya.³⁵ The attack also took place in Puerto Valdivia, Antioquia, while he was working as a gold panner. The slain leader was a married father of three children.³⁶

³⁰ Ibid.

³¹ See IACHR hearings on human rights, development, and extractive industries in Colombia. October 31, 2013: <https://www.youtube.com/watch?v=jo866NReaoE>; and on forced displacement and development projects in Colombia. October 27, 2014: https://www.youtube.com/watch?v=j70U4_m9pb8 [hereinafter: 2013-2014 IACHR Hearings].

See IACHR hearing on Measures for the protection of evidence in forced disappearance cases in Colombia. May 9, 2018. <https://www.youtube.com/watch?v=VIXvxohUei4>

³² 2013, 2014, and 2018 IACHR Hearings.

³³ El Colombiano. *Denuncian muerte de integrante de Ríos Vivos en Puerto Valdivia* [Death of Ríos Vivos Member Reported in Puerto Valdivia], <http://www.elcolombiano.com/antioquia/seguridad/denuncian-muerte-de-integrante-de-rios-vivos-en-valdivia-FE8644061>

³⁴ *Asesinan a integrante de Ríos Vivos Antioquia afectado por Hidroituango* [Member of Ríos Vivos Antioquia Affected by Hidroituango Murdered], <https://defensaterritorios.wordpress.com/2018/05/02/asesinan-a-integrante-de-rios-vivos-antioquia-afectado-por-hidroituango/>

³⁵ Caracol Radio. *Asesinan a otro líder de la comunidad afectada por Hidroituango* [Another Leader of the Community Affected by Hidroituango is Murdered]. http://caracol.com.co/emisora/2018/05/09/medellin/1525830941_396960.html

³⁶ Ibid.

In its official statement, MRV reported that the two members killed were people affected by the IHP. However, to date, the company had not recognized them as such.³⁷

f) Biodiversity Conservation and Sustainable Management of Natural Resources

The construction of the hydroelectric project has had serious impacts on the area's natural resources, including water, forests and biodiversity, as described below:³⁸

First, it contaminates surface and groundwater flows,³⁹ which also affects soil quality and productivity. These waters are already being polluted by domestic and industrial wastewater, and the IHP is aggravating this situation.⁴⁰ It is important to note that the Cauca River is one of the most polluted rivers in the country, which means that the consequences of the environmental degradation caused by the IHP will be significant and cumulative. The dam site is the final part of the river's course, which means that at this point its waters have already passed through towns and cities, dumping sites, metal mining, monocultures using pesticides, and other major sources of pollution. According to the Ombudsman's Office, surface and underground water sources have already been lost, causing the degradation of the land and its productivity.⁴¹

Movimiento Ríos Vivos also alleges that the disruption of the river's natural flow by the dam construction is already causing the death and displacement of wildlife species, disturbances in fish migration, disruptions in the navigability of the river, and changes in the conditions of the river banks and the sediment flow that allow for the traditional gold mining activities that most of the area's population depends on, as well as a decline in the availability of fish resources. This is cause for concern, considering that many of the communities rely on fishing and gold panning to survive.

In addition, the construction of the hydroelectric plant endangers the tropical dry forest, a highly threatened and fragmented ecosystem in the country, with only 8% of its original coverage remaining.⁴² According to the project's Environmental Impact Study,

³⁷ Ibid.

³⁸ The impacts on natural resources have been acknowledged in IHP File 2233. For example, see Hidroituango Environmental License and National Environmental Licensing Authority Resolution 1034 of June 4, 2009 amending the Environmental License, which lists these impacts.

³⁹ Consorcio Integral. Pescadero Ituango Hydroelectric Plant. Updated Environmental Impact Study – environmental impact assessment. Available at: <http://www.hidroituango.com.co/index.php/estudios-realizados> [Hereinafter: Updated Hidroituango EIA – environmental impact assessment].

⁴⁰ Updated Hidroituango EIA – environmental impact assessment.

⁴¹ *Defensoría advierte preocupante impacto ambiental de las hidroeléctricas en Colombia* [Ombudsman's Office Warns of Troubling Environmental Impact of Hydroelectric Dams in Colombia]. Office of the Ombudsman of Colombia [website]. Available at: <http://www.defensoria.gov.co/es/nube/noticias/5613/Defensor%C3%ADa-advierte-preocupante-impacto-ambiental-de-las-hidroeléctricas-en-Colombia.htm>

⁴² *Bosques secos tropicales en Colombia* [Tropical Dry Forests in Colombia]. Alexander von Humboldt Biological Resources Research Institute. [website]. Available at: <http://www.humboldt.org.co/es/investigacion/proyectos/en-desarrollo/item/158-bosques-secos-tropicales-en-colombia> [Hereinafter: *Bosques secos tropicales de Colombia*. Humboldt Institute]

approximately 5,000 hectares of forest will be cleared, of which approximately 2,600 hectares are tropical dry forest.⁴³

The flooding and destruction of the tropical dry forest will affect different aspects of the area's environment. For example, plant populations will be altered and there will be changes in the structure and composition of plant cover.⁴⁴ In addition, a considerable amount of forest area that acts as a carbon sink will be reduced.⁴⁵ The survival of different species of plants and animals will also be affected, which is troubling given the many species endemic to the tropical dry forest.⁴⁶ According to Movimiento Ríos Vivos Antioquia, dry forest clearing has already started with a pilot program, but there is still no plan in place to protect species that are being affected by forest loss.⁴⁷ The MRV has reported that the company is currently in the process of amending its environmental license to reduce its obligations with respect to the removal of forest cover.

g) Impact on Cultural Heritage

Some of the existing archaeological sites in the IHP area are being affected or destroyed by the principal and secondary project works or by the filling of the reservoir. According to the MRV, it was determined during the archaeological survey phase that 26 out of a total of 55 archaeological sites will be significantly affected, and 5 will be partially affected by the flooding of the reservoir area.

All the environmental impacts mentioned here are indicative of non-compliance with the IDB's Environment and Safeguards Compliance Policy as well as the IIC's Social and Environmental Sustainability Policy. The following are the specific sections considered to have been violated:

⁴³ Ministry of Environment, Housing, and Territorial Development. Resolution No. 1980 of October 12, 2010, "Amending an Environmental License." See Annex F. ANLA Resolution No. 1041 of December 7, 2012 "Amending Environmental License 155 of January 30, 2009." See Annex G. See also Consorcio Integral. Pescadero Ituango Hydroelectric Plant. Updated Environmental Impact Study – Demand for Natural Resources available at: <http://www.hidroituango.com.co/index.php/estudios-realizados>.

⁴⁴ Updated Hidroituango EIA – environmental impact assessment

⁴⁵ Updated Hidroituango EIA – environmental impact assessment

⁴⁶ *Bosques secos tropicales de Colombia* [Tropical Dry Forests in Colombia]. Humboldt Institute.

⁴⁷ Isabel Zuleta of the MRV explained in an interview that a suitable site has not been developed to protect the species that are fleeing the deforested area, stating that "There is only one rudimentary tent awaiting the animals' arrival." Interview available at: <http://www.contagioradio.com/epm-inicio-tala-de-4-500-hectareas-de-bosque-seco-tropical-articulo-26967/> [visited on June 2, 2018].

i. B.1. Bank Policies

According to this directive: *“The Bank will only finance operations and activities that comply with the directives of this policy, and are consistent with the relevant provisions of other Bank policies.”*

In this case, as discussed herein, the IDB-funded IHP violates various operational policies of the Bank, and therefore the Bank should not continue to disburse funds to EPM.

ii. B.2. National Laws and Regulations

Within the framework of this directive: *“The Bank will also require the borrower for that operation to ensure that it is designed and carried out in compliance with environmental laws and regulations of the country where the operation is being implemented, including national obligations established under ratified Multilateral Environmental Agreements (MEAs).”*

The IHP has resulted in a number of violations of Colombia's regulatory framework, mainly associated with population displacement and land evictions, as well as with the application of the precautionary principle and the assessment of environmental and social impacts. The environmental authority has raised questions about these issues, and eight environmental sanctions proceedings have been brought against the Company.⁴⁸

Cases have been brought against the company for carrying out operations without permission from the environmental authority, such as the construction of a tunnel and crushing plants; for causing unauthorized impacts on the environment, such as the obstruction of watercourses, the abstraction of water in quantities exceeding the authorized rates, and the alteration of surface water quality; for exploiting the forest in a manner that affects threatened or endangered species,⁴⁹ and for dumping excavation material in unauthorized locations. The company has also breached obligations established in the environmental license, such as the protocol for the control and monitoring of air pollution, the implementation of management measures in storage areas, and water quality monitoring, among others.⁵⁰

In addition, in terms of environmental impact assessment, Article 2.2.2.3.3.9.1 of Decree 1076 of 2015 establishes that “The cumulative impacts generated by the projects, works, or activities subject to an environmental license and located in the same area must be reviewed, and environmental restrictions will be imposed on each of the projects deemed pertinent in order to reduce the environmental impact in the area.” However, this cumulative impact assessment has not been performed in the case of the IHP, which constitutes a violation of Colombian environmental regulations, as well as the IDB's operational policy.

⁴⁸ National Environmental Licensing Authority (ANLA). Filing No. 2017095038-2-000 of November 7, 2017. Response to the right to petition of the Office of the Inspector General of Colombia. Available at: File No. 2233 of the Ituango Hydroelectric Project (Annex B).

⁴⁹ See National Environmental Licensing Authority. Resolution No. 132 of February 13, 2014 “Amending an environmental license and making other determinations.”

⁵⁰ See Response to the right to petition of the Office of the Inspector General of Colombia in Annex B.

For example, without identifying all of the project's areas of direct impact, it is impossible to assess the cumulative impacts that the IHP will have in all of its areas of influence. The cumulative impacts of the project on water quality have also not been considered.

Similarly, as discussed above, the Cauca River is highly polluted, so the IHP will have substantial cumulative impacts on an essential water source for the supply of drinking water to the community. This is not only a failure to comply with the rules that require the assessment of cumulative impacts, but also a violation of the Colombian constitutional provisions establishing that the right to water for human consumption is a fundamental right of all people that must be respected above and beyond development projects.⁵¹

The effects on the Cauca River, the tropical dry forest, and the rich variety of species that live there also violate the Convention on Biological Diversity, an international treaty ratified by Colombia that seeks to conserve biodiversity.⁵² Similarly, the serious impacts on the Cauca River constitute a breach of the Ramsar Convention on Wetlands of International Importance, another treaty ratified by Colombia that establishes the obligation of States to conserve wetlands and promote their rational use.⁵³

iii. B.3. Screening and Classification

According to this directive, *“All Bank-financed operations will be screened and classified according to their potential environmental impacts. Screening will be carried out early in the preparation process. The screening process will consider potential negative environmental impacts whether direct, indirect, regional or cumulative in nature, including environmentally related social and cultural impacts, of the operation and of its associated facilities if relevant.”*

However, a complete analysis of the social impacts was not done, nor is there an appropriate analysis of the environmental impacts from a cumulative perspective. To date, around 20 amendments have been made to the Environmental License, which demonstrates the shortcomings of the initial EIA and the first environmental license, and reflects the level of improvisation in the licensing process.

⁵¹ The fundamental right to water has been extensively developed in the case law of the Colombian Constitutional Court. For example, see Constitutional Court Judgments C-035/15 and T- 622/16. The Colombian Constitutional Court says that the State must guarantee the right to a healthy environment and the supply of drinking water for human consumption, and therefore has the obligation to ensure the availability, accessibility, and quality of this natural resource.

⁵² Convention on Biological Diversity, Article 1. Available at: <https://www.cbd.int/doc/legal/cbd-en.pdf>

⁵³ Ramsar Convention, Arts. 3.1 & 4.1. Available at: https://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf

Moreover, no adequate census of the affected population was carried out prior to the authorization of the project through the environmental license, nor were all the people affected and all the social impacts identified.⁵⁴

All of this was necessary, given the scale of the project and the interaction between the different types of effects of the project on ecosystems.

iv. B.5. Environmental Assessment Requirements

This directive states that, “*The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs)...*” Nevertheless, the IHP failed to meet all of these standards during its EIA preparation process.

Since April 29,⁵⁵ there have been serious obstructions in the tunnels opposite the main works that were built to divert the Cauca River for the construction of the IHP. According to EPM, “There was a water buildup in the upper part of the dam and fluctuations in the downstream flow of the river (decreases and increases). Over the course of several days, the tunnels have become clogged and unclogged, intensifying the above-mentioned fluctuations in the flow of the Cauca River.”⁵⁷ The situation is so serious that EPM admitted there was a chance the dam could burst.⁵⁸

On Saturday, May 12, 2018, after the right tunnel became unclogged naturally, the Cauca River suddenly swelled, causing dangerous flooding in nearby towns.⁵⁹ People in the municipalities of Ituango, Briceño, Valdivia, and their villages of Puerto Valdivia, Cáceres, Tarazá, Caucasia, and Nechí were affected by the volume and flow of the river.⁶⁰ More than 500 people were displaced⁶¹ and the authorities declared a state of public emergency in the area.⁶²

⁵⁴ The Hidroituango Environmental License (Resolution No. 0155 of January 30, 2009 “granting an environmental license for the ‘Pescadero – Ituango’ hydroelectric power plant project and making other determinations”) recognized this fact when it ordered “the prior identification of the affected productive activities and all those communities and persons whose agricultural, mining, commercial, or fishing activities are affected, and their inclusion in said subproject,” p. 25. Annex D.

⁵⁵ El Tiempo. *¿Qué es lo que pasa en Hidroituango? Éste es el abecedario de la emergencia* [What's Going on at Hidroituango? The ABCs of the Emergency]. <http://www.eltiempo.com/colombia/medellin/esto-es-lo-que-ha-pasado-en-hidroituango-por-obstruccion-de-tunel-215818>

⁵⁶ EPM. *Información sobre situación en el proyecto hidroeléctrico Ituango* [Information on the Situation at the Ituango Hydroelectric Project] <https://www.epm.com.co/site/home/sala-de-prensa/noticias-y-novedades/comunicado-proyecto-hidroelectrico-ituango/preguntas-y-repuestas-ituango>

⁵⁷ Ibid.

⁵⁸ Blu Radio. *EPM admite que existe probabilidad de la ruptura de la presa de Hidroituango* [EPM Admits the Hidroituango Dam is Likely to Break]. <https://www.bluradio.com/medellin/epm-admite-que-existe-la-probabilidad-de-la-ruptura-de-la-presa-de-hidroituango-178597-ie1994153>

EPM. Breaking News Release No. 24. *EPM informa la evolución de la situación el proyecto hidroeléctrico Ituango* [EPM Reports on the Developing Situation at the Ituango Hydroelectric Project]: <https://www.epm.com.co/site/Portals/0/Noticias%20y%20Novedades/2018/comunicado-ituango-24.pdf>

⁵⁹ El Colombiano. *EPM confirma nuevo taponamiento* [EPM Confirms New Blockage]. <http://www.elcolombiano.com/antioquia/hidroituango-nuevo-taponamiento-en-tunel-JN8690586>

⁶⁰ Blu Radio. *Habitantes cerca del río Cauca en alerta por destaponamiento de túnel en Hidroituango* [Residents near Cauca River on Alert due to Tunnel Unblocking at Hidroituango] <https://www.bluradio.com/medellin/habitantes-cerca-del-rio-cauca-en-alerta-por-destaponamiento-de-tunel-en-hidroituango-178192-ie2020922>

On Wednesday, May 16, the situation worsened. A new flood in the Cauca River caused two tunnels to become unblocked,⁶³ and the water began to flow out through the galleries leading to the engine room.⁶⁴ The roads to the municipality of Ituango were closed, so the inhabitants were cut off from the rest of the country.⁶⁵ There is a severe lack of food, medicine, and water in the area.⁶⁶ Health services are facing challenges, and it is difficult to transport sick patients. The authorities ordered the evacuation of the area and the relocation of the displaced residents of Puerto Valdivia who had taken refuge in the municipality's indoor arena.⁶⁷ More than 20,000 people have been evacuated from Puerto Valdivia, Tarazá, and Cáceres.⁶⁸ In addition, the municipalities of Ituango, Briceño, Valdivia, Cáceres, Tarazá, Caucasia, and Nechí remain on maximum alert.⁶⁹ The warnings have been intermittent, so they are no longer effective and many people have returned to their homes, exposing themselves to ongoing danger.

This is a serious infringement of the rights of the communities surrounding the IHP. People are in a high-vulnerability situation. The MRV has condemned the lack of a response from the authorities and the absence of sufficient humanitarian assistance for displaced persons. Thousands of people have been displaced both upstream and downstream, and there is much uncertainty about what may happen.

What has happened is the manifestation of a risk that should have been recognized through the preparation of an adequate, participatory, and cumulative environmental impact study. Given the absence of appropriate participation, traditional community-level knowledge of

⁶¹ EPM. Breaking News Release No. 20. *EPM informa la evolución de la situación el proyecto hidroeléctrico Ituango* [EPM Reports on the Developing Situation at the Ituango Hydroelectric Project]:

<https://www.epm.com.co/site/Portals/0/Noticias%20y%20Novedades/2018/comunicado-ituango-20.pdf>

⁶² El Tiempo. *Decretan calamidad pública por alto riesgo en Hidroituango* [Public Emergency Declared Due to High Risk at Hidroituango]. <http://www.eltiempo.com/colombia/medellin/decretan-calamidad-publica-por-alto-riesgo-en-hidroituango-217386>

⁶³ Revista Semana. *Declaran nueva alerta roja en Hidroituango* [New Red Alert Declared at Hidroituango]. <https://www.semana.com/nacion/articulo/declaran-nueva-alerta-roja-en-puerto-valdivia/567290>

⁶⁴ EPM. Breaking News Release No. 22. *EPM informa la evolución de la situación el proyecto hidroeléctrico Ituango* [EPM Reports on the Developing Situation at the Ituango Hydroelectric Project]:

<https://www.epm.com.co/site/Portals/0/Noticias%20y%20Novedades/2018/comunicado-ituango-22.pdf>

⁶⁵ Blu Radio. *Ituango permanece incommunicado tras emergencia en la hidroeléctrica* [Ituango Remains Unreachable after Emergency at Hydroelectric Plant]. <https://www.bluradio.com/medellin/ituango-permanece-incomunicado-tras-emergencia-en-la-hidroelectrica-178663-ie1994153>

⁶⁶ El Tiempo. *En Puerto Valdivia, autoridades buscan soluciones para damnificados* [In Puerto Valdivia, Authorities Seek Solutions for Victims]. <http://www.eltiempo.com/colombia/medellin/en-puerto-valdivia-autoridades-buscan-soluciones-para-damnificados-217576>

⁶⁷ Revista Semana. *Declaran nueva alerta roja en Hidroituango* [New Red Alert Declared at Hidroituango]. <https://www.semana.com/nacion/articulo/declaran-nueva-alerta-roja-en-puerto-valdivia/567290>

⁶⁸ EPM. Breaking News Release No. 30. *EPM informa la evolución de la situación el proyecto hidroeléctrico Ituango* [EPM Reports on the Developing Situation at the Ituango Hydroelectric Project]:

<https://www.epm.com.co/site/Portals/0/Noticias%20y%20Novedades/2018/comunicado-ituango-30.pdf>

⁶⁹ EPM. Breaking News Release No. 23. *EPM informa la evolución de la situación el proyecto hidroeléctrico Ituango* [EPM Reports on the Developing Situation at the Ituango Hydroelectric Project]:

<https://www.epm.com.co/site/Portals/0/Noticias%20y%20Novedades/2018/comunicado-ituango-23.pdf>

the local risks was not taken into account. Moreover, it is a serious contingency that should have led to the decision to amend the IHP (or even refrain from carrying it out) to prevent the danger from occurring.

According to EPM, the reason for the obstruction was a “geological situation that caused the rock and soil to collapse inside the Cauca River diversion tunnel.”⁷⁰ However, EPM's alleged ignorance of the risk posed by this “geological situation” prior to the landslides and blockages is evidence of serious flaws in the environmental impact assessment process that was carried out before construction on the project began. This is a clear failure to comply with several guidelines of the Bank's environmental policy.

If EPM was truly unaware of the risk, then a poor diagnostic of the area was performed, making it impossible to foresee the existence of a structural factor that could jeopardize the entire project. In that case, the dam would not have been built at that location and the serious environmental and social damage we are seeing today would have been averted.

Additionally, during the planning phase of the hydroelectric project, the Ministry of the Environment issued Order 432 of 2001, in which, without stating any basis, it exempted the company from having to present an environmental diagnostic of alternatives. For this reason, and despite the fact that the IHP will be the largest dam in the country, there was no study that considered the alternative in which there would be no project. Had such a study been done, the area's conditions, including its geological characteristics, would have been assessed to determine whether the dam and its chosen location were the best option.

According to the Bank's policy, *“The EIA process includes, as a minimum: screening and scoping for impacts; timely and adequate consultation and information dissemination process; examination of alternatives including a no project scenario.”*

Moreover, if in the preparation of the environmental impact study EPM did know that this risk existed in the project area, this would mean that it was underestimated or ignored. In other words, an irresponsible decision would have been made to proceed with the IHP despite the fact that it presented a serious risk of environmental and social harm—which did indeed become a reality. This, in turn, could entail the disciplinary and criminal liability of the persons involved in the decision-making process, and therefore a violation of Colombian law.

In either case, the IDB should not have approved the loan for a project that poses such serious risks to the Cauca River and the communities in the area, and without the requirements of

⁷⁰ EPM. *Información sobre situación en el proyecto hidroeléctrico Ituango* [Information on the Situation at the Ituango Hydroelectric Project]. <https://www.epm.com.co/site/home/sala-de-prensa/noticias-y-novedades/comunicado-proyecto-hidroelectrico-ituango/preguntas-y-repuestas-ituango>

the prior environmental impact assessment outlined in its operational policy having been met.

v. B.6. Consultations

According to this directive, “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.”

The consultation processes conducted during the stages prior to the project's execution—which, in the Bank's opinion,⁷¹ have been properly carried out by EPM—have not complied with the operational policies of the IDB and IDB Invest. No meaningful public consultations have been held with the participation of stakeholder groups, despite the fact that they have been requested, nor have all the communities affected by the project's construction been included. This point will be explained in more detail in the section on participation and access to information. In addition, as will be discussed in the section on the Operational Policy on Involuntary Resettlement, many communities were evicted from their homes without prior notice, consultation, or explanation.

vi. B.7. Supervision and Compliance

The community is not aware of, and has not been informed of, the existence and/or implementation of supervision and compliance processes within the framework of the IHP.

vii. B.9. Natural Habitats and Cultural Sites

According to the Bank's policy, “The Bank will not support operations that, in its opinion, significantly convert or degrade critical natural habitats or that damage critical cultural sites.” This policy further establishes that “unprotected areas of known high conservation value” are considered critical natural habitats.

The IHP is a contributing factor in the disappearance of the habitats of endemic and endangered species, as well as forest depletion. This encroachment on the tropical dry forest will have serious effects on the area's biodiversity:⁷² species such as macaws, toucans, and marmosets, protected by Colombian law, will be affected by the loss of their habitat.⁷³ According to studies done by the Humboldt Institute, the tropical dry forest is home to “nearly 2600 species of plants, 83 of which are endemic; 230 species of birds, 33 of which are endemic, and 60 species of mammals, three of which are endemic.”⁷⁴ The project will also result in the destruction of several archaeological sites in the project's area of influence as a consequence of the reservoir filling procedure.

⁷¹ See details in the document entitled “Environmental and Social Review Summary (ESRS)” prepared by the Bank. Source: http://cdn.iic.org/sites/default/files/disclosures/esrs_ituango_eng.pdf

⁷² Resolution No. 1980 of October 12, 2010. See Annex F.

⁷³ Updated Hidroituango EIA – environmental impact assessment

⁷⁴ *Bosques secos tropicales de Colombia* [Tropical Dry Forests in Colombia]. Humboldt Institute.

As stated previously, the IHP requires the destruction of a large swath of tropical dry forest (nearly 2,500 hectares),⁷⁵ which is a highly threatened ecosystem in Colombia and throughout the world. With only 8% of its original coverage left in Colombia, and 1% in the entire world, it is home to a sizeable number of endemic species. In this light, it is alarming that the IHP needs to intervene in such a large area of tropical dry forest, especially since this ecosystem has a slow regenerative capacity.⁷⁶ According to the EIA, the intervention in the tropical dry forest “will produce changes in the structure and composition of the plant cover, decreasing the size of the patches and altering the plant species populations.”⁷⁷ Similarly, the deterioration of this critical plant cover contributes to climate change.

The tropical dry forest should be considered a critical habitat by IDB standards. For this reason, the destruction of this ecosystem constitutes a violation of the policy on natural habitats and cultural sites, as well as the policy on environmental sustainability.

2. Inadequate processes to ensure participation and access to information

Despite the fact that the Ituango project has an environmental license allowing for construction to begin, this authorization was granted before appropriate processes of participation and access to information had been carried out. This has affected the population of the project area. As the IIC was informed in a communication dated November 27, 2016, “... the environmental license has been amended 11 times since 2009, but none of the changes have been properly publicized in the affected communities, and only 3 of those changes have been published on the company's website.” To date, approximately 20 amendments have been made to the environmental license, making it clear that there were errors in the EIA and therefore in the first license. This demonstrates the flaws in the project design and, consequently, in the assessment of environmental and social harm.

To begin with, most of the people affected by the project were not involved in its participatory processes because the censuses conducted were inadequate. The project outreach strategies also failed to take account of the local political and social context, considering that this area has been ravaged by a 50-plus year war. The MRV is aware that the census takers did not reach all the places inhabited by the people who are affected by the project, on the grounds that it was dangerous in view of the armed conflict. In addition, many

⁷⁵ Consorcio Integral. Pescadero Ituango Hydroelectric Plant. Updated Environmental Impact Study – Demand for Natural Resources available at: <http://www.hidroituango.com.co/index.php/estudios-realizados> [visited 8/16/2016]

⁷⁶ Resolution No. 1980 of October 12, 2010. See Annex F.

⁷⁷ Updated Hidroituango EIA – environmental impact assessment

of those affected were not counted because they had been displaced by the violence.⁷⁸ Accordingly, it is very likely that the true number of affected persons is not accurately reflected in the records held by the authorities and the company.

In addition to the armed conflict, there is the state of insecurity, which was detailed in a communication sent to the IIC on November 27:

“...the communities and social leaders who have resorted to protesting against the Hidroituango project have been criminalized and their human rights have been undermined. From the time the farming, gold panning, fishing, and herding communities began to organize themselves into the Ríos Vivos Antioquia Movement, two people have been killed and 17 have received death threats (both individually and collectively). The National Protection Unit has already issued protective measures for 14 people, and there has been an attempted kidnapping in which the main suspect is the private security force working for EPM. In addition, there have been complaints of torture perpetrated by the security forces and ongoing stigmatization by the company and the project's investors, as well as by the mass media. During the most recent protest, held in June 2016, paramilitaries requested that it be suspended under penalty of death, and prohibited demonstration against EPM or the construction site during the marches. Although these events were brought to the attention of the authorities and reported to the public prosecutor's office, the atmosphere of insecurity continues, making it impossible for the communities to participate effectively.”

By the end of 2017, 55 threats had already been documented (3 of them collective).⁷⁹

Armed conflict and insecurity are not the only reasons why many of those affected were not involved in the participatory processes. Some of them were reportedly not registered because they are migrants with no fixed address.⁸⁰ Others were not identified by the company because the censuses were carried out only on public streets and not where people were working.⁸¹ Finally, the company failed to identify the various economic activities undertaken by the communities affected by the project, which also made the census difficult.⁸²

The environmental license for the Hidroituango project recognizes these shortcomings in the process of identifying those affected. First, it explicitly states that the environmental information defining the project's area of influence that was submitted for the license application is outdated. According to the Environmental License, "the information presented was based on information and participatory processes developed in mid-2006. This

⁷⁸ According to information from the MRV.

⁷⁹ See ANNEX: Infographic entitled “Security Incidents in the Communities affected by Hidroituango Organized under Movimiento Ríos Vivos Antioquia, 2009 - 2017.”

⁸⁰ According to the MRV.

⁸¹ Ibid.

⁸² Ibid.

information should be updated to reflect the social conditions in the area of direct influence once the project begins.”⁸³

Similarly, the environmental license requires the company to “identify in advance the affected productive activities and all those communities and persons whose agricultural, mining, commercial, or fishing activities are affected.”⁸⁴ The foregoing indicates that no such identification was carried out before the participatory processes required to prepare the environmental impact study and obtain the environmental license.

In addition to the oversights in the census procedures, the environmental impact study was not publicized in the communities prior to the start of the project. The MRV observed that, given the situation of armed conflict in the area, it has been difficult for the communities to organize and attend all the project's informational meetings.⁸⁵ Moreover, the environmental license recognized that “during the public hearing, it was clear that the authorities and local communities were not aware of the identified impacts on their municipalities and their respective management plans.”⁸⁶

Likewise, the National Environmental Licensing Authority has acknowledged the inadequacies of the company's participation processes. In Resolution 027 of January 15, 2016, the ANLA stated that:

“The management measures are deemed insufficient and the approved provisions of both the Environmental Management Plan and the Environmental License are not being met in relation to:

Environmental management plan

10.7. 1 “Support project for the management of the social environment, which includes the following objectives:

- ***Establish harmonious relationships between the project and the various stakeholders*** *through the implementation of communication strategies, in line with the particular needs for information and the use of appropriate channels.*
- *Promote a climate of trust and credibility towards the project to prevent and reduce conflict.*

⁸³ Hidroituango Environmental License, p. 15. See Annex D.

⁸⁴ Ibid.

⁸⁵ According to the MRV.

⁸⁶ Hidroituango Environmental License, p. 23. See Annex D.

- *Timely information. Inform the community directly affected by the works in a timely manner, so as not to create tensions that threaten the development of the project.*
- *The communication strategies should: identify the type of population to be targeted by the information strategy and the type of information that needs to be disseminated; define the stages and time frame for the distribution of the information; establish the media and communication channels to be used; characterize the media to be used; select and design the formats to be used, and implement feedback on the communication strategy.*

10.7.2. "Project for Compensation and the Restoration of Living Conditions

The development of infrastructure works in the region entails a change in land use, in social, economic, cultural, and political activities, as well as in the landscape.

...The management of miners and others whose livelihoods are affected is specifically addressed by the subproject 'Restoration of living conditions of the indirectly affected population'" [underlining added].

With respect to the environmental license granted for the Project in Article Nine of Resolution 055 of 2009, the following is mentioned: 1.5.8

"The Company should identify in advance the affected productive activities and all those communities and persons whose agricultural, mining, commercial, or fishing activities are affected and incorporated in the subproject 'Compensation and Restoration of Living Conditions.'"⁸⁷

This shows that the participatory processes were not completed prior to the start of the project in 2009 and that they have not been properly carried out throughout the project's implementation. It has been almost 10 years since the dam was approved and all of the affected people and their productive activities have yet to be identified. This constitutes non-compliance with the IDB's operational policies regarding community participation, which is why the loan for this project should not have been approved.

Likewise, the recent tunnel cave-ins and blockages that have had serious environmental and social consequences in the project area are evidence not only of a poor environmental impact assessment, but also of a flawed community participation process. Before the project began, the people affected by the IHP tried to sound the alarm about the risks of building a hydroelectric plant of this magnitude in the Cauca River Canyon.

⁸⁷ National Environmental Licensing Authority. Resolution 027 of January 15, 2016. See Annex C.

The communities understand the area, and they knew that what was happening was a latent risk that could materialize at any moment.⁸⁸

However, the company did not adequately involve the population in the process of preparing the environmental impact study. This is not only a breach of the IDB's operational policies but also a failing in the preparation of the EIA, which would have been enriched by the communities' knowledge of local conditions.

Finally, according to the MRV, access to project information is complex and problematic: Although technically most of the data is public, the communities' ability to access it is limited by cost, geographical location, Internet access, and lack of adequate systematization and availability. It is also worth noting that a large part of the affected population is unable to read or write, struggles with literacy, or has never been able to obtain the assistance of legal counsel at meetings. Farmers have also been denied the right to access information in the process of negotiating with the company: each person must talk to a group of 6 to 12 officials, without being allowed to be accompanied by the persons of their choice.

On the other hand, the critical situation that has arisen recently due to tunnel blockages is compounded by a serious problem of lack of access to information. Increasingly, there is less data available online about the IHP and what is happening with tunnel blockages. Access to information has been irregular, and has been neither fully available nor available at all times. The EIA documents and the amendments to the environmental license have not been available to the public in their entirety. The MRV has complained that they lack real and timely information about what is happening with the dam and the increased flow of the Cauca River. The Governor of Antioquia himself has acknowledged that the information provided by EPM is unreliable.⁸⁹

Notwithstanding the above, the project's construction works are progressing without the affected parties really knowing the impacts or the management measures needed to control them.⁹⁰

⁸⁸ Noticias Caracol. *Críticos de Hidroituango advirtieron el daño social y ambiental por el represamiento del río Cauca* [Critics of Hidroituango Warned of Social and Environmental Harm Caused by Damming the Cauca River]. <https://noticias.caracoltv.com/medellin/criticos-de-hidroituango-advirtieron-el-dano-social-y-ambiental-por-el-represamiento-del-rio-cauca-ie139>

⁸⁹ Emisora La FM. *Gobernador Luis Pérez, por crisis de Hidroituango: información está manoseada* [Governor Luis Perez, on Hidroituango Crisis: Information Is Manipulated] <https://www.lafm.com.co/colombia/gobernador-luis-perez-por-crisis-de-hidroituango-informacion-esta-manoseada>

⁹⁰ Movimiento Ríos Vivos Antioquia. *Informe de DDHH y DIH afectados por Hidroituango* [Report on Human Rights and International Humanitarian Law Affected by Hidroituango]. 2013, p. 6. *En Cuestionario: Relatora de la ONU sobre la situación de los y las defensoras de derechos humanos* [Questionnaire: UN Rapporteur on the Situation of Human Rights Defenders]. Available at: <http://www.ohchr.org/Documents/Issues/Defenders/LargeScale/NGOs/MovimientoRiosVivosColombia.pdf>

In addition to all of the above, the communities affected by the IHP were not specifically consulted about the IIC's (now IDB Invest) investment in the project. The MRV received information about this investment from partner organizations in November 2016, when they were informed of the decision of the Bank's Board of Directors to invest in the project.

It is important to note that on July 19, 2016, organizations allied with the MRV submitted an access to information request to the IIC asking for more information about the project in order to inform the MRV of the details; however, the request went unanswered.

Finally, as mentioned on November 27, 2016, the MRV and partner organizations concerned about the lack of information about the investment in the Ituango project sent a letter to all members of the IIC's Board of Directors informing them of the potential problems with the project and requesting that they not approve the investment. A few days later, the board decided to approve the investment and, to this day, there has been no reply to the letter. These facts serve to demonstrate that there were no real opportunities for interested persons to exercise their right to access information and to participate during the investment phase of the bank, either.

OP-102: ACCESS TO INFORMATION POLICY

The Access to Information Policy is based, inter alia, on the following principles:

"Principle 1: Principle 1: Maximize access to information. The Bank reaffirms its commitment to transparency in all of its activities and therefore seeks to maximize access to any documents and information that it produces and to information in its possession that is not on the list of exceptions. Further, so long as the Bank is not legally obligated to non-disclosure, and has not received information with the understanding that it will not be disclosed, information on the list of exceptions will be disclosed in accordance with timelines and procedures specified for that purpose."

"Principle 3: Simple and broad access to information. The IDB will employ all practical means to facilitate access to information. Guidelines for maximizing access to information will include clear and cost-effective procedures and timelines for processing requests and will be based on use of a system for classifying information according to its accessibility over time."

Access to information about the project has been irregular and unreliable, and has fallen short of the criteria of maximization, transparency, and simplicity. This includes general aspects of the project's development, environmental impact assessments and the supporting studies, and the dissemination of bulletins on the risks of avalanche and dam failure—a situation about which the company has been less than forthcoming and has failed to provide accurate and timely updates. Given the crisis the project is facing, thousands of lives could depend on proper communication in the event of a tragedy.

3. Involuntary resettlement

The Ituango hydropower project has failed for numerous reasons to comply with the IDB's policies on involuntary resettlement, as discussed below. It is our opinion that if the purpose of the Operational Policy on Involuntary Resettlement *"is to minimize the disruption of the livelihood of people living in the project's area of influence, by avoiding or minimizing the need for physical displacement, ensuring that when people must be displaced they are treated equitably and, where feasible, can share in the benefits of the project that requires their resettlement,"* this policy is no longer being fully implemented. This is because forced evictions have been documented in the project's areas of influence, and because of a number of oversights in the project's implementation and operation.

In view of the IDB policy requirements, the company failed to conduct a study of alternatives in order to avoid involuntary resettlement to the extent possible. In this case, the Colombian environmental authority did not require an environmental diagnostic of alternatives as a requirement for granting the environmental license for the project.⁹¹ The Ministry of the Environment concluded that the study of alternatives was not necessary, despite the fact that this is the largest hydroelectric plant in the country. This authority provided no grounds for its decision, so the reasons for it are unknown. This is contrary to the international standards and best practices established for this type of project.⁹²

The Policy establishes that:

"1. Every effort will be made to avoid or minimize the need for involuntary resettlement. A thorough analysis of project alternatives must be carried out in order to identify solutions that are economically and technically feasible while eliminating or minimizing the need for involuntary resettlement."

In addition, according to the MRV, the number of people determined by the company does not reflect the total number of people affected. This is because the census was not taken in each and every one of the areas affected by the project, but rather only in the most accessible ones and on the main roads.⁹³ What's more, the censuses did not consider those who would

⁹¹ Ministry of the Environment. Order 432 waiving the requirement to present an environmental diagnostic of alternatives and making other determinations. June 6, 2001. See Annex A.

⁹² See, e.g.: World Commission on Dams, *Dams and Development: A New Framework for Decision-Making* (United Kingdom: Earthscan Publications, 2000), pp. 181-182; 251, in Annex I.

Interamerican Association for Environmental Defense AIDA - *"Dejando fluir los ríos: una ruta hacia el financiamiento responsable del BNDES. Aprendizajes de las represas de Belo Monte e Hidroituango"* [Letting the Rivers Flow: A Route to Responsible BNDES Financing. Learning from the Belo Monte and Hidroituango Dams] 2018 (in press).

⁹³ According to MRV.

be affected economically.⁹⁴ Proof of this are the multiple forced evictions instigated by the construction company and carried out by the authorities. This also means that there was no consultation process with the communities prior to the resettlement.

Given that migrants make up a large part of the population, the resettlement of people working in the project's area of influence is both the most necessary and the most troublesome aspect. The affected communities are losing their source of income, and the situation was exacerbated by the filling of the reservoir. In this regard, it is important to note that most communities in the area have been victims of the armed conflict in Colombia⁹⁵ and that, according to data from the Unit for the Comprehensive Care and Reparation of Victims, dozens of documented massacres have occurred in the municipalities affected by the project, as well as cases of forced disappearance. To date, the Attorney General's Office has exhumed more than one hundred bodies in these same municipalities at the insistence of their inhabitants.⁹⁶ The flooding of the dam is tantamount to a violation of the victims' rights to truth, justice, and reparation, protected under the Colombian legal system,⁹⁷ given the allegations that there are several mass graves in the reservoir area. Their flooding makes it virtually impossible to recover those mortal remains.

Likewise, the statistics on forced displacement, deaths or injuries from anti-personnel mines, and homicide, among other victimizing acts, are very significant. They illustrate the vulnerability of the affected population.⁹⁸ In addition, there are community values that will experience impacts that are difficult to quantify and compensate. For example, sites where victims are remembered and mourned will be lost and remain underwater. These include sites such as the La Garucha bridge, between the municipalities of Sabanalarga and Peque, which were the scenes of massacres, and the Pescadero Bridge, from which hundreds of people were thrown—dead and alive—and whose bodies have not yet been found.⁹⁹

Similarly, the age-old activity of gold-panning, which gained recognition from the Ministry of Culture as a technique with cultural heritage value, is also endangered by this project.¹⁰⁰

The effects of the dam on socially and culturally important sites, as well as the inappropriate handling of mass graves containing the remains of victims of the armed conflict in the area, contradict the resettlement policy, which states that:

⁹⁴ According to the MRV.

⁹⁵ See 2013, 2014, and 2018 IACHR Hearings.

⁹⁶ 2013, 2014, and 2018 IACHR Hearings.

⁹⁷ Constitutional Court of Colombia. Judgments C-578 of 2002, C-580 of 2002, C-370 of 2006, C-1199 of 2008, and SU-254 of 2013.

⁹⁸ 2013, 2014, and 2018 IACHR Hearings.

⁹⁹ 2013, 2014, and 2018 IACHR Hearings.

¹⁰⁰ Inspection Report, Ministry of Culture. "*Solicitud de inclusión a la Lista Representativa de Patrimonio Cultural Inmaterial del ámbito nacional de la manifestación 'Barequeo como forma tradicional de producción en el cañón del río Cauca', en Antioquia*" [Request for the Inclusion on the Representative List of the Intangible Cultural Heritage of the Nation of "Gold Panning as a Traditional Form of Production in the Cauca River Canyon," in Antioquia]. December 2014.

*“In examining the trade-offs between alternatives, it is important to have a **reasonable estimate of the numbers of people likely to be affected**, and an estimate of the costs of resettlement. Particular attention must be given to **socio-cultural considerations**, such as the cultural or religious significance of the land, the vulnerability of the affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implications. When a large number of people or a significant portion of the affected community would be subject to relocation and/or impacts affect assets and values that are difficult to quantify and to compensate, after all other options have been explored, **the alternative of not going ahead with the project should be given serious consideration.**”*

In addition, no involuntary resettlement plan was put in place prior to the start of construction of the project. Even Hidroituango's environmental license recognizes this omission when it states that “because resettlement sites for the population that will be affected by involuntary displacement were not defined, it will be necessary to identify their abiotic, biotic, and social aspects once they are chosen.”¹⁰¹

Once again, the IDB policy states that “2. When displacement is unavoidable, a resettlement plan must be prepared to ensure that the affected people receive fair and adequate compensation and rehabilitation. Compensation and rehabilitation are deemed fair and adequate when they can ensure that, within the shortest possible period of time, the resettled and host populations will:

- i) *achieve a minimum standard of living and access to land, natural resources, and services (such as potable water, sanitation, community infrastructure, land titling) at least equivalent to pre-resettlement levels;*
- ii) *recover all losses caused by transitional hardships;*
- iii) *experience as little disruption as possible to their social networks, opportunities for employment or production, and access to natural resources and public facilities; and*
- iv) *have access to opportunities for social and economic development.”*

The company did not conduct the necessary study on the economic activities of the affected communities. This point was of the utmost importance when developing a resettlement plan, given that the communities affected by the Hidroituango project depend on the river that will be flooded to carry out their small-scale mining, agriculture, and fishing activities, among others. This requirement is also made clear in Resolution 027 of January 15, 2016 and in the environmental license for the Ituango project, which mandates the “the prior identification of the affected productive activities and all those communities and persons whose

¹⁰¹ Hidroituango Environmental License, pp. 14-15 See Annex D.

agricultural, mining, commercial, or fishing activities are affected, and their inclusion in said subproject 'Compensation and Restoration of Living Conditions.'"¹⁰²

In spite of the above, numerous families have been forcibly evicted from the area since 2010. As Movimiento Ríos Vivos has documented,¹⁰³ The evictions have involved the use of violence, a disproportionate use of force, and the presence of the armed forces and the Mobile Anti-Riot Squad of the Colombian police. In addition, the communities were not included in an adequate participatory process prior to their eviction,¹⁰⁴ and neither has adequate compensation been provided for the evictions.¹⁰⁵ To this extent, the Ituango Hydroelectric Project has brought about the forced displacement of a population that has already been victimized for many years. This information was available when the IIC (now IDB Invest) invested in the project.

This is a clear violation of the IDB's policy on involuntary resettlement, which states that it should be carried out only after developing a plan that includes the results of the consultation with the communities. The policy also states that for resettlement *"Accurate baseline information must be compiled as early as possible. It will include information on the number of people to be resettled, and on their socioeconomic and cultural characteristics, including disaggregation by gender. In addition, the data will provide an important basis for the definition of eligibility criteria, and compensation and rehabilitation requirements."*

Therefore, the resettlements do not comply with IDB policies, as there is no pre-existing plan, and no adequate compensation or rehabilitation has been provided. This is because, according to the MRV, communities have not been resettled in places that ensure minimum standards of living in decent conditions, or access to land and natural resources. Displaced communities have also not been able to recover the losses caused by resettlement and lack opportunities for social and economic development. This information was widely known at the time the IIC (now IDB Invest) analyzed the project and decided to invest in it, proceeding to support it nonetheless.

As a consequence of this resettlement, the lives and overall life plans of these inhabitants have been affected. This has been extensively documented and described, for example during the public hearing held before the Colombian Congress on November 18, 2016.¹⁰⁶ Participants in the hearing included Representative Angela María Robledo, Senator Alberto

¹⁰² Hidroituango Environmental License p. 23. See Annex D.

¹⁰³ See Movimiento Ríos Vivos. *Declaración sobre desplazamiento masivo por el proyecto Hidroituango y el conflicto armado* [Declaration on Mass Displacement by the Hidroituango Project and the Armed Conflict]. Annex M.

¹⁰⁴ Ibid.

¹⁰⁵ Movimiento Ríos Vivos, Toledo, Antioquia. *Denuncia del Movimiento Ríos Vivos contra el desalojo de mineros en el municipio de Toledo* [Condemnation by Movimiento Ríos Vivos of the Eviction of Miners in the Municipality of Toledo]. 2014. Available at: <http://www.derechos.org/nizkor/colombia/doc/mineros7.html>.

¹⁰⁶ See details in the following link: <https://www.youtube.com/watch?v=G16AmpbegHA>

Castilla, Representative Alirio Uribe, and members of more than 10 communities from different regions of the country.

In the testimony he provided at this hearing, Fernando Posada (Association of Victims Affected by ASVAM Toledo Megaprojects) cited the evictions along the river banks of the municipalities of Ituango, Briceño, Tenche, and Capitán Briceño, denouncing the social impact of the IHP. In particular, he stated that the project's works have led to restrictions on the victims' use of resources and land and that the process, carried out under the Public Utility Law, has discriminated against them and violated their rights, due to the excessive use of force against them and the curtailment of their freedom to demonstrate peacefully.¹⁰⁷

William Gutiérrez (Association of Miners and Fishermen of Puerto Valdivia) took part in the same hearing. He addressed the displacement of small-scale miners and made it clear that, in the opinion of the local residents, the process had been implemented in an irregular, incomplete, and non-transparent manner.¹⁰⁸

It is important to note that the letter sent to the IIC on November 27, 2016 reported, among other violations, the forced and wrongful displacement of residents who lost their regular livelihoods, resulting in the destruction of the social fabric and the loss of subsistence mining and fishing practices in the waters of the Cauca River. Similarly, the errors in the census were viewed as an infringement of due process, and this complaint is even included in the documents referring to the environmental license.¹⁰⁹

Along the same lines, as reported in the aforementioned document, a review of the IHP file showed that when the initial construction of the project was authorized, the sites for the relocation of the affected populations had not yet been identified. In addition, according to the MRV, the stated number of families and/or persons affected was incorrect because the families (more than 500) that had already been displaced had not been taken into account. These families are still not recognized by the company as affected persons, despite the fact that they have provided two joint affidavits to the Colombian State.

With regard to compensation for the affected persons, as indicated in the communication addressed to the IIC, the productive activities of the affected communities have not been identified or individually determined. Most of these people are engaged in gold panning, fishing, and agriculture—activities that depend on the Cauca River. It can therefore be concluded that a project was authorized with an environmental impact study that failed to specify the activities of these residents that would be affected, even though the implementation of appropriate compensation plans requires that such a determination be made.

Independent testimony was also provided by unofficial sources including Cristóbal Giraldo, who compiled statements from people at the University of Antioquia sports arena in 2013.

¹⁰⁷ See details in the following link: <https://www.youtube.com/watch?v=I3koz2CSDXY>

¹⁰⁸ See details in the following link: <https://www.youtube.com/watch?v=AwA38S7067I>

¹⁰⁹ See details in the Hidroituango Environmental License, Annex D.

That testimony indicated that the project exacerbated political violence, led to the displacement of local populations, and violated their rights, limiting their means of employment and threatening their life plans and physical integrity.¹¹⁰ This is due to the repressive measures taken by the security forces and paramilitaries. In addition, community leaders, university professionals, and representatives in the departmental assembly have raised questions about the fact that the censuses were carried out incompletely and/or informally, without the correct methodology and implementation being followed. They also assert that information regarding the displacement was not provided in an appropriate and timely manner.¹¹¹

Finally, the Office of the Ombudsman of Colombia has gathered evidence in various risk reports on the rates of armed political and criminal violence, human rights violations, and the negative effects of the displacement caused by the IHP.

For example, Report No. 022-14 A.I of July 24, 2014 refers to a population increase in the rural district of Valle de Toledo, where the workers' camps are set up, which, in addition to exacerbating tensions among the population, leads to a shortage of adequate sanitary infrastructure. Also, more recently, in its section on the "Effect of Economic Interests in the Region," Risk Report No. 003-17 indicates that the construction of the IHP has resulted in the closure of several river banks and roads because they are private property, causing a serious decrease in resources for the affected families, who now find it almost impossible to cover their basic needs.

4. Operational Policy on Gender Equality in Development

According to the IDB's operational policy on gender, "The Bank will actively seek opportunities to mainstream the gender perspective as a strategic dimension of its development interventions and will incorporate actions to address this issue." However, this was not done during the process for the approval of the IDB's investment in the IHP. Nor were any preventive actions taken to "prevent or mitigate adverse impacts on women or men due to gender."

This was important in order to ensure the needs of women affected by the IHP. The population's characteristics mean that all the impacts of the IHP described thus far have a different and greater impact on women in the area.

¹¹⁰ See details in the following links:

<https://www.youtube.com/watch?v=qivT6ug7uJ8&feature=youtu.be>

<https://www.youtube.com/watch?v=yArxVJjfa20>

<https://www.youtube.com/watch?v=lM2S16i0I1w>

¹¹¹ See details in the following links:

Opinión y Análisis Teleantioquia https://www.youtube.com/watch?v=3gxVut_T6I8

Diáfara Cultural <https://www.youtube.com/watch?v=pS-hVCu-M40>.

These differentiated impacts should have been identified by the IDB and IDB Invest prior to approving the investment, but that was not the case.

For example, according to the MRV, women have been particularly affected by this project insofar as many of them work as gold panners, fisherwomen, and farmers, and rely on this activity for their own subsistence, and that of their families. Their property rights are also exercised and affected differently. Moreover, the MRV is aware that since construction work on the IHP began, incidents of gender-based violence against women have increased: street harassment, prostitution, and rape have all been reported among women affected by the IHP.

D. Raising the Issues with IDB Management

On November 27, 2016, Movimiento Ríos Vivos Antioquia presented a letter to the entire Board of Executive Directors of the Inter-American Bank detailing the situation in Colombia with respect to the Hidroituango Project. The letter called on the Board to refrain from investing in the project again. We would like to point out the following, and are attaching the letter to this complaint:¹¹²

“The communities affected by this hydroelectric dam, joined together as Movimiento Ríos Vivos Antioquia, and the undersigned human rights organizations, hereby notify the Corporation of the grave violation of human and environmental rights currently being committed in the area being developed by Hidroituango. This situation, which has been ongoing since construction of the dam began, is contrary to international human rights principles and the IIC's own internal policies.”

“For all the reasons stated herein, and in consideration of the social and environmental policies that govern the IIC's actions, the Inter-American Investment Corporation should refrain from investing in the Hidroituango Hydroelectric Project and should activate the mechanisms it deems appropriate to protect the rights of all affected communities in the Cauca River Canyon, where the Hidroituango Project is being built.”

Although the letter was acknowledged, there has been no formal reply to date. It should be noted that as a result of this letter, the IDB has stated in meetings with civil society that it is in contact with the community, even though there has never been any reply or communication with the MRV regarding the issues raised.

In recent weeks, further attempts have been made to communicate with the Bank's Management, the Board of Executive Directors, and the President of the IDB Group, through

¹¹² Letter to the Board of Executive Directors of the IDB regarding IIC loan, November 2016. See AnnexJ.

communications ¹¹³ and letters ¹¹⁴ via e-mail, again with no response.

Requests

Regarding the phases of interest to the complainants:

Based on the foregoing, we express to MICI our willingness to activate the consultation phase in order to address the issues raised herein in relation to the harm caused by the Bank's failure to comply with the relevant operational policies within the framework of the Hidroituango financing operation.

We also express our interest in pursuing the compliance review phase, so that the complaint presented here may be investigated impartially and objectively for non-compliance with the relevant operational policies and the resulting harm caused, within the framework of the financing operation of the project in question.

Regarding confidentiality:

We will not opt for the confidential treatment of the identity of the complainants.

Sincerely,

Movimiento Ríos Vivos Antioquia

June 5, 2018

Contact:

[REDACTED]

Isabel Cristina Zuleta López. [REDACTED]

[REDACTED]

Pedro Vicente Duarte [REDACTED]

All annexes and sources of information will be submitted to MICI in digital format

¹¹³ Communication: *Organizaciones de la sociedad civil condenan el asesinato en Colombia de integrante del Movimiento Ríos Vivos* [Civil Society Organizations Condemn the Murder in Colombia of a Member of Movimiento Ríos Vivos], sent on May 10, 2018. See Annex K.

¹¹⁴ Letter to President Moreno, Management, and the entire Board of Executive Directors, dated May 29, 2018. See Annex L

ANNEXES

- A. 2001 Ruling of No Environmental Diagnostic of Alternatives
- B. IHP Sanctions November 2017
- C. Hidroituango Participation Resolution 2016
- D. Resolution 0155 of 2009 Environmental License
- E. Ministry of the Interior Resolution 071 May 2017
- F. October 12, 2010 Amendment to Resolution 1980
- G. December 2012 Amendment to Resolution 1041
- H. MRV publication on Security Incidents 2009 – 2017
- I. Dams and Development, Final Report of World Commission on Dams, 2000
- J. MRV Letter to IDB Regarding IIC Loan, November 2016
- K. Civil Society Organizations Condemn Murder of MRV Members May 2018
- L. Letter to President Moreno regarding Hidroituango, May 29, 2018
- M. MRV Declaration on Mass Displacement 2013

OTHER ANNEXES AND SOURCES OF INFORMATION

- 1. Chart of Evictions by Hidroituango Project
- 2. Report on Inspection Mission, Valdivia Antioquia 2016
- 3. Report on Inspection Mission, Disappeared Persons Antioquia 2018
- 4. MRV Forced Disappearances and Exhumations – Infographic
- 5. MRV Infographic on 2009 – 2017 Activities
- 6. MRV Infographic on Forced Disappearance ZHI 1117 UARIV RV
- 7. MRV Infographic on Forced Disappearance ZHI 1117 CNMH RVA
- 8. MRV Infographic on Forced Disappearance ZHI 1117 SIRDEC RV
- 9. MRV Map of Massacres – Hidroituango Area
- 10. Official letter referencing sites for the search of remains, from EPM to Attorney General's Office, 2016
- 11. Prevention and Protection Plan of the Ríos Vivos Antioquia Movement. Risk scenarios, actions, and measures for prevention, protection, reparation, and guarantees of non-repetition. 2017
- 12. Ríos Vivos Antioquia Prevention and Protection Plan Summary, 2017
- 13. Rapporteurship, Hidroituango Congressional Hearing, April 27, 2013
- 14. Resolution Amendment 0543, May 2015
- 15. Response to right to petition: Agreement between Office of the Attorney General and EPM to search for and exhume cadavers in the area of direct influence of Hidroituango, 2017
- 16. Second Declaration on Forced Disappearance, La Arenera
- 17. Urgent Appeal from European Parliament to Colombia, April 2018
- 18. Timeline on Hidroituango presented by Movimiento Ríos Vivos and the José Alvear Restrepo Lawyers Collective, available at: <https://bit.ly/2I2luvu>

List of the 472 people presenting themselves as signatories of this complaint.

[illegible]