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DOCUMENT OF THE INDEPENDENT CONSULTATION  
AND INVESTIGATION MECHANISM

**MICI-BID-PR-2016-0101**

**ASSESSMENT REPORT OF THE CONSULTATION PHASE**

**PROGRAM FOR DOWNTOWN REDEVELOPMENT, MODERNIZATION OF METROPOLITAN PUBLIC  
TRANSPORT AND GOVERNMENT OFFICES**

**AND**

**PROPEF – DOWNTOWN REDEVELOPMENT, MODERNIZATION OF METROPOLITAN PUBLIC  
TRANSPORT AND GOVERNMENT OFFICES**

**(PR-L1044, PR-L1056)  
(2419/OC-PR, 2316/OC-PR)**

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This document is being released to the public and distributed to the Bank's Board of Executive Directors  
simultaneously.

## CONTENTS

EXECUTIVE SUMMARY.....	1
I. BACKGROUND.....	2
A. Project.....	2
B. Request.....	3
C. Processing of the Request to date.....	4
II. ASSESSMENT.....	4
A. Method .....	5
B. Parties.....	5
C. Other key Parties to the process.....	6
D. Perspectives of the Parties .....	7
E. Joint meeting.....	9
III. CONCLUSIONS AND NEXT STEPS.....	10

**ELECTRONIC LINKS**

1. Original request: <http://www.iadb.org/document.cfm?id=40316044>
2. Video testimonial #1: <http://www.iadb.org/document.cfm?id=40316013>
3. Video testimonial #2: <http://www.iadb.org/document.cfm?id=40316110>
4. Video testimonial #3: <http://www.iadb.org/document.cfm?id=40316111>
5. Video testimonial #4: <http://www.iadb.org/document.cfm?id=40316112>
6. Video testimonial #5: <http://www.iadb.org/document.cfm?id=40316114>
7. Video testimonial #6: <http://www.iadb.org/document.cfm?id=40316117>
8. Video testimonial #7: <http://www.iadb.org/document.cfm?id=40316123>
9. Video testimonial #8: <http://www.iadb.org/document.cfm?id=40316123>
10. Video testimonial #9: <http://www.iadb.org/document.cfm?id=40316124>
11. Summary of testimonials provided by the Requesters:  
<http://www.iadb.org/document.cfm?id=40317033>
12. Memorandum of eligibility: <http://www.iadb.org/document.cfm?id=40433817>
13. Management's response: <http://www.iadb.org/document.cfm?id=40387462>
14. Project profile, "Downtown Redevelopment, Modernization of Metropolitan Public Transport and Government Offices" <http://www.iadb.org/Document.cfm?id=35109799>
15. Loan proposal, "Downtown Redevelopment, Modernization of Metropolitan Public Transport and Government Offices" <http://www.iadb.org/Document.cfm?id=35382302>
16. Preliminary Environmental Impact Assessment (pEIA), Section II: Avda. Eusebio Ayala and Gral. Aquino (Asunción) – Ruta Mariscal Estigarribia (Campus of the National University of Asunción, San Lorenzo) July 2015: <http://www.iadb.org/Document.cfm?id=40342552>

## **ABBREVIATIONS**

BRT	Bus rapid transit
ESSAP	Empresa de Servicios Sanitarios del Paraguay
IDB	Inter-American Development Bank
MICI	Independent Consultation and Investigation Mechanism
MOPC	Ministry of Public Works and Communications
PROPEF	Project Preparation and Execution Facility

## EXECUTIVE SUMMARY

On 17 May 2016, a group of 11 individuals from the city of Asunción, Paraguay (the Requesters), submitted a Request to the Independent Consultation and Investigation Mechanism (MICI) in reference to the design and construction of a mass transit system planned as part of the project “Downtown Redevelopment, Modernization of Metropolitan Public Transport and Government Offices” (PR-L1044) (the Project).

The Project is a sovereign guaranteed loan operation for a total amount of US\$125 million that was approved by the IDB’s Board of Executive Directors on 29 September 2010. The borrower is the Republic of Paraguay, and the executing agency is the Ministry of Public Works and Communications (MOPC). The Request, accompanied by nine video testimonials, was registered on 25 May 2016 and declared eligible on 26 July 2016.<sup>1</sup> The public records for the case are available through MICI’s online public registry, as record [MICI-BID-PR-2016-0101](#).

In the Request, the Requesters allege that the “First Metropolitan Public Transport Corridor” component of the Project would adversely affect their livelihoods in two regards: first, during execution, when they believe that sales will be hurt by lack of access, which would mean a loss of income, staffing cuts, and the concomitant impact on their household finances; and second, those who have been informed that they will have to vacate the area and relocate elsewhere have not received any relocation assistance or compensation. According to the Requesters, this harm would result from a failure to design mitigation measures, offer resettlement alternatives, and, generally, provide consultations or information on the Project, its impacts, and mitigation measures.

In compliance with the MICI Policy and inasmuch as the Requesters declared their interest in having their Request processed for both phases of the MICI process (Consultation Phase and Compliance Review Phase), following the determination of eligibility, the Request was transferred to the Consultation Phase to immediately commence the assessment stage of that Phase.

In accordance with the MICI Policy, the objective of the Consultation Phase assessment is to gain an understanding of the alleged harm, identify and gather relevant information, and determine whether the Parties would agree to seek a resolution using consultation methods, and if so, the best process for reaching an agreement. The assessment of the case in question consisted of a desk review of the relevant information, interviews with the Parties to the Request and other related third parties, two visits to the Project site in August and September 2016, and a meeting with the Parties facilitated by the MICI during the second visit.

At the end of the joint meeting, the Requesters informed MICI that they did not wish to participate in a Consultation Phase process and asked that their Request be transferred to the Compliance Review Phase. Consequently, because participation in a Consultation Phase process is voluntary as established by the MICI Policy, MICI concludes that a Consultation Phase process is not feasible for this Request, and processing under this Phase is therefore concluded.

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<sup>1</sup> The Eligibility Memorandum is available in the electronic links section of this document and in the public registry, which provides access to all public records related to this case.

Upon distribution of this report to the IDB's Board of Executive Directors, the Request and relevant documentation will be transferred to the Compliance Review Phase for processing under that Phase as provided by the MICI Policy.

## I. BACKGROUND

### A. Project

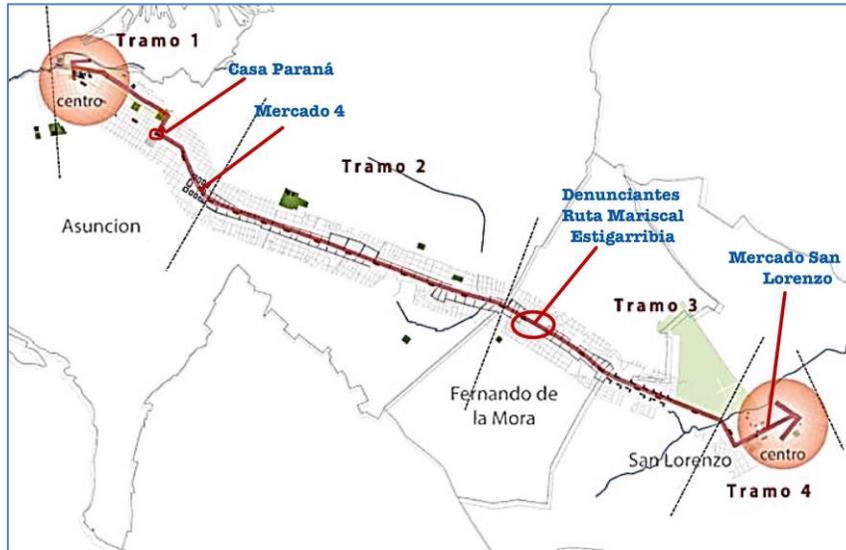
- 1.1 The program "Downtown Redevelopment, Modernization of Metropolitan Public Transport and Government Offices" (PR-L1044) is a sovereign guaranteed loan operation for US\$125 million that was approved by the Bank's Board of Executive Directors on 29 September 2010. The borrower is the Republic of Paraguay, and the executing agency is the Ministry of Public Works and Communications (MOPC).
- 1.2 The program has the goal of improving the quality of life of the population in the intervention area through the rehabilitation and upgrading of urban and transportation infrastructure. The main objectives of the operation are: (a) to revitalize downtown Asunción by improving urban infrastructure in the San Jerónimo neighborhood, renewing and establishing open spaces for public use, installing pedestrian walkways and bicycle paths, building government offices and citizen service centers, and restoring historic buildings; and (b) to gradually establish an integrated and efficient transportation system for the orderly, rapid, and mass transport of the population between downtown San Lorenzo and downtown Asunción.
- 1.3 Component 2 of the program, the "**First Metropolitan Public Transport Corridor**" (US\$115.9 million), is financing the design, structuring, and implementation of an integrated public transit system, with dedicated lanes set up for bus rapid transit (BRT). The first stage was to be built for the San Lorenzo–downtown Asunción corridor, along Avenida Eusebio Ayala, the main route connecting the two areas and the one carrying the largest volume of passengers.
- 1.4 In order to support program preparation and conduct the necessary technical studies, on 16 April 2010 the Bank approved an operation (PR-L1056) for US\$4.9 million from the Project Preparation and Execution Facility (PROPEF), and more recently, on 3 December 2014, it approved a nonreimbursable technical-cooperation operation (PR-T1147) for US\$366,000 to support the preparation of studies.
- 1.5 In accordance with the Bank's Environment and Safeguards Compliance Policy (OP-703), the program has been classified as a category "B" operation.
- 1.6 As the publication date of this report, the program is in the implementation phase. According to information provided by the Bank's Management, the Paraguayan government decided to divide the bus project into four sections and proceed first with the works corresponding to sections 2 and 3.<sup>2</sup>

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<sup>2</sup> See Management's Response, available in the electronic links section of this document.

- 1.7 As illustrated in the figure below, sections 2 and 3 will be built along Avenida Eusebio Ayala and Ruta Mariscal Estigarribia. Section 1 corresponds to downtown Asunción and Mercado 4. Section 4 corresponds to Mercado San Lorenzo.

**Metrobus plan. Identification of sections.**



Source: IDB Management Response.

## **B. Request<sup>3</sup>**

- 1.8 On 17 May 2016, the MICI received a request from a group of 11 business owners in Asunción alleging harm as a result of the installation of the Metrobus system being financed by the Bank under operation PR-L1044.
- 1.9 The business owners claim that they were never consulted about the project, and in the case of those who will have to vacate the area, have not been offered any relocation alternative or economic compensation. They also report the lack of environmental and historic heritage impact studies.
- 1.10 Regarding the alleged harm, they claim that the project would have a negative effect on the health of their businesses for two reasons: first, they believe that their sales will be hurt by lack of customer access to the businesses, which would mean a loss of income, staffing cuts, and the concomitant impact on their household finances; and second, those who have been informed that they will have to vacate the area and relocate elsewhere have not received any relocation assistance or compensation.
- 1.11 Based on the alleged harm and the geographic location of the businesses and for purposes of facilitating the explanation, the Requesters have been divided into three groups:

<sup>3</sup> The request is available in the electronic links section of this document.

- Traditional brick-and-mortar business owners, located on Ruta Mariscal Estigarribia.
- Stall or street vendors, located in Mercado 4 or along Avenida Pettrossi.
- Requesters located in the central business district of downtown Asunción.

**C. Processing of the Request to date**

1.12 The Request was received by the MICI on 17 May 2016, and processing continued with the following chronology of actions:

<b>Date</b>	<b>Actions</b>
17 May	MICI receives the Request.
29 June	MICI receives Management Response.
11-13 July	Eligibility mission to Asunción.
26 July	Request determined to be eligible by the MICI Director. Transfer of the Request to the consultation phase.
27 July - 8 August	Desk review of the program and the Metrobus context in Paraguay.
8-10 August	Assessment mission to Asunción for meetings with the Requesters, the executing agency, and the IDB.
19-23 September	Assessment mission to Asunción to facilitate a joint meeting with the Requesters, the executing agency, and the IDB.
29 September	Publication of the assessment report for the Consultation Phase.

**II. ASSESSMENT**

2.1 The objective of the assessment during the Consultation Phase is “to determin[e] whether the Parties would agree to seek a resolution using consultation methods, and if so, the best process” (paragraph 27 of the MICI Policy). This requires the following:

- An understanding, first and foremost, of the context of the Request and the project in question.
- Identification of the relevant actors in the case (the Parties).
- An understanding of the positions, interests, and relationship dynamics of the involved actors, as well as the willingness of the Parties to participate in a Consultation Phase.

2.2 In order for a Consultation Phase process to proceed, the MICI team must verify the following:

- That circumstances warrant proceeding with a Consultation Phase process (e.g., the existence of areas of shared interest between the Parties, likelihood of reaching a consensus solution, an environment free from retaliation, etc.); and

- That all key Parties in the process wish to participate, voluntarily and of their own free will, in a Consultation Phase process.<sup>4</sup>

2.3 If both conditions are met, the team works with the Parties to jointly identify the best method for proceeding, as well as an indicative timeline for carrying out the planned actions.

#### **A. Method**

2.4 This section presents the selected consultation method, the Parties to the process, the perspectives of the Parties, and the results of the joint meeting.

2.5 It should be noted that the assessment and subsequent determination are in no way intended as a judgement on the validity of the opinions and/or statements made in the Request.

2.6 The method used to assess the Request in question has consisted in the following:

- Desk review of the Request, the project, and the Metrobus context in Paraguay.
- Interviews of the project team, the Requesters, the executing agency, and other third parties, both in person during missions and by telephone.
- A joint meeting with the participation of the Requesters, the executing agency, and the IDB Management, as a first opportunity to share information and jointly assess the feasibility of a Consultation Phase process, seeking consensus, assuming that the Requesters were willing, as to the best process for addressing the concerns raised and reaching an agreement.<sup>5</sup>

2.7 Lastly, as a courtesy, a draft version this report was circulated for comment prior to its publication. The decision about whether to incorporate the comments in this version, and how to do so, lies with the MICI.

#### **B. Parties**

2.8 The Parties to the Consultation Phase process for the Request in question are: (a) the Requesters; (b) the MOPC, as the executing agency; and (c) the IDB.

2.9 The Requesters have joined together as a group for purposes of processing the Request. Though they have a shared concern about the potential economic impact of the Metrobus project, they also have specific concerns that vary depending on the areas in which their businesses are located. With that in mind, they have been divided into three groups, as described in the table below:

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<sup>4</sup> In accordance with the MICI Policy, "Participation in the Consultation Phase is voluntary and requires the consent of all Parties" (paragraph 26, MICI Policy).

<sup>5</sup> Considering the Requesters' reluctance to engage in dialogue, the MICI suggested holding the joint meeting as part of the assessment so the Requesters could receive up-to-date information on the program, get answers to their concerns and questions, and determine whether they were willing to participate in a Consultation Phase process.

Requesters	Description
Owners of traditional brick-and-mortar businesses	<p>These businesses are located at the base of Ruta Mariscal Estigarribia, a busy avenue used by all types of vehicles.</p> <p>They are small or medium-sized operations that offer services and/or sell products to customers, whose point of access is via Ruta Mariscal Estigarribia; some are industrial.</p> <p>Examples: Electronics store, optometrist, restaurant, glass products store.</p> <p>Sections 2 and 3 of the project are planned in this zone.</p>
Street or stall vendors	<p>These businesses are located in Mercado 4 on Avenida Pettirossi.</p> <p>They are micro or small businesses that sell products to customers in the market. The Requesters are very dependent on the daily income generated by their businesses.</p> <p>Examples: clothing, flowers, and food stalls.</p> <p>Section 1 of the project is planned in this zone.</p>
Downtown business owners	<p>These businesses are located in the central business district of Asunción.</p> <p>They are medium-sized and large businesses.</p> <p>Example: “Casa Paraná,” which employs about 300 workers, according to information provided by the Requester.</p> <p>Section 1 of the project is planned in this zone.</p>

- 2.10 The MOPC is responsible for executing the Metrobus project under the Urban Revitalization and Metrobus Program. In addition to its technical teams, this unit has a social outreach and communications team that is responsible for implementing the communications strategy for the project, as well as establishing contact with the communities impacted by the project.
- 2.11 The IDB is financing the operation. Its responsibilities include verifying project compliance with social and environmental safeguards during both the project design phase and the implementation and supervision phase. The team in charge of design, execution, and supervision of the project includes transportation, urban mobility, safeguards, and other relevant specialists at Bank headquarters and in Asunción, Paraguay.

**C. Other key Parties to the process**

- 2.12 There are third parties that should be considered in a Consultation Phase process given their potential ability to move it forward or disrupt it. Given the characteristics of the Metrobus project and the claims made by the Requesters, there are other Parties that should be considered in a Consultation Phase process for their stake in or influence over decisions that are made or the matter at hand. In the event that a Consultation Phase process proceeds, these other Parties must be taken into account in the process, either directly or indirectly, with respect to any matters that concern them.
- 2.13 The following have been identified as third parties to this process:

<b>Party</b>	<b>Description</b>
Mercado 4 management and associations	Entities organizing and representing Mercado 4 vendors.
Mota Engil Ingeniería & Construcciones, S.A.	Construction company that won the contract for sections 2 and 3 of the BRT works, responsible for the final designs and quality of the works.
Municipal authorities in Asunción and Fernando de la Mora	Municipalities responsible for the municipal legislation and authorizations related to the Metrobus project.
Itaú Binacional	Bank that is financing the Mercado 4 improvement works, related to the Metrobus project.
Empresa de Servicios Sanitarios del Paraguay (ESSAP)	Company responsible for providing water and sewer services in Paraguay, involved by virtue of the sewerage works to be executed for sections 2 and 3 of the Metrobus project.

## **D. Perspectives of the Parties**

2.14 This section presents the perspectives of each of the Parties as understood and interpreted by the Consultation Phase team. In accordance with the objective of the Consultation Phase and as previously indicated, the following accounts are descriptive only and do not make any determination as to the validity of the perspectives.

### **1. Requesters**

#### **General perspectives**

- 2.15 In reference to the construction phase of Metrobus, the Requesters are concerned about the timelines, owing to the lack of credibility around compliance with construction deadlines in the country. Longer timelines than originally planned for execution of the works would mean an additional impact on their economic activities. They are also concerned about the operation's daily impact on their businesses during the construction phase, due to changes in water, electricity, and other public services, as well as in the points of access to their businesses.
- 2.16 Some Requesters question the feasibility of the Metrobus project due to its incompatibility with the sewer works that are planned simultaneously with the Metrobus works.
- 2.17 The Requesters point out that the information they have received on the Metrobus project has often been contradictory and also focuses on the benefits of the project with no mention of the impacts and the mitigation and/or compensatory measures proposed.
- 2.18 Some Requesters have expressed skepticism that the terms of the loan contract and bidding processes for the works would be fulfilled. It should be noted that the MICI does not handle complaints about bidding processes and/or matters related to prohibited practices, a point that was made on various occasions to the Requesters.
- 2.19 The Requesters have demonstrated very little inclination to participate in a Consultation Phase process, mainly due to their strong distrust of the other Parties involved.

- 2.20 Lastly, the Requesters are unanimous in their assertion that the startup of Metrobus works is premature given the limited amount of information that has been made available on the project, its impacts, and the planned mitigation measures.

#### **Requesters – Ruta Mariscal Estigarribia**

- 2.21 The Requesters claim that Metrobus will have a negative effect on their businesses (provision of services and/or sale of products) due to the loss of storefront parking spaces, which will limit customer and supplier access to their businesses. Limited or impeded access for customers and suppliers will result in lower sales, lost income, staffing cuts, and inventory reduction, all of which will affect their household finances. The Requesters say they do not know whether there any options, or what they would be, for alleviating their economic losses.
- 2.22 They also expressed misgivings about possible expropriations that would occur along the main Metrobus corridor, which could affect them directly. They say they do not know as yet whose property would be expropriated, what the eligibility criteria would be, or what form the expropriations would take and how value would be assessed.
- 2.23 They are also concerned that there are no plans for street-level crossings to allow pedestrians to get from one side of the avenue to the other.

#### **Requesters – Mercado 4**

- 2.24 The Requesters from Mercado 4 say they were informed that they would be relocated to other areas due to the Metrobus corridor. However, apparently they have not received any information on the relocation alternatives and/or economic compensation proposals and guarantees. Aside from receiving monetary compensation, the chief concern for these Requesters is keeping their locale, as their families depend on the daily sales generated by the businesses for their livelihood.
- 2.25 According to the Requesters, they do not have any information on connections between the existing bus lines and Metrobus, nor on how travel times and fares will be affected. Any increase in the time and cost it takes to get to their place of work would have a further impact on their financial situation.

#### **Requesters – Central business district**

- 2.26 The Requesters in the central business district say they do not know what the impact would be on the buildings, property values, or the historic heritage.
- 2.27 An additional concern is about access to parking for customers and suppliers, as well as bidding and works execution times. They also say that widening the street to accommodate Metrobus could result in expropriations of land that would have a significant impact on their businesses.

## **2. Executing agency**

- 2.28 The executing agency has affirmed the importance of the Metrobus project as a quality infrastructure project that will have a major impact on urban mobility in the city of Asunción and on the lives and routines of the people who live there.

- 2.29 The executing agency mentions that it has offered information that could address the Requesters' concerns. However, there are various aspects of the project that will be determined as the final designs are prepared and work advances, so information may be provided in stages, as would be the case, the agency notes, with any large-scale project.
- 2.30 The execution unit at the MOPC, a team consisting of coordinators and technical specialists as well as social and communications specialists, has stated that its interest lies in addressing the impacts on the affected communities, an activity that is already envisaged under the project and is consistent with the team's official function, that is, to guide and maintain a dialogue with those impacted by the project, as well as with the institutions relevant to the process.

### **3. IDB Management**

- 2.31 IDB Management has stated its interest in supporting a MICI Consultation Phase process in its advisory role to the MOPC, in order to strengthen the rationale for the project.
- 2.32 It has indicated that large-scale projects like Metrobus involve a variety of challenges that must be addressed throughout project execution.
- 2.33 According to the IDB, it "has been complying, both in project preparation and in execution, with the applicable operational policies and the conditions established in the signed loan contract."<sup>6</sup>

### **4. Related third parties**

- 2.34 The lack of information on the project, its route, and the impacts it would have, as well as on the timeline for executing the works, was mentioned as a problem.
- 2.35 Some merchants that might be affected by the works and operation of Metrobus noted the strong sentiments of distrust harbored towards the government due to unfinished works and broken promises in the past.
- 2.36 The Paraguayan press plays an active role in disseminating information on Metrobus, and this information has an impact on how the project is viewed and perceived by the public.

## **E. Joint meeting**

- 2.37 The MICI convened and facilitated a joint meeting of the Parties with the following objectives:
- To provide an initial opportunity for the Parties to share up-to-date information on the project-related issues raised in the Request.
  - To hear the decision of the Parties to participate (or not) in a Consultation Phase process, and in the case of participation, to jointly determine the format and timeline for the process.
- 2.38 The following challenges arose during the meeting: (a) distrust and disinclination to engage to dialogue among some Requesters; (b) limited time to respond to questions, which would have to be done if the Consultation Phase were to proceed; (c) asymmetry in the way in

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<sup>6</sup> Management's response, original Spanish version, page 7.

which information is requested and provided (i.e. concrete questions but complex technical responses); (d) little or no information from the MOPC on specific mitigation measures; (e) communication style (i.e. technical vs. lay language); and (f) group decisions by Requesters, despite their different contexts and impacts.

- 2.39 As the meeting drew to a close, the MOPC said it had been a valuable exercise, despite the challenges involved, and indicated its willingness to participate in a Consultation Phase process.
- 2.40 The IDB also expressed its interest in continuing with the process.
- 2.41 The Requesters expressed their appreciation for the opportunity to participate in the exercise. However, they indicated to the Consultation Phase team that they were not interested in participating in a Consultation Phase process. Instead, it was their wish that the Request be processed for the Compliance Review Phase.

### III. CONCLUSIONS AND NEXT STEPS

- 3.1 A Consultation Phase process must have the consent of all Parties participating voluntarily and of their own free will. At the conclusion of the joint meeting, the Requesters asked for the Compliance Review Phase to commence, stating that they were not willing to take part in a Consultation Phase process. Their decision was formally declared to the MICI on 28 September 2016 in a communication addressed to the MICI Director. Accordingly, the MICI concludes that **the conditions for a MICI Consultation Phase have not been met.**
- 3.2 Inasmuch as the Requesters have asked that their Request be processed for both MICI phases, the Consultation Phase process is hereby concluded and the Request is transferred for the Compliance Review Phase for processing in accordance with the MICI Policy.