



PUBLIC
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DOCUMENT OF THE INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM

**MICI-BID-CR-2017-0125
ELIGIBILITY MEMORANDUM**

REVENTAZÓN HYDROELECTRIC PROJECT – REQUEST IV

**(CR-T1074, CR-L1049, CR-L1056, CR-U0001, CR-T1086)
(ATN/OC-12720-CR, 2747/OC-CR, 2806 A/OC-CR, 2806 B/OC-CR,
2804/OC-CR, ATN/OC-13556-CR)**

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

INFORMATION NOTE

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

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

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

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

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

All Requests received by the MICI and their processing will be reported to the Requesters, Management, and the Board of Executive Directors, as well as the general public through the Mechanism's virtual [Public Registry](#). Each Request has a case file in the Public Registry disclosing all the public information generated in processing the case.

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

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ELECTRONIC LINKS

1. Original Request MICI-BID-CR-2017-0125
<http://www.iadb.org/document.cfm?id=EZSHARE-1210845122-36>
2. Joint IDB IIC Management Response to the MICI-BID-CR-2017-125 Request regarding the Reventazón Hydroelectric Project in Costa Rica
<http://www.iadb.org/document.cfm?id=EZSHARE-1210845122-97>
3. Public registry file for Request MICI-BID-CR-2016-0112
https://www.iadb.org/es/mici/detalle-de-la-solicitud_19172.html?ID=MICI-BID-CR-2016-0112
4. Loan proposal – Second Individual Operation under the Conditional Credit Line for Investment Projects CR-X1005, Power Sector Development Program 2012-2016 (Reventazón Hydroelectric Project and Other Investments) (CR-L1049)
<http://www.iadb.org/Document.cfm?id=36971330>
5. Project abstract – Reventazón Hydroelectric Project (CR-L1056)
<http://www.iadb.org/Document.cfm?id=36683842>
6. Resolution 150/12 of the Board of Executive Directors on Loan and Guarantee 2804/OC-CR – Reventazón Hydropower Project (CR-L1056, CR-U0001)
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=37022851>
7. Technical cooperation profile – Studies and Support for the Environmental and Social Strategy of the Reventazón Hydropower Project (CR-T1086)
<http://www.iadb.org/Document.cfm?id=37418876>
8. Technical cooperation document – Study and Support for the Environmental and Social Strategy of the Reventazón Hydropower Project (CR-T1086)
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=37418803>
9. Environmental and social action plan (ESAP) included as the sole annex to the Loan Contract for the Second Individual Operation under the Conditional Credit Line for Investment Projects CR-X1005, Power Sector Development Program 2012-2016 (Reventazón Hydroelectric Project and Other Investments) (CR-L1049)
<http://www.iadb.org/Document.cfm?id=36864764>
10. Environmental and social management report (ESMR) for the Reventazón Hydroelectric Project (CR-L1049 and CR-L1056)
<http://www.iadb.org/Document.cfm?id=36879354>
11. Environmental impact assessment for the Reventazón Hydroelectric Project (CR-L1049 and CR-L1056).
<http://www.iadb.org/Document.cfm?id=36447344>

EXECUTIVE SUMMARY

The Reventazón Hydroelectric Project (RHP), located in Siquirres Canton in the Reventazón River basin in the Province of Limón, Costa Rica, consisted of the design, construction, operation, and maintenance of a hydroelectric power plant with installed capacity of 305.5 megawatts and the construction of a 130-meter-high dam, an 8-square-kilometer reservoir, substations, transmission lines, and adjacent roads. It has been operating since September 2016.

The IDB Group's involvement in the Project is through a series of sovereign guaranteed and non-sovereign guaranteed loan operations together with other lenders (IFC, CABEL, EIB, and other commercial banks). In addition to two technical cooperation projects, the financing consists of: (i) an A loan for up to US\$200 million from the Ordinary Capital resources of the Bank (the "A loan") and a B loan for additional resources to be contributed by financial investors through the subscription of participation agreements with the Bank (the "B loan"); and (ii) a guarantee for the payment of principal and interest in respect of certain senior indebtedness to support the Project, denominated in U.S. dollars, not to exceed US\$200 million from the Ordinary Capital resources of the Bank (the "Guarantee").

The executing agency for the Project is the Instituto Costarricense de Electricidad [Costa Rica Power Authority] (ICE), which is the official agency in charge of renewable energy resources, the electricity grid, and power distribution, as well as ensuring balance between electricity supply and demand in Costa Rica.

On 7 August 2017, the MICI received a Request from a family of three living in Siquirres Canton, Limón Province, Costa Rica, who own a farm adjoining the RHP reservoir. The Requesters alleged that their living conditions were affected when part of their farm had been expropriated by the RHP, cutting off access to the water system they were using for their dairy cattle (the family's main economic livelihood activity), in violation of the Bank's Relevant Operational Policies (ROP). A similar request was received by the IFC's independent recourse mechanism, the Office of the Compliance Advisor/Ombudsman (CAO).

The Requester family had already sent the MICI a Request ([MICI-BID-CR-2016-0112](#)) in December 2016, but the Request had been declared ineligible because Management had not had a chance to address the issues addressed in it. The Requesters were in contact with Management between March and August 2017 (when this new Request was received), but after failing for several months to receive a response to their concerns, and given the urgency of the situation, they decided to return to the MICI. On 10 August, 2017, the Request was registered as number [MICI-BID-CR-2017-0125](#).¹

The Management Response was received on 11 September 2017, asking for the eligibility determination process be suspended while it worked with the Requesters to identify options for reestablishing water access. The MICI did not grant the suspension because the petition did not

¹ The MICI has processed five Requests related to the RHP between September 2016 and January 2018. For more information, see the [Public Registry](#).

meet the requirements established in the Policy. Nevertheless, it encouraged Management to stay in contact during the eligibility analysis period.

At the end of the 21 business days established for determination of eligibility in the MICI Policy, the Parties informed the MICI that they had reached an agreement on supplying drinking water for human consumption, but that talks continued on options for farm water. In response to the petition from the Requesters and Management for more time to find a solution without MICI intervention, the MICI twice asked the Board of Executive Directors to extend the deadline for the determination of eligibility for the Request. The second extension was until 1 February 2018.

On 25 January, the Requesters contacted the MICI to report that their concerns regarding access to water for farm use had not been resolved, so they intended to continue to pursue the MICI process.

Consequently, after performing the corresponding review, effective 1 February 2018, the MICI Director, in accordance with Section G of the MICI-IDB Policy (document MI-47-6), concludes that this Request is **eligible**, as it meets all the eligibility criteria established in paragraph **22** of the MICI Policy.²

Regarding the operations relevant to the MICI process, this determination excludes operation **CR-T1074**, to which exclusion **19(f)** applies since the Request was submitted 24 months after its last disbursement.

The issue of access to drinking water was resolved by Management prior to this determination, and so is excluded from the MICI process.

Notification of this determination is given directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry, once distributed to the Board of Executive Directors. Following this, the Consultation Phase will be launched, as the Requesters opted for both phases in their Request. It is important to note that this eligibility determination and triggering of the MICI process is neither an assessment of the merits of the Request or the issues raised, nor a determination of the Bank's compliance or noncompliance with its ROP.

² The MICI learned of the existence of a court proceeding brought by the executing agency over the fair price to pay the Requesters for the expropriation. Upon review of the applicability of exclusion 19(d) of the MICI Policy, it was found that the issue being litigated was not the subject of the Request, and, according to information received, the case is being removed from the docket.

I. THE PROJECT³

A. Geographic and social context⁴

- 1.1 The Province of Limón is one of the seven provinces making up Costa Rica. It is located at the country's eastern edge, bordering Nicaragua to the north, Panama to the south, the Atlantic Ocean to the east, and, to the west, the provinces of Heredia, San José, Cartago, and Puntarenas.
- 1.2 Limón is approximately 163 kilometers from the country's capital, San José, with mountainous areas descending to plains until they reach the Atlantic Ocean. This topography is favorable for agricultural activities: principally bananas, cacao, and African palm oil, as well as cattle. Additionally, with its national parks, tourism is also an important economic activity for the province.



Map of Costa Rican Provinces

Source: National Statistics and Census Institute (INEC).

- 1.3 The Province of Limón is divided into a total of six cantons: Limón, Pococí, Talamanca, Matina, Guácimo, and Siquirres, with this last canton being the location of the Reventazón Hydroelectric Project (RHP).
- 1.4 The Canton of Siquirres has six districts: Siquirres (with the largest population), Pacuarito, Florida, Germania, Cairo, and Alegría. According to 2011 Census data, Siquirres has an

³ Information taken from the Bank website and public documents on operations. These documents are available in the electronic links section.

⁴ Information from the National Statistics and Census Institute (INEC) and the Local Human Development Plan of Siquirres Canton.

area of 860.19 square kilometers and a population of 57,780, or 14% of the provincial population and 1.36% of the national population.

Siquirres Canton



Source: MICI.

B. Reventazón Hydroelectric Project (RHP)

- 1.5 The Reventazón Hydroelectric Project, located in the Reventazón River basin in Siquirres Canton, consisted of the design, construction, operation, and maintenance of a hydroelectric power plant with installed capacity of 305.5 megawatts and the construction of a 130-meter-high dam, an 8-square-kilometer reservoir, substations, transmission lines, and adjacent roads.
- 1.6 The IDB Group's involvement in the Project is through a series of sovereign guaranteed and non-sovereign guaranteed loan operations. In addition to two technical cooperation projects, the financing consists of:
- 1.7 (i) An A loan for up to US\$200 million from the Ordinary Capital resources of the Bank (the "A loan") and a B loan for additional resources to be contributed by financial investors through the subscription of participation agreements with the Bank (the "B loan"); and (ii) a guarantee for the payment of principal and interest in respect of certain senior indebtedness to support the Project, denominated in U.S. dollars, not to exceed US\$200 million from the Ordinary Capital resources of the Bank (the "Guarantee"). Table 1 lists the five operations, their amounts and approval dates, and other relevant information.

Table 1
Reventazón Hydroelectric Project – List of operations financed by the IDB Group

	Project number/ Operation	Name	Operation type	Approval date	Operation amount in US\$ millions	Date of last disbursement
1	CR-T1074 ATN/OC-12720-CR	Additional environmental studies, Reventazón Hydroelectric Project	Nonreimbursable technical cooperation	12 May 2011	0.47	19 Jun 2014
2	CR-L1049 2747/OC-CR	Second Individual Operation under the Conditional Credit Line for Investment Projects CR-X1005, Power Sector Development Program 2012-2016 (Reventazón Hydroelectric Project and Other Investments)	Sovereign guaranteed loan	25 Jun 2012	250.00	Under implementation
3	CR-L1056 2806 A/OC-CR 2806 B/OC-CR	Reventazón Hydroelectric Project	Non-sovereign guaranteed loan	19 Oct 2012	673.00	13 May 2016
4	CR-U0001 2804/OC-CR	Reventazón Hydroelectric Project	Guarantee	19 Oct 2012	98.00	N/A
5	CR-T1086 ATN/OC-13556-CR	Costa Rica: Studies and Support for the Environmental and Social Strategy of the Reventazón Hydroelectric Project	Nonreimbursable technical cooperation	4 Dec 2012	0.74	5 Aug 2016

- 1.8 The projected total cost of the RHP was US\$1.4 billion and, in addition to the IDB funding, included a combination of own funds of ICE and financing from commercial banks in Costa Rica, as well as the International Finance Corporation (IFC) and the European Investment Bank (EIB) through the Central American Development Bank.
- 1.9 The Project is part of Costa Rica's Electric Power Generation Expansion Plan 2012-2024, which aims to increase the country's power generation capacity by some 1,714 megawatts, with 98% based on renewable energy sources.
- 1.10 The executing agency for the Project is the Instituto Costarricense de Electricidad [Costa Rica Power Authority] (ICE), which is the official agency in charge of renewable energy resources, the electricity grid, and power distribution, as well as ensuring balance between electricity supply and demand in Costa Rica.
- 1.11 The Project was classified as a category "A" operation since it has the potential to cause significant adverse environmental impacts and associated social impacts, as well as profound implications for natural resources.
- 1.12 The Bank identified that the environmental and social impacts of the Project would be significant if not mitigated and addressed in advance. Specifically, it found that the main environmental and social impacts and risks include: (i) a loss of connectivity along the Barbilla biodiversity corridor (Jaguar Corridor), a critical natural habitat, caused by the new

reservoir; (ii) significant direct cumulative impacts on the aquatic natural habitat of the Reventazón River as a result of project construction and operation; (iii) adverse impacts from displacement of the economic activities of at least 16 vulnerable households; and (iv) possible adverse impacts on the sensitive Parismina–Tortuguero hydrobiological system during Project operation.⁵

- 1.13 According to the environmental and social management report (ESMR), the mitigation strategy included significantly improving ICE's land acquisition, compensation, and involuntary resettlement practices.
- 1.14 The Project was commissioned in September 2016 and is currently in operation now that the full installed capacity has come on line at the hydroelectric plant.

II. THE REQUEST⁶

- 2.1 On 7 August 2017, the MICI received a Request regarding the Reventazón Hydroelectric Project (RHP) from a family of three (the Requesters) living in Siquirres Canton, Limón Province, alleging they were being negatively impacted by the Project. Their representative—also one of the Requesters—is Mr. Henry Ureña. On 10 August, the Request was registered as number [MICI-BID-CR-2017-0125](#).
- 2.2 The Requesters own a farm adjoining the RHP reservoir, and their main livelihood activity is farming, especially dairy production. As part of the expropriation program established for the RHP, close to four hectares were expropriated (30% of the total) from a farm measuring a little more than 13 hectares.
- 2.3 The Requesters allege that their living conditions were harmed as a result of the expropriation, since the aquifers that supplied water to the property were on the expropriated land. Without access to them, the Requesters state that they have had to access other sources located a considerable distance away to meet their water needs.
- 2.4 The Requesters allege that having to transport the water every day has caused economic harm, as well as harmed their health as a result of the physically demanding activity involved in hauling the water. They also allege psychological harm due to the uncertainty of the situation they have faced since January 2016. They connect this alleged harm to potential failures on the part of the Bank to comply with its Relevant Operational Policies (ROP).
- 2.5 The Requesters expressed their desire for the MICI to process the case through both the Consultation Phase and the Compliance Review Phase, if deemed eligible.

⁵ Information taken from the environmental and social management report of the Reventazón Hydroelectric Project. (CR-L1049 and CR-L1056)

⁶ The Request and Annexes are available in the electronic links section of this document.

- 2.6 This is the second Request received by the MICI from the same group of Requesters in relation to this Project. The family sent the MICI its first Request ([MICI-BID-CR-2016-0112](#)) in December 2016.⁷ The Request was declared ineligible in March 2017 because, although the Requesters had had initial contact with Management, they had not given it an opportunity to address their stated concerns. The MICI therefore encouraged the Requesters to continue communicating with the Project Team to address the issues raised, as a first step.
- 2.7 In order to address their concerns with Management, the Requesters sent the Project Team an email explaining their situation, including photographs and videos. They state that the Project Team replied that it would review the information provided, and as a result the Requesters were visited on 10 May 2017 by a consultant engaged by the Bank to verify the information provided in their email. They state that during the visit the consultant told them he had up to one month to submit the report with his findings. The Requesters state that after three months with no specific information on the findings of the consulting engagement, they decided to resubmit their Request to the MICI.
- 2.8 It should be noted that in December 2016 the IFC's independent recourse mechanism, the Office of the Compliance Advisor/Ombudsman (CAO), received a similar claim from the Requesters that it is currently in the process of investigating.

III. MANAGEMENT RESPONSE⁸

- 3.1 In accordance with paragraph 21 of the MICI Policy, IDB Management was given notice of the registration of Request [MICI-BID-CR-2017-0125](#) on 10 August 2017 and submitted its Response on 11 September, within the time period allotted to do so. Because the Reventazón Hydroelectric Project (RHP) has financing from both the public and private sector windows of the IDB, the Management Response was a joint response from both the IDB and IDB Invest.⁹
- 3.2 In its Response, Management states that the Requesters had contacted it in March 2017 regarding the negative impacts they said they were experiencing from losing access to the springs that supplied water to the family's farm, as a result of the partial expropriation of their land. In response, Management began a review of the situation and contacted the Requesters and the Instituto Costarricense de Electricidad [Costa Rica Power Authority] (ICE).
- 3.3 Management reports that the following actions were taken: (i) analysis and evaluation of the family's situation was conducted by the Project Team's environmental and social

⁷ The electronic links section includes a link to the file of Request MICI-BID-CR-2017-0112 in the MICI Public Registry.

⁸ The electronic links section includes "Joint IDB-IIC Management Response to the MICI-BID-CR-2017-125 Request regarding the Reventazón Hydroelectric Project in Costa Rica."

⁹ In January 2016 IDB Invest (formerly the IIC) took over responsibility for the operations of the private sector window of the IDB.

specialists and an independent firm acting as environmental and social monitoring consultant for the project; (ii) an independent consultant was hired to analyze the issue and make a site visit to the farm and meet with the Project Team, ICE, and the Requesters, after which he delivered a report to Management; (iii) meetings were held with ICE to initiate a formal process of interaction with the Requesters.

- 3.4 Management stated that, based on the evaluation, there was potential to resolve the situation, and as a result it had initiated its customary internal process “to ensure the full application of the relevant IDB Group policies.”¹⁰
- 3.5 As per Section G, paragraph 23(c), of the MICI Policy, Management requested a temporary suspension of the eligibility determination process, in order to continue communications and meetings with the Requesters and ICE to find a solution and design and implement a corrective action plan (CAP) to address the situation where necessary and ensure its implementation.

¹⁰ Joint IDB-IIC Management Response, p. 1.

IV. MICI ACTIONS

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

Table 2
Timeline of MICI actions between 7 August 2017 and 1 February 2018

Date	Actions
2017	
7 August	Receipt of Request
10 August	Registration of Request
16 August	Telephone call with IDB-IDB Invest Management
11 September	Receipt of IDB-IDB Invest Management Response
12 September	MICI Response to IDB-IDB Invest Management on request for temporary suspension of the eligibility determination process
13 September	Meeting with IDB-IDB Invest Management
18 September	Telephone call with the Representative of the Requesters
5 October	Meeting with IDB-IDB Invest Management
9 October	Telephone call with the Representative of the Requesters
12 October	Extension request to the IDB Board of Executive Directors for determination of eligibility
19 October	Approval by the Board of Executive Directors of the extension request for determination of eligibility
	Notification to the parties of the new deadline for issuing the Eligibility Memorandum
14 November	Meeting with IDB-IDB Invest Management
	Telephone call with the Representative of the Requesters
15 November	Second extension request to the IDB Board of Executive Directors for determination of eligibility
22 November	Approval by the Board of Executive Directors of the second extension request for determination of eligibility
	Notification to the parties of the new deadline for issuing the Eligibility Memorandum
4 December	Telephone call with IDB-IDB Invest Management
5 December	Telephone call with the Representative of the Requesters
2018	
24 January	Meeting with IDB-IDB Invest Management
25 January	Telephone call with the Representative of the Requesters
1 February	Issuance of Eligibility Memorandum

- 4.2 After receiving the Request, the MICI maintained constant communication with the Requesters and with Management, and was informed by the Requesters of the subsequent conversations and meetings held between the parties toward resolving the alleged issues.
- 4.3 Regarding Management's extension request for the eligibility determination process, paragraph 23(c) of the MICI Policy establishes that: "The MICI Director may grant a term of suspension of up to 45 Business Days as of the date of receipt of the Response by

Management if, and only if, there is a specific plan to make corrections and a proposed timeline for carrying out the activities.” The MICI Director assessed the information submitted by Management and found that no concrete plan was in place to make corrections, nor was there a proposed timeline. The suspension was consequently not granted. However, Management was encouraged to continue the contact it had initiated and insofar as possible find a solution to the Requesters’ concerns during the period of 21 business days during which the MICI would be conducting the corresponding eligibility analysis.

- 4.4 On 5 October, before the end of the period of 21 business days established in the MICI Policy, the MICI met with Management at Management’s request and was informed that, as a result of the negotiations, the Requesters had accepted the proposed solution for supplying drinking water for human consumption, but no satisfactory solution had yet been found for supplying water for farm use. In Management’s view, reaching an agreement on this would be possible with a little more time for studies to be commissioned on alternatives and for the Requesters to weigh the different options.
- 4.5 On 9 October, the MICI held telephone conversations with the Requesters to hear their perspective on the process and whether they were willing to continue the negotiations begun by Management, or whether they thought the conditions were not right to find a solution that way. The Requesters told the MICI that they wished to continue the negotiations for a little longer without MICI intervention.
- 4.6 Accordingly, since the parties had expressed interest in continuing dialogue, the MICI requested an extension from the Board of Executive Directors for issuing the Eligibility Memorandum. The request was approved, and the Parties were notified of the new deadline of 15 November 2017 for determining the eligibility of the Request.
- 4.7 In subsequent weeks, Management informed the MICI that a consulting firm had begun a study of alternatives, which included a visit to the Requesters’ farm. Before reaching the new deadline, Management again contacted the MICI to report that it expected to need additional time to complete the study and present its findings to the Requesters. The MICI again contacted the Requesters for their position on this. They confirmed their intention to continue talks with Management and have an opportunity to review the alternatives proposed in the study.
- 4.8 Accordingly, the MICI requested a second extension from the Board of Executive Directors, which was granted on 1 February 2018.
- 4.9 In the third week of January, the Requesters and Management contacted MICI to report they had been unable to reach agreement on possible alternatives for access to water for farm use. Both Parties also expressed willingness to work with the MICI on a possible Consultation Phase.

V. ELIGIBILITY DETERMINATION ANALYSIS

- 5.1 As part of the eligibility determination process, the MICI considered the information presented in the Request; the Management Response; and various Bank documents on the operations related to the Request; as well as the information provided through communications and meetings.¹¹
- 5.2 In accordance with paragraph 22 of the MICI Policy, a Request will be deemed eligible by the MICI if it is determined that it meets all the following criteria:
- a) The Request is filed by two or more persons who believe that they have been or may be affected and who reside in the country where the Bank-financed operation is implemented. If the Request is filed by a representative, the identity of the Requesters on whose behalf the Request is filed will be indicated and written proof of representation will be attached.
 - b) The Request clearly identifies a Bank-financed operation that has been approved by the Board, the President, or the Donors Committee.
 - c) The Request describes the Harm that could result from potential noncompliance with one or more Relevant Operational Policies.
 - d) The Request describes the efforts that the Requesters have made to address the issues in the Request with Management and includes a description of the results of those efforts, or an explanation of why contacting Management was not possible.
 - e) None of the exclusions set forth in paragraph 19 of this Policy apply.
- 5.3 In the case of Request **MICI-BID-CR-2017-0125**, the analysis of eligibility criteria established in the Policy consisted of the following:
- 5.4 The Request is filed by **three Costa Rican Requesters who own a farm in Siquirres Canton, Costa Rica, where they reside. Criterion 22(a) has been met.**
- 5.5 The Request identifies the **Reventazón Hydroelectric Project (RHP)**, which is being financed by the IDB Group through **five sovereign guaranteed and non-sovereign guaranteed loan operations** (see Table 1). **Criterion 22(b) has been met.**
- 5.6 The Request **alleges that the living conditions of the Requesters have been harmed** as a result of losing **access to the springs** they used to water their cattle after part of their farm was expropriated. The Requesters also **connect this harm** to a possible failure on the part of the Bank to comply with its supervision obligations. Although the Requesters do not cite them directly, the obligations may be related to **Operational Policies OP-703 and OP-710. Consequently, criterion 22(c) has been met.**
- 5.7 Regarding prior contact with Management, the Parties have informed the MICI of the dialogue process pursued during most of 2017, to address the Requesters' concerns. Although these talks have enabled them to reach agreements on other issues, such as supply of drinking water for human consumption on the farm, the fundamental issue of the

¹¹ The documents reviewed are available in the electronic links section of this document.

Request on access to water for farm use has yet to be resolved. **Therefore, the MICI finds that criterion 22(d) has been met.**

- 5.8 Regarding the exclusions established in paragraph 19, **the MICI finds that the exclusions established in paragraph 19(a), (b), (c), and (e)** do not apply, as the Request does not raise issues outside the MICI's scope of work; does not omit the Requesters' names; and does not address issues already reviewed by the MICI. All five related operations were approved by the Board of Executive Directors prior to receipt of the Request.
- 5.9 Regarding **exclusion 19(d)**, establishing that neither the Consultation Phase nor the Compliance Review Phase will be applied to particular issues or matters raised in a Request that are under arbitral or judicial review in an IDB member country, the MICI learned of the existence of a court complaint, as shown in Table 3.

Table 3
Court proceeding

Docket number	Court	Issue	Plaintiff/ Defendant	Status ¹²
15-000263-1028-CA	1028-Administrative and Civil Treasury Court of the Second Judicial Circuit of San José	Amount of compensation for purchase of the expropriated land	ICE, acting through its General Counsel, v. Owners of the farm.	Removal from docket – Conclusion Phase

- 5.10 On review of the complaint brought by the Instituto Costarricense de Electricidad [Costa Rica Power Authority] (ICE), the issue is the fair price to pay for expropriation of part of the Requesters' farm. This issue is not addressed in the Request.
- 5.11 Additionally, according to information from the Administrative and Civil Treasury Court of the Second Judicial Circuit of San José, the case is in the conclusion phase and, according to more recent legal documentation submitted to the MICI by the Requesters, being removed from the docket. Consequently, the MICI finds that the exclusion in question **does NOT apply**.
- 5.12 Exclusion **19(f)**, prohibiting the Consultation Phase and the Compliance Review Phase from being applied to Requests submitted more than 24 months after the final disbursement of the relevant Bank-financed operation, **does NOT apply** to four of the operations in question (**CR-L1049, CR-L1056, CR-U0001, and CR-T1086**). **However, the exclusion DOES apply to operation CR-T1074**, which made its last disbursement on 19 June 2014, as shown in Table 4.

¹² Information from the Judicial Branch:

<https://pjenlinea.poder-judicial.go.cr/SISTEMAGESTIONENLINEAPJ/Publica/wfpConsultaxNue.aspx>

Table 4
Operation to which exclusion 19(f) applies

	Project number/ Operation	Name	Operation type	Approval date	Operation amount in US\$ millions	Date of last disbursement
1	CR-T1074 ATN/OC-12720-CR	Additional environmental studies, Reventazón Hydroelectric Project	Nonreimbursable technical cooperation	12 May 2011	0.47	19 Jun 2014

VI. CONCLUSION

- 6.1 After performing the corresponding review, effective 1 February 2018, the MICI Director, in accordance with Section G of the MICI-IDB Policy (document MI-47-6), concludes that this Request is **eligible**, as it meets all the eligibility criteria established in paragraph 22 of the MICI Policy, with the following exclusions:
- 6.2 Regarding the operations relevant to the MICI process, this determination excludes operation CR-T1074, to which exclusion 19(f) applies since the Request was submitted 24 months after its last disbursement.
- 6.3 The issue of access to drinking water was resolved by Management prior to this determination, and so is excluded from the MICI process.
- 6.4 This eligibility determination is neither an assessment of the merits of the Request and the issues raised, nor a determination of the Bank's compliance or noncompliance with its Relevant Operational Policies.
- 6.5 Notification of this determination is given directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry, once distributed to the Board of Executive Directors.
- 6.6 Following notification to the Board of Executive Directors, the MICI Director will transfer the case to the Consultation Phase, as the Requesters opted for both phases of the MICI process in their Request, and as established in the Policy, to begin processing of the Request.