

**PUBLIC**

**DOCUMENT OF THE INDEPENDENT CONSULTATION  
AND INVESTIGATION MECHANISM**

**BO-MICI001-2011  
COMPLIANCE REVIEW PHASE DETERMINATION OF ELEGIBILITY  
SANTA BARBARA-RURRENABAQUE NORTHERN CORRIDOR HIGHWAY  
IMPROVEMENT  
(1833/SF-BO)**

**This document was prepared by the Panel Chairperson of the Compliance Review Phase**

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**COMPLIANCE REVIEW PHASE  
ELIGIBILITY DETERMINATION**

**TO:** Requesters, Board, President of the Bank, the Country Office Representative, Project Team and Executing Agency<sup>1</sup>

**FROM:** **Mary Rose Brusewitz**, Chairperson of the Compliance Review Panel

**REFERENCE:** Case BO-MICI001-2011 Bolivia - Santa Barbara-Rurrenabaque Northern Corridor Highway Improvement Program (Operation Number 1833/SF-BO and Project Number BO-L1011)

**COUNTRY:** Plurinational State of Bolivia

**DATE:** October 29, 2013

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**I. Summary**

The Bolivia - Santa Barbara-Rurrenabaque Northern Corridor Highway Improvement Program (the “Program”) involves a loan (the “Loan”) approved by the Board on December 20, 2006. On February 28, 2011, the ICIM received a Request regarding the Program alleging potential negative environmental and social impacts that have arisen and could arise from the construction and subsequent use of a bridge and access routes (the “Bridge”) that were, at the time, under consideration to become part of the Program. On May 19, 2011, at the Borrower’s request, the Bridge was added to the Program pursuant to an amendment and the financing thereof was to comprise approximately 14% of the Loan’s principal amount. The proposed siting of the Bridge had been the subject of controversy among the local population since at least 2006. As the result of dialogue among the Requesters, Management and the Executing Agency, in June of 2012, it appears that the Executing Agency agreed to carry out a study of alternative locations for the Bridge, taking into consideration economic, environmental, social and technical standards. It is unclear based on information available to the Panel whether that study was ever carried out.

The Request first was deemed eligible by the Project Ombudsperson for the ICIM Consultation Phase. A Consultation Phase exercise commenced but was halted when, in 2013, Management informed the ICIM of a loan reallocation decision at the request of the Borrower. The result was

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<sup>1</sup> Unless otherwise defined herein, terms used in this document have the meanings assigned to them in the Policy Establishing the Independent Consultation and Investigation Mechanism (GN-1830-49) (the “ICIM Policy”), approved on February 17, 2010 and available at: <http://www.iadb.org/mici> (the “ICIM Policy”).

that the IDB would no longer finance the construction of the Bridge. Though the Bridge is no longer to be financed by the IDB, the Panel Chairperson has determined that the Request appears to meet the relevant standards in the ICIM policy: it meets the eligibility criteria of the ICIM policy and no exclusions apply. In particular, the Requesters (a) allege harm relating to a Bank-Financed Operation, (b) allege that this harm resulted from Bank actions or omissions in connection with the inclusion by the Bank of the Bridge in the Program via an amendment after the approval of the Loan by the Board and the subsequent 2013 Loan reallocation and (c) believe these actions or omissions may be contrary to the Bank's social and environmental safeguards. Based on a *prima facie* review of the Request and available documents and information, the Panel Chairperson determines this Request **eligible for a Compliance Review**.

## II. Compliance Review Phase

### *Purpose*

In accordance with Part D, Section 53 of the ICIM Policy, the purpose of a Compliance Review is to investigate allegations expressed by the Requesters that their rights or interests have been, or could be expected to be directly, materially adversely affected by actions or omissions of the Bank that the Requesters allege constitute the failure by the Bank to follow one or more of its Relevant Operational Policies ("ROPs") in connection with a Bank-Financed Operation. The objective of a Compliance Review is to establish whether (and if so, how and why) any Bank action or omission, in respect to a Bank-Financed Operation, has resulted in non-compliance with one or more ROPs and direct, material adverse effects (potential or actual) to the Requester.

A Compliance Review is a fact-finding exercise. Part D, Section 65 of the ICIM Policy provides that a Compliance Review is not a judicial process designed to establish guilt or innocence or to adjudicate fault or apportion blame. In addition, a Compliance Review does not involve any investigation of the actions of any party such as governmental authorities, the Borrower/Recipient/Executing Agency, any other lender or investor, sponsor(s) or developer(s).

### *Eligibility*

Under the ICIM Policy, a Request proceeds from the Consultation Phase to the Compliance Review Phase if the Requester has expressed a desire for a Compliance Review and if:

- a) the Consultation Phase has been terminated or concluded for any reason, or
- b) the Request was deemed ineligible under the Consultation Phase.<sup>2</sup>

Requests to the ICIM are deemed eligible for the Compliance Review Phase based on criteria outlined in the ICIM Policy that are summarized in Part V of this document. In making an eligibility determination the Panel makes no inference nor reaches any conclusions as to whether any action or omission by the Bank has resulted in non-compliance with any of the Bank's ROPs. If the Panel Chairperson deems a Request eligible for the Compliance Review Phase, the undertaking of a Compliance Review must still be approved by the Board for the Panel to proceed.

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<sup>2</sup>Part D, Section 54 of the ICIM Policy.

### **III. The Project**

#### ***Project Background***

The Program involves a Loan intended to facilitate transportation integration at the national level in Bolivia, specifically between the municipalities of Beni and La Paz, as well as to provide access to Rurrenabaque, a tourist center and small-scale agricultural area. The Board approved the Program on December 20, 2006. The Borrower is Bolivia and the Administradora Boliviana de Carreteras is the executing agency (the “Executing Agency” or “ABC”). The total value of the Loan is USD120 million and was initially designed to improve and repair paving, provide maintenance for the Santa Bárbara-Quiquibey corridor and to foster institutional strengthening.

On May 19, 2011, at the Borrower’s request, an amendment of the Program allocated USD 17 million of the Loan to “Component Two” of the Program, the Bridge. The Bridge would span the Beni River and connect the cities of Rurrenabaque and Buenaventura. Two related access routes were also part of Component Two, one in each city.<sup>3</sup> Later, on November 23, 2011, the ABC hired the PROES consulting firm to carry out an analysis of alternatives for the location of the Bridge; a cash advance for these services was paid for from a Loan disbursement.

To date, the Bank has disbursed 55.07 percent of the Loan.

#### ***Environmental and Social Issues Surrounding the Bridge and its Access Routes***

Between 2006 and 2008, the Executing Agency presented the Bank with a Technical/Economic Feasibility, Environmental Impact and Final Design Study for the Rurrenabaque San Buenaventura Bridge, (the “Feasibility Study”), conducted by CARL BRO, a Danish consulting firm, and CAEM, a Bolivian consulting firm, with funding from the Nordic Development Fund. The conclusions of the Feasibility Study included a statement that “the strong opposition to the proposed siting of the bridge and its access routes expressed by the authorities in Rurrenabaque at the first and only public consultation, in 2006, made it impossible to proceed with these activities properly.” According to the information received by the ICIM, in 2010 the ABC sent the Feasibility Study to the IDB.<sup>45</sup> Even in light of the conclusions of the Feasibility Study, the Bank approved the addition of the Bridge as part of the Program in 2011. The planning for the Bridge thus continued despite the Feasibility Study’s caveats that the Rurrenabaque authorities were decidedly in opposition to the Bridge as proposed.

The environmental license for the Bridge was granted on December 17, 2009, based on the Feasibility Study and EIA carried out by CARL BRO and CAEM. The environmental license is valid for ten years, provided that construction work starts within one year of being granted. Due to the fact that construction of the Bridge did not begin within that time period, presumably, an update to the environmental license has been required since December of 2010.

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<sup>3</sup> This component was introduced by amendment N° 2 to Loan 1833/SF-BO.

<sup>4</sup> Consultation Phase Report Rurrenabaque - San Buenaventura Bridge Case (BO-MICI001/2011), page7.

<sup>5</sup> The following IDB departments were reportedly aware of the Feasibility Study: CAN/BO, INE/TSP, and VSP/ESG, see: Consultation Phase Evaluation Report, Rurrenabaque – San Buenaventura Bridge, BO MICI001/2001, pages 3-4.

The siting of the Bridge continued to be controversial over the next several years, leading to the Request the ICIM received on February 28, 2011. On April 13, 2011, the Project Ombudsperson declared the Request eligible for the Consultation Phase and on September 12, 2011 the Project Ombudsperson distributed an Assessment Report to the Board in which she had determined the parties were amenable to dialogue and that a dialogue might resolve the conflict. From that point until April 2013, the Project Ombudsperson engaged in exchanges of information with the Requesters, Management and the ABC with the stated goal of providing an opportunity to the parties to address their concerns through a consensual and flexible approach.

On June 6, 2012, the Project Ombudsperson, the Requesters, the IDB and the Executing Agency began a dialogue exercise. The Requesters expressed their concerns, particularly focusing on what they allege to be a lack of serious consideration of alternative locations for the Bridge. As a result of the dialogue, *inter alia*, the Executing Agency agreed to conduct studies on an alternative Bridge location, considering economic, environmental, social and technical standards. This agreement was documented in meeting minutes signed by the parties on June 6, 2012 (see the “Acta de Entendimiento” annexed hereto).

### ***Recent Developments***

On January 11, 2013, IDB Management forwarded to the Project Ombudsperson an official communication issued by the Bolivian Federal Ministry of Development Planning on January 8, 2013, in which the IDB was informed of Bolivia’s decision to reallocate the funds originally intended for Component Two, the construction of the Bridge.<sup>6</sup> According to this official communication, the construction of the Bridge would be financed with domestic funds. On January 15, 2013, the Executing Agency sent a written communication to the Project Ombudsperson stating “...from now on ABC will communicate directly with the social groups involved as necessary and seek consensus to bring construction of the bridge to fruition.”<sup>7</sup> On March 25, 2013, Management formally responded to the Requesters, confirming that the government had confirmed to the Bank its decision not to use additional Loan funds for construction of the Bridge. The government’s decision also included reallocation of the funds formerly intended for the alternative location studies that were to have taken place according to the meeting minutes referred to above. On April 22, 2013, the Project Ombudsperson issued a Consultation Phase Report for the case, and terminated the Consultation Phase based on the decision not to use further proceeds of the Loan to fund the construction of the Bridge.<sup>8</sup>

Following the closing of the Consultation Phase, on July 1, 2013 the Requesters sent a written communication to the Executive Secretary asking for the Request to be considered under the Compliance Review Phase.

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6 The Panel has noted conflicting assertions on whether it was the Government of Bolivia or the Bank’s decision to cancel the IDB funding of the Bridge. In this regard, the ABC’s website informs that the IDB decided to no longer finance the bridge’s construction activities, given the “...oposición de algunos sectores...”  
<http://www.abc.gob.bo/Gobierno-destinara-recursos-para>

<sup>7</sup> ABC, Official communication ABC/PRE/CFE/BID/2013-0008 of January 15, 2013.

<sup>8</sup> Consultation Phase Report, Rurrenabaque – San Buenaventura Bridge, BO MICI001/2001, pages 15 and 16. The Panel utilized excerpts of the Consultation Phase Report in this section.

## IV. The Request

On February 28, 2011, inhabitants of the municipality of Rurrenabaque (the “Requesters”), including the Committee of Residents of Rurrenabaque in La Paz, the Committee of Residents of Rurrenabaque in Santa Cruz and the Foro Boliviano sobre el Medio Ambiente y Desarrollo (FOBOMADE), and one other party that requested confidentiality, submitted a Request to the ICIM.<sup>9</sup> The Request expressed concern about the plans for the construction and operation of the Bridge.<sup>10</sup>

The Requesters allege that the construction of the Bridge at the proposed location has and would in the future result in negative environmental and social impacts for the Requesters. The direct material direct harm alleged by the Requesters is summarized in the table below, as well as the ROPs which may relate to or be triggered by each “harm”, based on the information currently available to the Panel.

Allegations from Requesters	Relevant Operational Policy
Actual and potential harm from having to move out of the way of the construction as planned	<ul style="list-style-type: none"><li>• Involuntary Resettlement Policy (OP-710)</li></ul>
Preparatory work for the Bridge lacked key features such as a resettlement plan	<ul style="list-style-type: none"><li>• Involuntary Resettlement Policy (OP-710)</li></ul>
Lack of timely and meaningful disclosure of information about the plans for the Bridge	<ul style="list-style-type: none"><li>• Policy on Access to Information Policy (OP-102)</li><li>• Environmental and Safeguards Compliance Policy (OP-703)</li></ul>
<ul style="list-style-type: none"><li>-Planning process did not take into consideration the potential social and environmental impact of the location proposed for the Bridge</li><li>-Failure to undertake a new environmental impact assessment once the Bridge became part of the Program</li></ul>	<ul style="list-style-type: none"><li>• Environmental and Safeguards Compliance Policy (OP-703)</li></ul>
The siting of the Bridge in an already vulnerable area will exacerbate floods and landslides	<ul style="list-style-type: none"><li>• Disaster Risk Management Policy (OP-704)</li></ul>
Changes in land use and damage to municipal protected areas	<ul style="list-style-type: none"><li>• Environmental and</li></ul>

<sup>9</sup> Rurrenabaque is a small town in the North of Bolivia, close to the Beni River, and it is also the capital of Rurrenabaque Municipality. It has become popular with international tourism as it is an easy gateway for visits to Madidi National Park (within the Bolivian rainforest) as well as the surrounding pampas.

<sup>10</sup> Operation Number 1833/SF-BO and Project Number BO-L1011.

	Safeguards Compliance Policy (OP-703)
Changes in land use in areas adjacent to the Bridge, including the National Park and Integrated Protected area of Madidi as well as the Biosphere Reserve and the indigenous territory of Pilon Lajas	• Environmental and Safeguards Compliance Policy (OP-703)
Air and noise pollution	• Environmental and Safeguards Compliance Policy (OP-703)
Hazardous traffic conditions threaten the safety of community members and especially children who need to cross the road to get to nearby education centers	• Environmental and Safeguards Compliance Policy (OP-703)
Threat to local livelihoods, especially to ecotourism activities	• Environmental and Safeguards Compliance Policy (OP-703)

In December 2010, the controversy regarding the plans for the Bridge reached its apex when some social and neighborhood organizations set up a blockade of Rurrenabaque and took hostages as a form of protest against the town's *opposition* to the location of the Bridge, which they understood to be causing delays in the Program. The Requesters allege that this social conflict led to economic loss to Requesters in the days of the blockade as well as causing potential and continuing future losses, since the conflict damaged the town's reputation as a tourist destination and tourism is an important source of income to inhabitants, including Requesters. The hostage situation was resolved some days later with the signing of an official document in the city of Reyes, whereby: (i) the mayor of Rurrenabaque "despite not being in agreement with the technical location of the project, accepted the proposal presented by the ABC, and asked to work in coordination to improve the access routes;" (ii) the parties accepted improvements and variations in the access routes; and (iii) it was agreed to suspend the blockade and free the hostages (Cf. Acta de Reyes, December 9, 2010). According to the Requesters, the Acta de Reyes was signed under coercion and, thus, it cannot be considered valid.

From the point of view of the Requesters, the Bridge has been a standing controversy since at least 2006, when strong opposition was first expressed in a public consultation as documented in the Feasibility Study. The Requesters state that the Bank should have insisted on consultations with the local communities in the early stages of the Program to understand the seriousness of the potential adverse impacts from the perspective of the local communities. They also believe that these negative impacts would have been recognized if the Bank had, in the first place, insisted on an additional impact assessment before agreeing to use funds from the Loan to finance anything relating to the Bridge. Finally, the Requesters updated their original Request to express their concern that the agreements made during the Consultation Phase, including the plan to carry out a study of alternative locations for the Bridge, might now not be implemented or be neglected since the Bank has withdrawn from the Project.



## V. Eligibility Analysis Summary

Based on the above and the ICIM eligibility criteria having been met, as seen in table below, the Panel Chairperson determines that, as per the ICIM Policy, “the Requesters ha[ve] reasonably asserted that [they have] been or could be expected to be directly, materially adversely affected by an action or omission of the IDB in violation of a Relevant Operational Policy in a Bank-Financed Operation and [have] described in at least general terms the direct and material harm caused or likely to be caused by such action or omission...”<sup>11</sup>

Eligibility Criteria Pursuant to Part D, Section 56 and Exclusions from Eligibility Pursuant to Part B, Section 37 of the ICIM Policy	Determination by the Chairperson	Comments
<b>56 (a)</b> Name and contact information of the Requester	Meets the criteria	The names and contact information of the Requesters are recorded in the ICIM’s files.
<b>56 (b)</b> Names and contact information of the Representative, if any, and proof of the authorization	Meets the criteria	The name, contact information and authorization of the Representative of the Requesters are recorded in the ICIM’s files.
<b>56 (c)</b> Project at issue identified as a Bank-Financed Operation	Meets the criteria	Northern Corridor Highway Improvement Program, Santa Bárbara-Rurrenabaque Section (Operation Number 1833/SF-BO and Project Number BO-L1011).
<b>56 (d)</b> The Requester resides in the country where the operation is or will be implemented (or a qualified Representative has been appointed)	Meets the criteria	The Requesters reside in Bolivia.
<b>56 (e)</b> None of the exclusions set forth in Part B, Section 37 applies	No Exclusion applies	The ICIM checked with Management and the Requesters to enquire whether they were aware of any arbitral or judicial review of issues related to the case and were told these parties were not aware of the existence of any such review
<b>56 (f)</b> The Requester has reasonably asserted that it could be expected to be	Meets the criteria	The Requesters have sufficiently described the environmental and social impacts and direct material

<sup>11</sup> Part D, Section 56 f of the ICIM Policy.

directly, materially adversely affected by an action or omission of the IDB in violation of a ROP		adverse effects on them that, in their view, could have resulted from potential actions or omissions of the IDB with respect to the application of the Bank's ROPs.
<b>56 (g)</b> A Compliance Review could assist in determining whether the Bank's action or omission, with respect to a Bank-Financed Operation has resulted in non-compliance with a ROP and affect the Requesters	Meets the criteria	The Requesters have described their concerns and stated that they have already suffered negative impacts relating to the manner in which the Bridge project has evolved in the context of the Program. They remain fearful of the potential negative impacts of the currently planned siting of the Bridge, which they have been in opposition to since 2006. The Requesters are aware of the Bank's inclusion and subsequent exclusion of the Bridge in or from the Program, but believe the Bank still has the responsibility to see to it that the additional study that was agreed to by the Parties in June 2012 be carried out and its results taken into account. They believe the Bank's involvement with the Bridge and the siting issues has been significant. Certain harms have already occurred. The Requesters' concerns and fears of potential and actual direct, material harm persist. A Compliance Review may assist in clarifying the allegations and the conflicting assertions and ascertain whether the Bank's role contributed to these harms and was in compliance with the applicable ROPs.
<b>56 (h)</b> The Requester has taken steps to bring the issue to the attention of Management	Meets the criteria	The Requesters have taken steps to bring the issue to the attention of Management.

Therefore, the Panel Chairperson determines this Request **eligible for a Compliance Review**.

**Annex: “Acta de Entendimiento” signed by the parties during the Consultation Phase on 6 June 2012<sup>12</sup>**

**RURRENABAQUE – SAN BUENAVENTURA BRIDGE CASE (BO-MICI/001/2011)  
JOINT MEETING IN PREPARATION FOR DIALOGUE  
REPRESENTATIVES OF RURRENABAQUE, SAN BUENAVENTURA, AND THE  
BOLIVIAN HIGHWAY ADMINISTRATION (ABC)**

Within the framework of the dialogue process in the Rurrenabaque – San Buenaventura Bridge Case (BO-MICI/001/2011), at the meeting convened by the Independent Consultation and Investigation Mechanism (ICIM) of the Inter-American Development Bank (IDB) on 6 June 2012 at the Social Club of Rurrenabaque, the parties agreed as follows:

1. Given the new regional context, with the existence of major highway projects like San Buenaventura – Isiamas and Rurrenabaque – Riberalta, as well as the agroindustrial complex of northern La Paz, the ABC agrees to conduct an identification (feasibility) study on a second alternative for the location of the bridge and its access routes, considering technical, economic, social and environmental, and financial aspects, based on the criteria set for consensus-based and participatory decision-making. The two alternatives will be considered at the same level of analysis and study for informed and participatory decision-making regarding the location of the bridge.
2. The authorities and representatives of the population in attendance from San Buenaventura and Rurrenabaque agree on analyzing the second alternative as part of the tasks to be assigned to the consulting firm PROES.
3. At the request of the ABC, as much as possible the municipios will not approve the construction of new urban development projects in the area of potential alternatives for the project until a final decision is made on the location of the bridge and its access routes.
4. A technical team will be created of members of residents and officials from Rurrenabaque and San Buenaventura and the ABC (“Rurrenabaque – San Buenaventura Technical Team”) to carry out the following tasks, inter alia: (i) to indicate to the ABC the second alternative to be studied in accordance with paragraph 1; (ii) to revise and reach consensus on the terms of the amendatory contract between the ABC and PROES for the latter to conduct the studies mentioned in paragraph 1; (iii) to develop a work schedule in conjunction with the ABC and PROES for the studies on alternatives 1 and 2; and (iv) to participate in and monitor PROES in the activities involved in the study of alternatives for locating the bridge and access routes.
5. Within fifteen (15) days, the representatives of San Buenaventura will elect their interlocutors for the dialogue. Within the same period, the authorities and interlocutors of Rurrenabaque and San Buenaventura will elect their representatives for the technical team.

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<sup>12</sup> English translation of the Spanish original which is attached to the Spanish version of the Compliance Review Phase Eligibility Memorandum of case BO-MICI/001-2011.

6. The ABC will send the Rurrenabaque – San Buenaventura Technical Team an initial draft of the amendatory contract with PROES immediately upon the formation of that technical team. Within ten (10) days of receiving this draft, the Rurrenabaque – San Buenaventura Technical Team will send the ABC's Northern Regional Management its comments and contributions regarding the amendatory contract.

7. The ABC and PROES will coordinate in advance with the mayors' offices in Rurrenabaque and San Buenaventura on the start of technical activities. The mayors' offices will coordinate the performance of those activities with the residents. The ABC agrees that PROES will establish a grievances office within no more than fifteen (15) days of starting its activities in Rurrenabaque to ensure that the population has a place to address their concerns.

8. The inhabitants of San Buenaventura will form a committee of interlocutors to participate in the dialogue process. The ABC will provide information on the project to this committee, which will transmit this information to the population.

9. The PROES company, based on the amendatory contract and the work schedule mentioned in paragraph 6, will conduct parallel and simultaneous studies to: (i) supplement and update the studies on alternative 1; and (ii) conduct the studies on the second alternative to be proposed by the Rurrenabaque – San Buenaventura Technical Team.

10. The ABC confirms and ratifies that once the technical, economic, environmental, and social aspects of both alternatives are compiled, the populations of Rurrenabaque and San Buenaventura, through the agreed upon consultation mechanisms, will make consensus-based decisions on the location of the bridge and its access routes.

11. The final alternative will be subject to consultation with the populations of Rurrenabaque and San Buenaventura, without prejudice to the specific consultations required for other components of the project, such as the Loss Replacement Plan and the environmental license.

These minutes were agreed to by the persons whose signatures appear below and the lists of those attending the two days of the meeting are attached to these minutes.

Rurrenabaque, 6 June 2012

[signatures]