



PUBLIC  
SIMULTANEOUS DISCLOSURE

DOCUMENT OF THE INDEPENDENT CONSULTATION  
AND INVESTIGATION MECHANISM

**MICI-BID-BR-2017-0118**  
**ELIGIBILITY MEMORANDUM**

**MÁRIO COVAS RODOANEL PROJECT - NORTHERN SECTION**  
**REQUEST V**

**(BR-L1296)**  
**(2618/OC-BR)**

This document was prepared by Victoria Márquez Mees, MICI Director, with support from Esteban Tovar, Registry Officer.

This document is being made publicly available simultaneously with its distribution to the Board for information.

## **INFORMATIONAL NOTE**

### **REGARDING THE REGISTRY PROCESS, ANALYSIS OF DETERMINATION OF ELIGIBILITY, AND THE MICI'S PUBLIC REGISTRY**

The Registry process begins when the Independent Consultation and Investigation Mechanism (MICI) receives a request from Requesters alleging that they could be affected (currently or potentially) by actions or omissions of the Inter-American Development Bank Group (IDB Group) that could constitute a failure to observe one or more of its Relevant Operational Policies in an operation financed by one of the IDB Group institutions.

During the Registry stage, which takes five business days, the MICI verifies that the Request contains all the information needed for its processing and that none of the exclusions that limit MICI actions are clearly applicable. Once registered, the process provides the Bank's Management with an opportunity to respond to the issues raised in the Request. This response must be received by MICI no more than 21 business days after Registry, in the form of a document entitled "Management Response."

Once the Response is received, the MICI begins the analysis process to determine the eligibility of the Request based on the criteria established in its Policy to determine if it meets them and can be admitted for processing. This is not an assessment of the merits of the Request and/or the issues raised therein, nor is it a determination of the IDB Group's compliance or noncompliance with its Relevant Operational Policies.

If deemed eligible, the Request is transferred to the phase requested by the Requesters; Requests deemed not eligible proceed to administrative closure.

All Requests received by MICI and their processing are recorded in the Mechanism's virtual [Public Registry](#). The case records will disclose all the public information generated during handling of a case.

The MICI does not award compensation, damages, or similar benefits. It does not have the authority to suspend disbursements or halt operations.

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ELECTRONIC LINKS	
1.	Synopsis of the Original Request (Access to the original documents is omitted due to the Requesters' need for confidentiality.) <a href="http://www.iadb.org/document.cfm?id=40863456">http://www.iadb.org/document.cfm?id=40863456</a>
2.	Loan Proposal – Mário Covas Rodoanel Project – Northern Section (BR-L1296) <a href="http://www.iadb.org/Document.cfm?id=36504532">http://www.iadb.org/Document.cfm?id=36504532</a>
3.	Environmental and social management report (ESMR) – Mário Covas Rodoanel Project – Northern Section (BR-L1296) (Document only available in Portuguese) <a href="http://www.iadb.org/Document.cfm?id=36314189">http://www.iadb.org/Document.cfm?id=36314189</a>
4.	Resettlement and Compensation Master Plan – Mário Covas Rodoanel Project – Northern Section (BR-L1296) (Document only available in Portuguese) <a href="http://www.iadb.org/Document.cfm?id=37419115">http://www.iadb.org/Document.cfm?id=37419115</a>

## EXECUTIVE SUMMARY

On 15 March 2017, the Independent Consultation and Investigation Mechanism (MICI) received a Request regarding the Mário Covas Rodoanel Project – Northern Section (BR-L1296) from three Brazilian citizens living in Jardim Itatinga, in the city of São Paulo, Brazil. They asked the Mechanism to keep their identities and the identities of those being represented by their attorney before the MICI confidential.

In the Request, the Requesters allege they are currently being affected by project construction work. Specifically, they report that their quality of life is being negatively impacted by their homes' proximity to the works, arguing that their properties should have been expropriated pursuant to the Resettlement and Compensation Master Plan (PDRI) prior to the beginning of the work. Consequently, because the land had not been expropriated, the Requesters alleged damages to their health and property as a result of daily exposure—and from very early hours of the morning—to high levels of noise pollution (due to blasting at the works), poor air quality (due to suspended particulate matter and the chemical products used), and severe vibrations from machinery movement and a variety of construction work.

The Requesters expressed their interest in the MICI handling the case through both phases of the process—the Consultation Phase and the Compliance Review Phase—if deemed eligible.

The Mário Covas Rodoanel Project – Northern Section (BR-L1296) is a sovereign-guaranteed, specific-works investment operation for a total of US\$3.015 billion, approved by the Board of Executive Directors on 8 November 2011. It is currently being implemented. The borrower is the State of São Paulo, with the Federative Republic of Brazil as the guarantor, and the State Department of Logistics and Transportation as the executing agency, acting through Desenvolvimento Rodoviário S.A. (DERSA).

The Project's objective is to improve mobility, connectivity, safety, and convenience for users of the road system of the São Paulo Metropolitan Region (SPMR) through construction of the Northern Section of beltway—or “Rodoanel”—Mário Covas, which comprises a total of four sections: the Western and Southern sections, which are already operating; the Eastern Section, which is under construction; and the Northern Section, the aim of this operation.

After the Request was made and prior to receipt of the Management Response, the Requesters informed the MICI of their wish to withdraw it and explore other alternatives for resolving their concerns.

Based on this, the MICI Director, in accordance with Section G of the MICI Policy (document MI-47-6), concludes that this Request **is not eligible** because there is no substance on which to conduct the MICI process.

This determination has been provided directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry upon distribution to the Board. With this action, the MICI process for Request MICI-BID-BR-2017-0118 is hereby considered concluded. However, the Requesters have been advised that they may submit a new Request to the MICI should they conclude that their concerns have not been addressed.



Northern Section that will complete the SPMR beltway. In order to achieve this objective, the Project included the execution of four components:

- 1.4 **Component I – Engineering and administration.** Includes financing for: (i) engineering studies and designs for the works, economic analyses and socioenvironmental studies relating to environmental licensing and compliance with Bank safeguards, including the Environmental Master Plan (PBA), the socioeconomic registry for the appraisal of properties and resettlement of families (to create a Resettlement and Compensation Master Plan (PDRI), etc.; (ii) contracting enterprises to provide technical, environmental, and social support for project execution; and (iii) external financial audit and project monitoring and evaluation.
- 1.5 **Component II – Civil works and works supervision.** Includes financing of: (i) construction of 46.8 km of roadway, of which 42.8 km corresponds to the Northern Section connecting the Western Section with the Eastern Section of the Rodoanel, along with 4 km of access road to Guarulhos Airport; (ii) rehabilitation of the streets used for temporary access, compensatory works agreed upon with the município, restoration of nearby buildings affected by the works, and other actions; and (iii) technical and environmental supervision of the works.
- 1.6 **Component III – Institution-strengthening.** Supports activities to strengthen the DERSA, including administrative restructuring and development and implementation of systems for managing activities including logistics, environmental quality, social responsibility, and communications.
- 1.7 **Component IV – Socioenvironmental viability measures.** Includes financing for: (i) purchasing rights of way and support areas for the works; and (ii) mitigation and compensation measures for project execution and operation proposed in the PBA and the PDRI, including programs for: (a) the preconstruction phase, including socioenvironmental measures and controls for the bidding processes, emergency response, and a labor code; (b) the construction phase, which includes worker training; control and management of waste, pollution, and sediment; monitoring of noise, vibrations, and air quality; physical registry of properties and socioeconomic registry of those affected; and construction of housing, preservation of cultural heritage, and compensation for damages caused to the affected population, etc., and (c) the operation phase, which includes actions to correct environmental liabilities; waste management; monitoring of noise, air quality, and expansion of the urban footprint; and the creation of a system to address complaints and settle disputes.<sup>2</sup>
- 1.8 The outcomes expected with the implementation of all four sections of the Rodoanel include: (i) redistribution of cargo and passenger vehicles from other regions in Brazil and neighboring countries; (ii) improved access to the country's air and seaports (Port of Santos and the Guarulhos airport); (iii) decentralization of logistics activities in the SPMR; and (iv) improved travel conditions, reducing travel times, vehicle operating costs, and traffic accidents, and improving air quality and living conditions.

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<sup>2</sup> Although this system will be financed with resources from the Project's operation phase, it was planned to begin operating during the preconstruction phase.

- 1.9 According to the Environment and Safeguards Compliance Policy (Operational Policy OP-703), the project was classified as a category A operation due mainly to the risks associated with resettlement needs and the environmental impacts associated with loss of forest cover and biodiversity.
- 1.10 Based on the project documentation, the operational policies identified are the Environment and Safeguards Compliance Policy (OP-703), the Policy on Involuntary Resettlement (OP-710), and the Access to Information Policy (OP-102).

## II. THE REQUEST<sup>3</sup>

- 2.1 On 10 August 2016, the Independent Consultation and Investigation Mechanism (MICI) received a Request regarding the Mário Covas Rodoanel Project – Northern Section (BR-L1296) from three Brazilian citizens living in Jardim Itatinga, in the city of São Paulo, Brazil, represented by an attorney before the MICI. The Request, assigned code MICI-BID-BR-2016-0109, was not registered, as the Requesters had not made previously made contact with Management to address the issues it raised.
- 2.2 On 15 March 2017, the Representative of the Requesters communicated with the MICI to submit a new Request from the same three Requesters and regarding the same issues raised in Request MICI-BID-BR-2016-0109, claiming their concerns had not been resolved. The new Request was registered on 22 March 2017 under MICI-BID-BR-2017-0118. The Requesters asked the Mechanism to keep their identity confidential.
- 2.3 In the Request, the Requesters allege they are currently being affected by road construction work that is part of the project. The subsequent paragraphs provide a summary of the content of the Request presented to the MICI, which is available in the MICI's Public Registry ([Case File MICI-BID-BR-2017-0118](#)) and in this document's electronic links section.
- 2.4 Specifically, the Requesters allege that their quality of life has been affected as a result of their homes' proximity to the works of the Northern Section of the Rodoanel. According to the Requesters, their properties are within the boundaries established in the Declaration of Public Utility for the project. They therefore argue that the properties should have been expropriated prior to the start of construction, in compliance with the provisions of the PDRI. They state that they are thus exposed seven days a week and from the early hours of the morning to construction work that includes blasting, the use of toxic chemicals, machinery movement, and waste transportation and handling. As a result, they describe a variety of material damage to their homes due to strong and constant vibrations, as well as damage to their health—mainly insomnia—due to noise pollution and poor air quality.
- 2.5 Additionally, they state that they filed a request with the DERSA in June 2016 to be included in the Program of Amicable Administrative Expropriations (DERSA proceeding 63.555/2016), but that as of the date of the presentation of the Request to the MICI, no decision had been issued.

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



- 2.6 With regard to their contact with Management, the Requesters say they submitted their concerns in a letter sent in August 2016, receipt of which was confirmed. Likewise, they state that in subsequent communications in November 2016, Management indicated it would follow up on the case with DERSA, and they reported that a number of actions would be planned for the coming months. However, the Requesters state that as of the submission date of the new Request to MICI, Management had provided no additional response to their concerns.
- 2.7 Lastly, the Requesters expressed their interest in the MICI handling the case through both phases of the process—the Consultation Phase and the Compliance Review Phase—if deemed eligible.

### III. MICI ACTIONS

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

**Table 1**  
**Timeline of MICI actions during the period**  
**From 15 March to 19 May 2017**

Date	Actions
15 March	Receipt of Request
22 March	Registry of Request
29 March	Conference call with the Representative of the Requesters on the MICI process and its scope, as well as the issue of keeping the identities of the Requesters confidential.
31 March	Representative asks for a temporary suspension of the MICI process.
4 April	Response from the MICI Director informing him that the process does not provide for temporary suspension, and should the Requesters decide to seek alternatives for addressing their concerns, they would need to withdraw from the MICI process.
	Conference call with the Project Team on the status of the Request.
	The Representative of the Requesters communicates the decision not to move forward with the MICI process, as the Requesters have decided to explore other alternatives.
	Management is informed of the withdrawal of the Request by the Requesters and that a Management Response to this Request will not be needed.
19 May	Issuance of Eligibility Memorandum

- 3.2 After receiving the Request and confirming that it had all the information necessary to process it, the MICI proceeded to notify the parties of its Registry and the deadline established in the MICI Policy for receipt of the Management Response.
- 3.3 However, days after the Registry of the Request, the Representative of the Requesters informed the MICI that a formal response had been received from the executing agency ruling that its case would not be included in the Program of Amicable Administrative Expropriations (DERSA proceeding 63.555/2016). Thus,

in order to analyze the effects of the response and decide on the most appropriate course of action, the Representative asked MICI to temporarily suspend the process.

- 3.4 In response, the MICI Director informed the Representative that the MICI Policy does not provide for a temporary suspension, but that the Requesters could withdraw their Request before the Mechanism should they deem it more appropriate to explore other alternatives for resolving their concerns; and that in any case, should they deem it necessary, they could return to the MICI if their concerns persisted. Consequently, the Representative informed the MICI of his decision to withdraw from the process in order to seek other ways of resolving the situation.
- 3.5 The decision of the Requesters to withdraw their Request before the MICI was reported to Management, and for the sake of efficiency, Management was asked not to prepare a Management Response—the second milestone in the MICI process—as there was no reason to do so.

#### **IV. ANALYSIS OF DETERMINATION OF ELIGIBILITY**

- 4.1 In accordance with paragraph 22 of the Policy, a Request will be deemed eligible by the MICI if it is determined that it meets all of the following criteria:
- a. The Request is filed by two or more persons who believe that they have been or may be affected and who reside in the country where the Bank-financed operation is implemented. If the Request is filed by a representative, the identity of the Requesters on whose behalf the Request is filed will be indicated and written proof of representation will be attached.
  - b. The Request clearly identifies a Bank-financed operation that has been approved by the Board, the President, or the Donors Committee.
  - c. The Request describes the Harm that could result from potential noncompliance with one or more Relevant Operational Policies.
  - d. The Request describes the efforts that the Requesters have made to address the issues in the Request with Management and includes a description of the results of those efforts, or an explanation of why contacting Management was not possible.
  - e. None of the exclusions set forth in paragraph 19 of this Policy apply.
- 4.2 In the case of Request MICI-BID-BR-2017-0118, it is not possible to conduct an analysis of the eligibility criteria established in the Policy because there is no basis on which to make that determination as a result of the withdrawal of the Request by the Requesters to suit their interests.
- 4.3 Without prejudice to the foregoing, the Requesters have been advised that they can present a new Request to MICI should they conclude that their concerns persist or have not been resolved through other alternatives.

## **V. CONCLUSION**

- 5.1 The MICI Director, in accordance with Section G of the MICI Policy (document MI-47-6), concludes that this Request **is not eligible** because there is no basis for undertaking a MICI process.
- 5.2 This determination has been provided directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry upon distribution to the Board. With this action, the MICI process for Request MICI-BID-BR-2017-0118 is hereby considered concluded.