

PUBLIC
SIMULTANEOUS DISCLOSURE

DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

MICI-CII-CO-2019-0152
ELIGIBILITY DETERMINATION MEMORANDUM

“RUTA DEL CACAO 4G TOLL ROAD” PROJECT

(12252-01)

This document was prepared by Esteban Tovar, Registration Specialist, under the supervision of Victoria Márquez-Mees, MICI Director.

This document is being made publicly available simultaneously with its distribution to the Board for 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 from Requesters alleging that they have suffered, or may suffer, harm due to actions or omissions of the Inter-American Development Bank Group (IDB Group) that may constitute a failure to comply with one or more of its Relevant Operational Policies within the context of an operation financed by an IDB Group institution.

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 restrict the MICI's actions. After a Request is registered, Management has the opportunity to provide its perspective on 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's Response."

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

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

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

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

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LINKS
<ol style="list-style-type: none">1. Original Request MICI-CII-CO-2019-0152 http://www.iadb.org/document.cfm?id=EZSHARE-795316062-1292. IDB Invest Management's Response to Request MICI-CII-CO-2019-0152 regarding the "Ruta del Cacao 4G Toll Road" project (12252-01) http://www.iadb.org/document.cfm?id=EZSHARE-795316062-1453. IDB Invest website for the "Ruta del Cacao 4G Toll Road" project (12252-01) https://www.idbinvest.org/es/projects/autopista-4g-ruta-del-cacao4. Environmental Impact Assessment for the "Ruta del Cacao 4G Toll Road" project (12252-01) https://www.idbinvest.org/zip/3590/Autopista_4G_Ruta_del_Cacao.zip5. Summary of the Environmental and Social Review conducted by IDB Invest for the "Ruta del Cacao 4G Toll Road" project (12252-01), including the Environmental and Social Action Plan https://www.idbinvest.org/es/download/6615

EXECUTIVE SUMMARY

The “Ruta del Cacao 4G Toll Road” project (“the project”), also known as the Bucaramanga-Barrancabermeja-Yondó corridor, is located in the municipios of Barrancabermeja, San Vicente de Chucurí, Betulia, Girón, and Lebrija in the department of Santander and the municipio of Yondó in the department of Antioquia, Colombia. The project’s objective is to build land connectivity between the city of Bucaramanga and the Ruta del Sol II road concession by means of a divided roadway designed to allow motor vehicles to travel at an average speed of 80 kilometers (km) per hour. This project is part of a series of fourth generation (4G) road concessions using a public-private partnership model, promoted by Colombia’s National Infrastructure Agency (ANI).

The project bidding process was won by Concesionaria Ruta del Cacao S.A.S. (the “Client”), and the concession contract calls for the following activities: (i) preparation of final design studies; (ii) construction of 82.4 km of new highway (including two tunnels, a second carriageway, and several bridges and overpasses); (iii) improvement and rehabilitation of 31.54 km of existing highway; (iv) execution of works to deliver the levels of service specified in the contract; (v) property, environmental, and social management of the corridor; and (vi) operation and maintenance of the entire corridor (190.63 km) for the entire duration of the project. The concession contract has a tenor of 25 years and can be extended for an additional four years.

Project construction, which began in November 2016, is divided into nine functional units (UFs) or stretches, each of which has different requirements.

The IDB Group’s involvement in the project began in the second half of 2017. On 24 April 2018, the Board of Executive Directors of the Inter-American Investment Corporation (commercially known as IDB Invest) approved a Col\$375-billion, non-sovereign-guaranteed **loan operation** for the “Ruta del Cacao 4G Toll Road” (12252-01), with Concesionaria Ruta del Cacao S.A.S. as borrower. In accordance with IDB Invest’s Environmental and Social Sustainability Policy, the project was classified as a category “A” operation, as it could result in medium to high adverse environmental and social impacts.

On 27 December 2019, the Independent Consultation and Investigation Mechanism (MICI) received a Request regarding the project from 58 residents of the communities of La Fortuna, Tienda Nueva, El Líbano, Lisboa, and Portugal, located in the department of Santander, Colombia, represented before the MICI by Veeduría Ciudadana de la Ruta del Cacao [Cacao 4G Citizen Watch Group].¹

According to the Requesters, IDB Invest Management has not complied with its Operational Policies, which, compounded by improper environmental and social risk management, has caused environmental harm, as well as harm to the Requesters’ living conditions, property, and safety, stemming from construction works and future operations under the project.

¹ Veeduría Ciudadana de la Ruta del Cacao is made up of Mr. Gabriel Rangel Mogollón, Executive Director; Mr. Germán Rueda Mocada, legal representative; and Ms. Jackeline Delgado Durán, Secretary.

Specifically, they allege various types of potential and existing harm, including: (i) structural damage to several of the Requesters' homes linked to construction works under the project; (ii) widespread environmental harm with adverse impacts on the wildlife and vegetation of the area; (iii) pollution of ravines and adverse impacts on surface and ground water and water supply systems; (iv) environmental harm caused by pollution resulting from improper construction and operation of one of the excess material storage sites ("ZODME Z12"), as well as economic harm from damage to adjacent properties; (v) modification of the original alignment of the road in UF8 and UF9² without obtaining approval for a modified environmental permit that would have assessed adverse impacts to bodies of water; and (vi) property damage from flooding caused by the works to extend the existing road.

In addition to the harm described above, the Requesters, in later communications, provided further detail on potential harm, primarily economic harm to Requesters who own businesses currently located on the side of the road. They allege that the widening of the road and higher vehicle speeds will adversely impact their sales. In addition, they say that the increase in vehicle traffic increases their and their families' risk of getting into a traffic accident when crossing the road, because, despite the fact that several stretches are already in operation, a number of pedestrian crossings have yet to be finished.

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

During the registration/eligibility determination period, in addition to reviewing the relevant documentation, the MICI held conference calls and meetings with IDB Invest Management, the Client, the Requesters' Representatives, and interested third parties to better understand the context of the project and the allegations presented to the MICI in the Request. From 18 to 21 February 2020, the MICI conducted a mission to Bucaramanga, Colombia, and neighboring areas to visit the project area and meet with Requesters, Clients, and Requesters to gather firsthand information.

Following an analysis of the relevant information, the MICI Director, in accordance with Section G of the MICI-IIC Policy (document [CII/MI-1-1](#)), concludes that this Request **is eligible** as it meets the eligibility criteria established in the MICI-IIC Policy.

This determination of eligibility is neither an assessment of the merits of the Request and the issues raised therein, nor is it a determination of IDB Invest's compliance or noncompliance with its Relevant Operational Policies. The triggering of the MICI process does not halt the project or suspend its disbursements.

This Memorandum was sent directly to the Requesters and to Management for information on 20 March 2020. It will be distributed to the Board of Executive Directors of the IIC for information, and to any interested third parties through the [Public Registry](#), once the English version is available.

² The alignment of the road in UF8 and UF9 was changed after the environmental permit had been approved, and the client has had to request a permit modification.

As requested by the Requesters, the MICI Director will transfer the case to begin processing under the Consultation Phase. In light of the ongoing COVID-19 health crisis, the Consultation Phase team will contact the Parties regarding the timeline and method for processing the case.

Lastly, in response to the Requesters' reports of a looming risk of reprisals, the MICI would like to convey that it has a zero tolerance policy for any form of reprisals. If this risk continues unabated or materializes in any way, the MICI will take the appropriate actions in accordance with its Guidelines for Addressing Risk of Reprisals in Complaint Management in pursuit of respect for human rights.

I. THE PROJECT³

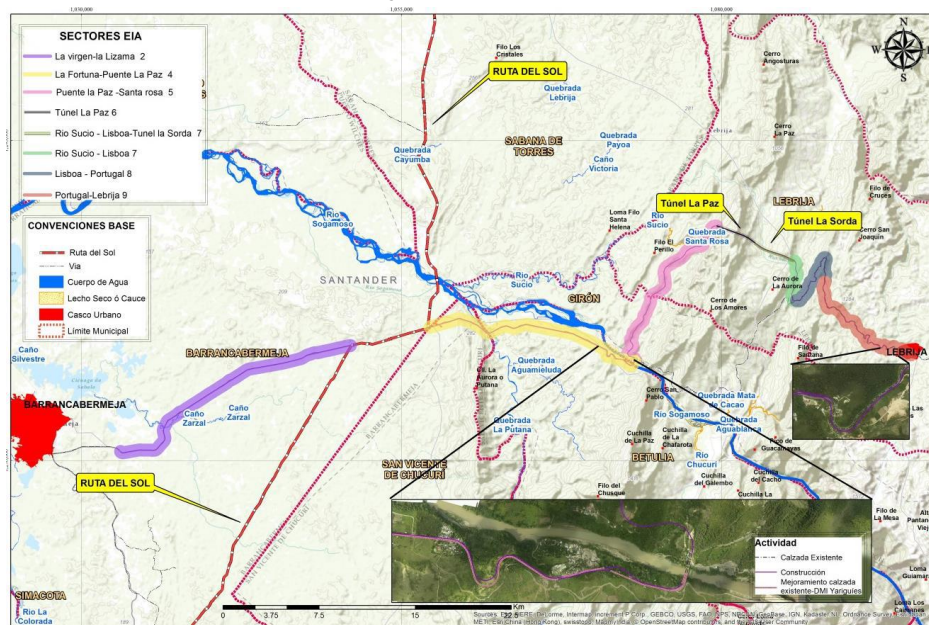
A. Context

- 1.1 The “Ruta del Cacao 4G Toll Road” project (the “project”), also known as the Bucaramanga-Barrancabermeja-Yondó corridor, is located in the municipios of Barrancabermeja, San Vicente de Chucurí, Betulia, Girón, and Lebrija in the department of Santander and the municipio of Yondó in the department of Antioquia, Colombia. The project’s objective is to build land connectivity between the city of Bucaramanga and the Ruta del Sol II road concession by means of a divided roadway designed to allow motor vehicles to travel at an average speed of 80 kilometers (km) per hour. This project is part of a series of fourth generation (4G) road concessions using a public-private partnership model, promoted by Colombia’s National Infrastructure Agency (ANI).
- 1.2 On 21 August 2015, the bidding process for the project concluded with a contract being awarded to Concesionaria Ruta del Cacao S.A.S. (the “Client” or “Concessionaire”), which is a consortium of the Cintra and John Laing infrastructure firms, the Ashmore Investment Fund, and Colpatría.
- 1.3 The concession contract signed with the National Infrastructure Agency (ANI) calls for the following activities: (i) preparation of the final design studies; (ii) construction of 82.4 km of new highway (including two tunnels, a second carriageway, and several bridges and overpasses); (iii) improvement and rehabilitation of 31.54 km of existing highway; (iv) execution of works to deliver the levels of service specified in the contract; (v) property, environmental, and social management of the corridor; and (vi) operation and maintenance of the entire corridor (190.63 km) for the entire duration of the project. The concession contract has a tenor of 25 years and can be extended for an additional four years.
- 1.4 Project execution is divided into nine functional units (UFs) or stretches, as follows: (i) UF1, Yondó – Puente Guillermo Gaviria - La Virgen – Rancho Camacho, which covers a 40.45 km stretch and includes rehabilitation of 10.37 km and operation and maintenance of 30.08 km of existing roads; (ii) UF2, Barrancabermeja – El Retén – La Virgen – La Lizama, which calls for the rehabilitation of a 3.2-km divided highway between Barrancabermeja and El Retén, operation and maintenance of 26.95 km of existing roads between El Retén and La Lizama, and construction of a 21.05-km second carriageway between La Virgen and La Lizama; (iii) UF3, La Fortuna – Puente La Paz – Capitancitos – Lisboa, which includes improvement of the existing 17.9-km undivided highway between La Fortuna and Puente la Paz and maintenance and operation of the 19.7-km Puente La Paz – Lisboa road; (iv) UF4, La Fortuna – Puente La Paz, which calls for the construction of a 17.97-km second carriageway; (v) UF5, Puente La Paz – Santa Rosa (entryway to the La Paz tunnel), which calls for the construction of a 14.76-km undivided highway, three bridges (total length of 1.6 km), and two overpasses (total length of 0.8 km); (vi) UF6, La Paz tunnel, which calls for the construction of the 3.17-km La Paz tunnel; (vii) UF7, Río Sucio – Lisboa, spanning a 6.4 km stretch that includes the construction of the 2.2-km La Sorda tunnel, 3.3 km of open road, and four bridges (total length of 0.99 km); (viii) UF8,

³ Information retrieved from IDB Invest’s website and public documents on the related operations. These documents are available in the links section.

Lisboa – Portugal, which includes construction of two 3.2-km carriageways; and (ix) UF9, Portugal – Lebrija, which includes rehabilitation of 12.4 km of undivided highway and construction of a second carriageway parallel to the existing highway and equal in length. Figure 1 below illustrates the location of the functional units.

Figure 1.
Map of the project's functional units



Source: Environmental impact assessment for construction of the Bucaramanga – Barrancabermeja – Yondó road corridor.

- 1.5 Pursuant to local legislation, an environmental impact assessment must be conducted for each functional unit and submitted to the National Environmental Licensing Authority (ANLA) as a prerequisite for obtaining the corresponding environmental permit, except for UF1, the operation and maintenance component of UF2, and the rehabilitation component planned for UF9, which only require approval of the respective Environmental Guidelines Adaptation Plan.
- 1.6 It should be noted that the Concessionaire has submitted a request to the ANLA to modify the original alignment of the road in UF8 and UF9 by means of a request for modified environmental permits for these stretches, which would have been approved via ANLA Resolution 2594 from 31 December 2019.
- 1.7 According to public information, the project began in November 2016 and should be completed and operational in 2021.

B. IDB Invest's involvement - Ruta del Cacao 4G Toll Road

- 1.8 The IDB Group's involvement in the project began in the second half of 2017. On 24 April 2018, the Board of Executive Directors of the Inter-American Investment Corporation (IDB Invest) approved a Col\$375-billion, non-sovereign-guaranteed **loan operation** for the "Ruta del Cacao 4G Toll Road" (12252-01), with Concesionaria Ruta del Cacao S.A.S. as borrower. The objective of IDB Invest's involvement in the project has been to complement long-term financing in collaboration with international and Colombian commercial banks.
- 1.9 In accordance with IDB Invest's Environmental and Social Sustainability Policy, the project was classified as a category "A" operation, as it could result in medium to high adverse environmental and social impacts.
- 1.10 IDB Invest identified the following adverse environmental impacts: (i) deterioration in air quality, both in the construction stage and during operation; (ii) erosion due to earth moving activities; (iii) increase in noise levels and vibrations, due to the use of heavy machinery, and subsequently, to increased traffic; (iv) impacts on wildlife, vegetation, and natural habitats; (v) deterioration of water quality and flow, and of local hydrology; and, lastly, (vi) potential social contamination by hazardous materials that will be used during project execution.
- 1.11 The adverse social impacts that have been identified include: (i) a potential increase in spontaneous migration to the area as people seek out better economic and work opportunities; (ii) higher demand for basic health and sanitation services stemming from migration to the region; (iii) an increase in property values near the project; (iv) limited coordination on social management; (v) altered vehicular traffic patterns; (vi) higher risk of traffic accidents owing to increased traffic flows; (vii) increased health risks, especially related to the construction of tunnels and other structures at heights (bridges and overpasses); (viii) a potential increase in the risk of traffic accidents; (ix) potential physical or economic displacement of the population as a result of securing rights-of-way; and (x) possible changes to living conditions for the population due to stimulation of the local economy.
- 1.12 In its summary Environmental and Social Review, IDB Invest indicates that, by the time the Bank started its intervention, the project had an environmental permit under ANLA Resolution 00763 from 30 June 2017, and the aforementioned Environmental Guidelines Adaptation Plans had been approved. It also notes that the approved environmental impact assessment and Environmental Guidelines Adaptation Plans contain several plans and programs to manage unintended impacts, including biotic, abiotic, and social environmental management plans; a risk management plan; a compensation for biodiversity loss plan; and a waste management plan.
- 1.13 Public information as of the date this report was issued indicates that the project is more than 50% completed, and the IDB operation was in disbursement when the Request was received.

II. THE REQUEST ⁴

- 2.1 On 27 December 2019, the MICI received a Request regarding the project from 58 residents of the communities of La Fortuna, Tienda Nueva, El Líbano, Lisboa, and Portugal, located in the department of Santander, Colombia, represented before the MICI by Veeduría Ciudadana de la Ruta del Cacao [Cacao 4G Citizen Watch Group].⁵ Using the project map as a reference, the Requesters reside in areas adjacent to the toll road between UF4 and UF9, and progress toward completion of the works in those functional units varies.
- 2.2 The following paragraphs summarize the contents of the Request and additional information obtained during the analysis period and the mission to the project area, when the MICI visited the site and spoke with the Client, contractors, and the Requesters. Information classified as public can be accessed through the MICI-IDB Invest Public Registry (Request Record [MICI-CII-CO-2019-0152](#)).
- 2.3 According to the Requesters, IDB Invest Management has not complied with its Operational Policies, which, compounded by improper environmental and social risk management, has caused environmental harm, as well as harm to the Requesters' living conditions, property, and safety, tied to construction works and future operations under the project.
- 2.4 The Request raises the following allegations of real and/or potential harm:
- Structural damage to the homes of several Requesters who reside in the communities of El Líbano, Lebrija, Lisboa, and Portugal, which they indicate is linked to movements of heavy vehicles used for construction and vibrations stemming from explosives being detonated to drill out tunnels for the project.
 - Widespread environmental harm with adverse impacts on the wildlife and vegetation of the area due to construction works and future roadway operations.
 - Pollution of ravines and adverse impacts on surface and ground water and water supply systems. In particular, the Request raises concerns about the depletion or drying up of springs (mainly the spring located in the Montesano area) and water supply systems in several communities near project execution sites.
 - Environmental harm due to pollution stemming from the improper construction and operation of one of the excess material storage sites ("ZODME Z12"), where excess materials from the excavation of the La Sorda tunnel are stored. The Request alleges that ZODME Z12 was built on a wetland and therefore adversely affects the wildlife and vegetation of that parcel of land. In addition, they point to the potential pollution of the soil, the air, and sources of water with sulfide leachates, unauthorized materials (such as concrete, plastics, and wood) and possibly radioactive materials (such as uranium-238 and thorium) present in the waste deposited at that site. According to the Requesters, the alleged mismanagement of the negative impacts of ZODME Z12 has caused damage to adjacent properties owned by the Requesters, since flooding at the storage site has contributed to the death of more than 100 timber trees and caused pollution

⁴ The Request and Annexes are available in the links section of this document.

⁵ Veeduría Ciudadana de la Ruta del Cacao is made up of Mr. Gabriel Rangel Mogollón, Executive Director; Mr. Germán Rueda Mocada, legal representative; and Ms. Jackeline Delgado Durán, Secretary.

damage to fruit trees and livestock used in the agricultural activities relied on by some Requesters for their livelihood.

- Modification of the original alignment of the road in UF8 and UF9 without obtaining approval for a modified environmental permit, which the Requesters claim could cause harm to wildlife, vegetation, and bodies of water.
- Material damage to the Requesters' properties caused by flooding in the community of Puerto Balso, which they say is linked to the works to extend the existing road.

- 2.5 The Request also summarizes the contents of ANLA Resolutions 2404 and 2245, which focus on the management and operation of ZODME Z12. By the Requesters' account, these documents confirm that the waste has not been managed properly and call for the Client to implement 14 corrective measures and suspend activities at the site until those measures are implemented.
- 2.6 On that point, during the eligibility determination mission, the Requesters informed the MICI that the Client had submitted an appeal to reverse several of those corrective measures. The Client confirmed this information, and the Parties were waiting for the ANLA to issue a decision.
- 2.7 In addition to the harm described above, the Requesters provided additional information in later messages and during the eligibility determination mission on other types of potential harm, primarily economic harm to Requesters who own businesses currently located on the side of the road. They allege that the widening of the road and higher vehicle speeds will adversely impact their sales. In addition, they say that the increase in vehicle traffic increases their and their families' risk of getting into a traffic accident when crossing the road, because a number of pedestrian crossings have not been finished even though several stretches are already in operation.
- 2.8 During conference calls, the Requesters' representatives told the MICI that the Requesters had received threats due to their opposition to the project. However, they said the Requesters' identities did not need to remain confidential.
- 2.9 Regarding contact with Management, the Request notes that the Requesters' representatives have been in contact with IDB Invest in Colombia, first at a meeting in Bogota in September 2019 and then during the team's visit to Bucaramanga in October 2019, when they expressed their concerns regarding the project's environmental and social impacts. During meetings that were part of the eligibility mission held from 18 to 21 February 2020, the Requesters also informed the MICI that IDB Invest conducted a site visit in late January 2020. At that time, it toured ZODME Z12 and some parts of the El Líbano community but did not visit the homes that were allegedly damaged due to the project. They also said IDB Invest staff told them that it would not recognize any damage caused by the project prior to that site visit.
- 2.10 On the matter of Request processing, the Requesters stated their interest in the MICI processing their case through both the Consultation Phase and the Compliance Review Phase, if deemed eligible.

III. MANAGEMENT'S RESPONSE⁶

- 3.1 On 6 January 2020, IDB Invest Management was notified of the registration of Request MICI-CII-CO-2019-0152. On 31 January, IDB Invest Management submitted a Response outlining their perspective in regard to the issues raised in the Request. The Response is summarized below, and the full text can be accessed via the links section.
- 3.2 According to Management, after its initial contact with the Requesters' representatives in September 2019, it asked the project's independent environmental and social consultant to analyze the concerns about the new alignment of the road in UF8 and UF9, the adverse impacts associated with the operation of ZODME Z12, and the allegations of adverse impacts to water resources. It also says it conducted a project environmental supervision visit in October 2019 and organized a meeting with the Requesters' representatives.
- 3.3 As a result, Management reports that it asked the Client to (i) develop a Corrective Action Plan to improve the complaint response mechanism; (ii) strengthen the communication plan; (iii) enhance the conflict management protocol; (iv) hold informational meetings with the Requesters' representatives to address complaints; and (v) create a working group with the El Líbano community.
- 3.4 Regarding the ANLA Resolutions on ZODME Z12, Management notes in its Response that the Client prepared and began to execute an Action Plan to address the measures indicated by the ANLA to monitor material stored at that site.
- 3.5 Management made the following points regarding the allegations of harm raised in the Request:
- On the topic of the allegations of damage to homes, Management says it received 24 reports of structural damage to dwellings, two of which could be directly attributed to the road works, while the others pertained to nonstructural cracks linked to other causes. In addition, it reports receiving 26 additional complaints that were accepted in their entirety, which is why the Client has agreed to cover the cost of materials and labor to repair 28 homes. Management says payments have been issued for repairs to 19 of the homes to date, and payments for repairs to the other nine should be issued shortly.
 - Regarding the allegations of widespread environmental harm, Management says these impacts were duly identified in the environmental impact assessment, which includes measures to prevent, mitigate, correct, and offset them.
 - With respect to the allegation of pollution of ravines, Management says the management measures set out in the environmental permit are intended for the impacted ravines, noting that water monitoring has not indicated any type of pollution that could be attributed to the works.
 - As for the harm to bodies of water, Management notes in its Response that the project has followed local laws that state that the execution of all works must maintain a minimum distance from water sources (a 100-meter radius).

⁶ IDB Invest Management's Response to Request MICI-CII-CO-2019-0152 in regard to the "Ruta del Cacao 4G Toll Road" Project (operation 12252-01) is available in the links section.

Regarding the allegations of adverse impacts on groundwater, Management says the project has carried out works to allow water to flow and prevent any adverse impacts. It also notes that monitoring in the areas around the tunnels shows that surface waterbodies are in the same conditions as they were prior to the works. On the particular case of Montesano, Management says that the monitoring of its levels show that conditions are stable, variations in its flow are not related to tunnel construction, and the lack of water at certain points is caused by leaks. Lastly, it claims that the likelihood that the project is altering the flow of water supply systems is extremely low, since their catchments are not in the project intervention area.

- In response to the various allegations of harm linked to ZODME Z12, Management notes the following:
 - (i) The location of the storage site was determined in accordance with ANLA procedures and authorized by the environmental permit. In addition, the baseline study and the field verification show that ZODME Z12 is not located in a wetland but rather in a grazing area with a high degree of human activity, so harm to wildlife and vegetation should be limited.
 - (ii) On the topic of leachate pollution, Management reports that no sulfuric materials have been found in mineralogical samples and analyses.
 - (iii) Regarding the possibility of radioactive materials stored at ZODME Z12, Management says the Client formally consulted the Colombian Geological Service, which indicated on 26 December 2019 that, according to its study “Exploración de Minerales Energéticos a Partir de Mediciones Gamaespectrométricas para Potasio, Uranio y Torio en el Área Simacota – Lebrija y Área de California, Departamento de Santander,” no radioactive elements had been found in the area. In addition, Management points out that x-ray diffraction tests were performed on extracted samples for the detailed studies for tunnel construction, and these tests also found no evidence of radioactive material. Lastly, Management reports that the Client is conducting new tests to measure the radioactivity of material from the tunnels as part of its planned activities to address the requirements set forth by the ANLA, the results of which are still pending.
 - (iv) Regarding the damage to properties adjacent to ZODME Z12, the Response indicates that the planned works should not involve any interventions on neighboring properties, and no evidence of contamination of those properties was seen during the site visits. Management says the only instance when such damage could have occurred was when part of the storage site flooded, which should be resolved by the new drainage system that has been installed. In addition, Management says the alleged damage mentioned in the Request more likely was the result of a failure to fumigate the fruit trees unrelated to the project. As for the timber trees, Management saw no evidence that such trees existed at its site visit in January, and, at any rate, only about ten trees located in ZODME Z12 were removed to prepare the site, following the provisions of the environmental permit.

- Regarding the modification of the alignment, Management indicates that the ANLA has already approved a modified environmental permit for the new alignments for UF8 and UF9 through ANLA Resolution 2594. Accordingly, it says the likelihood of destroying sources of ground water in those areas is relatively low based on the corresponding environmental studies and notes that one of the reasons for changing the alignment was to avoid impacts to several water sources.
 - Lastly, regarding the allegation that the floods in Puerto Balso may have been related to the works, Management says that, according to the inspections conducted by the Client with the participation of the municipal government, the flooding in the area is due to preexisting conditions linked to the Sogamoso River's hydrological regime, not the project.
- 3.6 Lastly, Management believes that the allegations raised in the request are being addressed by following the appropriate process. To that end, it notes that the local environmental authority is monitoring all of the issues raised by the Requesters and that the Client has taken measures and steps to actively mitigate some of the concerns raised in the Request. For those reasons, it believes that the potential harm described by the Requesters is being prevented and managed with concrete actions.
- 3.7 Lastly, it says it has complied with the provisions of the IDB Invest Operational Policies and reiterates its willingness to constructively support the MICI throughout this process.

IV. MICI ACTIONS

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

Table 1. Timeline of MICI actions

Date	Actions
2019	
27 December	Request received
2020	
6 January	Conference call with the Requesters' Representatives
6 January	Request registered and notifications sent to Requesters and IDB Invest Management
16 January	Conference call with the Requesters' Representatives
24 January	Conference call with the Requesters' Representatives
31 January	Management Response received
1 February to 20 March	Document review and desk work
11 February	Meeting with IDB Invest Management
12 February	Conference call with the Client
13 February	Conference call with the Requesters' Representatives
18 to 21 February	Eligibility Mission to Bucaramanga and nearby areas where the project is being executed
25 February	Conference call with a member of Fundación del Poder Rosado

Date	Actions
26 February	Request for an extension to the deadline for the Eligibility Determination period submitted to the Board of Executive Directors of the IIC
3 March	Request for an extension to the deadline for the Eligibility Determination period approved
20 March	Eligibility Memorandum issued

- 4.2 During the registration/eligibility determination period, in addition to reviewing the relevant documentation, the MICI held conference calls and meetings with IDB Invest Management, the Client, the Requesters' Representatives, and interested third parties to better understand the context of the project.
- 4.3 In light of information received from the Requesters regarding potential reprisals and in accordance with the [Guidelines for Addressing Risk of Reprisals in Complaint Management](#), the MICI conducted a Risk of Reprisals Analysis. It found that the risk is currently low, based on the opinion of the Requesters and their representatives, and that releasing their and the Requesters' Request to the public could reduce the risk of reprisals.
- 4.4 From 18 to 21 February 2020, the MICI conducted a mission to the city of Bucaramanga and neighboring areas to meet with the different stakeholders and visit the project site. The MICI thanks all parties for their willingness to meet with and provide information to the mission team.
- 4.5 During that visit, the MICI met with employees of Concesionaria Ruta del Cacao S.A.S. and visited several sections of the project with them. In addition, the MICI team and the Requesters' representatives toured the communities of La Fortuna, Tienda Nueva, El Líbano, Lisboa, and Portugal to gather firsthand information on the harm raised in the Request, speak with the Requesters, and become familiar with the area directly impacted by the project.

Visit to the project area
All photographs owned by the MICI.

Alignment in UF7



La Sorda tunnel



Construction works



ZODME Z12



Tienda Nueva



Property next to ZODME Z12



Homes in El Líbano



V. ELIGIBILITY DETERMINATION ANALYSIS

- 5.1 As part of the eligibility determination process, the MICI considered the information presented in the Request, Management's Response, several project documents associated with the Request, and other relevant documents.⁷ It also considered the inputs received from different stakeholders during the eligibility mission, as well as other information pertaining to the eligibility criteria established in the MICI-IIC Policy.
- 5.2 Pursuant to paragraph 22 of the Policy, a Request will be deemed eligible by the MICI if it is determined that it meets all the following criteria:
- a. The Request is filed by two or more persons who believe that they have been or may be affected and who reside in the country where the IIC-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 an IIC-financed operation that has been approved by the Board or the General Manager.
 - 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 apply.
- 5.3 In the case of Request **MICI-CII-CO-2019-0152**, the analysis of the eligibility criteria established in the Policy is as follows:
- 5.4 The Request was filed by 58 residents of the communities of La Fortuna, Tienda Nueva, El Líbano, Lisboa, and Portugal, in the department of Santander, Colombia, who are represented before the MICI by Veeduría Ciudadana de la Ruta del Cacao [Cacao 4G Citizen Watch Group], which has submitted proof of authorization to represent the Requesters. Consequently, **Criterion 22(a) has been met.**
- 5.5 The Request identifies loan operation "Ruta del Cacao 4G Toll Road," approved by the Board of Executive Directors of the IIC on 24 April 2018. Consequently, **Criterion 22(b) has been met.**
- 5.6 The Request **alleges Harm** that could be related to potential noncompliance of the IDB Invest Environmental and Social Sustainability Policy, notwithstanding the actions conducted by local environmental authorities to enforce Colombian laws and standards. After a preliminary review, the MICI is of the opinion that IDB Invest appears to be addressing appropriately some of the issues raised in the Request; however, the Requesters continue to have concerns despite their meetings with IDB Invest. In addition, the MICI finds that clarification is still needed regarding IDB Invest's actions in relation to certain other allegations of Harm. The Consultation

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

Phase provides an opportunity for IDB Invest to clarify several of these issues, so, if the Parties accept, it could allay the Requesters' concerns. Consequently, **Criterion 22(c) has been met.**

- 5.7 Regarding prior contact with Management, the Request presents information concerning several interactions between the Requesters' representatives and IDB Invest officials in the second half of 2019. Despite these meetings, the Requesters continue to have concerns. Management, in its Response, confirmed these interactions with the representatives. The MICI concludes that **Criterion 22(d) has been met.**
- 5.8 Regarding the exclusions provided in paragraph 19, **the MICI concludes that none of the exclusions contained in subparagraphs 19(a), 19(b), 19(c), 19(d), 19(e), or 19(f) apply** since the Request does not raise issues beyond the scope of the MICI; does include the Requesters' contact information; the issues raised in the Request have not already been reviewed by the MICI; to the MICI's knowledge at the time of this analysis, none of the issues or specific points raised in the Request were the subject of arbitration or judicial proceedings; and the operation in question was approved in 2018 and is currently in disbursement.

VI. CONCLUSION

- 6.1 The MICI Director, in accordance with Section G of the MICI Policy (document CII/MI-1-1), concludes that this Request **is eligible** because it meets the eligibility criteria established in the MICI-IIC Policy.
- 6.2 This determination of eligibility is neither an assessment of the merits of the Request and the issues raised therein, nor is it a determination of the IDB's compliance or noncompliance with its Relevant Operational Policies. It only marks the start of the MICI process and does not halt the Project or suspend its disbursements.
- 6.3 This Memorandum was sent directly to the Requesters and to Management for information on 20 March 2020. It will be distributed to the Board of Executive Directors of the IIC for information, and to any interested third parties through the [Public Registry](#) once the English version is available.
- 6.4 As requested by the Requesters, the MICI Director will transfer the case to begin processing under the Consultation Phase. In light of the ongoing COVID-19 health crisis, the Consultation Phase team will contact the Parties regarding the timeline and method for processing the case.
- 6.5 Lastly, in response to the Requesters' reports of a looming risk of reprisals, the MICI would like to convey that it has a zero tolerance policy for any form of reprisals. If this risk continues unabated or materializes in any way, the MICI will take the appropriate actions in accordance with its [Guidelines for Addressing Risk of Reprisals in Complaint Management](#) in pursuit of respect for human rights.