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AND INVESTIGATION MECHANISM

**MICI-BID-BR-2022-0189**

**COMPLIANCE REVIEW RECOMMENDATION AND  
TERMS OF REFERENCE**

**NATIONAL PROGRAM FOR TOURISM DEVELOPMENT - PRODETUR NACIONAL  
RÍO DE JANEIRO  
(BR-L1210)  
(2411/OC-BR)**

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This document contains confidential information covered by one or more of the ten exceptions in the Access to Information Policy and will initially be considered confidential and available only to employees of the Bank. It will be disclosed and made available to the public upon approval.

## **PROCESS OF COMPLIANCE REVIEW**

General objective. The Compliance Review is a tool that seeks to assist the Board of Executive Directors of the Inter-American Development Bank Group (IDB Group) in promoting compliance with its Relevant Operational Policies (ROP) and fostering institutional learning.

Specific objective. The objective of the Compliance Review is to verify whether the IDB Group has complied with its environmental and social policies when designing, approving, executing, and monitoring a project financed with the institution's resources. In the event of any non-compliance, it will be established whether the Group has contributed, could contribute, or has resulted in substantial and direct harm to the Requesters. The Compliance Review is carried out with the approval of the Board of Executive Directors of the institution.

Scope of MICI action and enforcement. The scope of the IDB Group's Independent Consultation and Investigation Mechanism (MICI) is limited to the review of the IDB Group's implementation of the ROPs. The Compliance Review does not involve any conclusion regarding the actions of any other party related to the financed project. The MICI has no authority over judicial proceedings and does not substitute any judicial, administrative, or regulatory proceedings in host countries. The MICI is not a judicial or law enforcement mechanism. MICI's reports are not intended to be used in local judicial or regulatory proceedings or for the purpose of attributing responsibility or liability for damages to third parties.

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Annex II	IDB comments on the draft version of the Recommendation for a Compliance Review.
Annex III	Requesters' comments on the draft version of the Recommendation for a Compliance Review.

## ELECTRONIC LINKS

1. MICI Public Registry for case MICI-BID-BR-2022-0189  
<https://mici.iadb.org/es/cases/MICI-BID-BR-2022-0189>
2. Management's Response to the Notification of Registration. Request MICI-BID-BR-2022-0189  
<https://www.iadb.org/document.cfm?id=EZSHARE-1975243025-105>
3. Issuance of Eligibility Determination Memorandum. Request MICI-BID-BR-2022-0189  
<https://www.iadb.org/document.cfm?id=EZSHARE-1975243025-136>
4. Proposed Loan for the National Program for Tourism Development - PRODETUR Nacional - Río de Janeiro (BR-L1210)  
<https://www.iadb.org/Document.cfm?id=EZSHARE-1092210103-79>
5. Environmental and Social Management Report of the National Program for Tourism Development - PRODETUR Nacional - Río de Janeiro (BR-L1210) (version available only in Portuguese)  
<http://idbdocs.iadb.org/wsdocs/getDocument.aspx?DOCNUM=35104660>
6. Project Closure Report (PCR)  
<https://www.iadb.org/document.cfm?id=EZSHARE-915027987-9>
7. Consultation Phase Assessment Report  
<https://www.iadb.org/document.cfm?id=EZIDB0000559-1975243025-182>
8. First Amendment to the Loan Agreement between the IDB and the State of Río de Janeiro (version available only in Portuguese)  
<https://www.iadb.org/document.cfm?id=EZSHARE-2056220512-9035>
9. Second Amendment to the Loan Agreement between the IDB and the State of Río de Janeiro (version available only in Portuguese)  
<https://www.iadb.org/document.cfm?id=EZSHARE-2056220512-970>
10. Third Amendment to the Loan Agreement between the IDB and the State of Río de Janeiro (version available only in Portuguese)  
<https://www.iadb.org/document.cfm?id=EZSHARE-2056220512-6053>
11. Program Operating Manual (version available only in Portuguese)  
<http://idbdocs.iadb.org/wsdocs/getDocument.aspx?DOCNUM=35112011>
12. Environmental and Social Planning and Management Manual (version available only in Portuguese)  
<http://idbdocs.iadb.org/wsdocs/getDocument.aspx?DOCNUM=1720631>

## ACRONYMS AND ABBREVIATIONS

ATI	IDB's Access to Information Policy
Board	Board of Executive Directors
CP	MICI Consultation Phase
CRP or Phase	MICI Compliance Review Phase
ESMP	Environmental and Social Management Plan
ESMR	Environmental and Social Management Report
Executing Agency	State of Río de Janeiro
HG Engenharia Management	Hécio Gomes Engenharia Ltda. The IDB manager(s), executive(s) or division chief(s) responsible for the respective IDB-financed operation or the person(s) appointed by them.
MICI or Mechanism	IDB Group's Independent Consultation and Investigation Mechanism
MICI Policy	The policy, approved by the IDB Board of Executive Directors in December 2014 and reviewed in December 2015, which governs the function of MICI for requests related to operations financed and approved by the IDB's Board of Executive Directors or the MIF's Donors Committee (Document MI-47-6).
Operation	Loan transaction (2411/OC-BR) granted by IDB to the State of Río de Janeiro
Parties	Requesters and IDB Management
PRDA	Specific Plan for Recovery of Degraded Area
PRODETUR or Program	Río de Janeiro National Tourism Program
ROP	Relevant Operational Policies
SEA	Strategic Environmental Assessment

## EXECUTIVE SUMMARY

**The Program.** The Rio de Janeiro National Tourism Program (hereinafter, “PRODETUR” or “Program”), ranked as Category “B” (localized and short-term negative environmental and social impacts, and for which effective mitigation measures are available), aims to contribute to the increase in employment, domestic income, and foreign revenues caused by the tourism sector in the State. The loan approved by the Board of Directors was an original amount of \$187,000,000, \$112,000,000 from IDB, and \$75,000,000 from a local counterpart.

**The Project.** The Program had five components, one of which included the Sanitation, Drainage and Urbanization Project of Vila do Abraão, Ilha Grande, Agra dos Reis (hereinafter, the “Project”) referred to the fourth component: Infrastructure for Access to Destinations and Basic Services of the Program. The IDB concluded the execution of the Program in 2020, and by that time, the Project had already been excluded from the Program since 2018, without being executed.

**The Request.** It was submitted by a family of four members (“Requesters”) residents of the community of Vila do Abraão in Brazil. The Requesters alleged non-compliance with the Operational Policies related to Indigenous Peoples, Environment and Safeguard Compliance, and Disaster Risk Management as part of the Project’s implementation.

**Alleged Harm.** The Request describes potential socio-environmental damages, including environmental contamination in Ilha Grande Bay as a result of the work suspension. Finally, they allege property damage regarding the loss of a vessel hired by the work contractor to move construction materials for the Project.

**Exclusions at the Eligibility Stage.** The Requesters allege environmental, living condition and cultural heritage impacts on the community caused by the failure of the Project to achieve the proposed objectives. The Eligibility Memorandum states that such allegations cannot be part of a MICI process because it is not possible to link the failure to achieve the proposed objectives as a result of potential non-compliance with the ROPs<sup>1</sup>.

**From Consultation Phase to Compliance Review Phase.** The case was transferred to the Compliance Review Phase because the Consultation Phase team identified a number of barriers when starting a dispute resolution process during its assessment phase. As a result of the barriers identified, the MICI determined that it was not feasible to start a dispute resolution process.

**Analysis.** This Recommendation analyzes the following central issues arising from the allegations of the Requesters: the indications of possible non-compliance regarding the lack of proper identification of environmental and social risks and impacts, as well as the lack of design and implementation of management measures to address those risks and impacts, particularly related to (i) possible contamination by the unfinished works of the Project and its consequent

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<sup>1</sup> [MICI-BID-BR-2022-0198 Eligibility Memorandum, p. 4.](#)

potential impacts to health and the environment, and (ii) the sinking of a vessel and its consequent potential impacts to livelihoods.

**Recommendation to Perform a Compliance Review.** The MICI recommends regarding the allegations raised by the Requesters that the Board of Directors carry out a Compliance Review focused on reviewing the directives B.4 (other risk factors), B.5 (environmental assessment requirements), and B.7 (monitoring and compliance) of its Environmental and Safeguard Compliance Policy (OP-703).

**The Questions.** Considering the information collected and analyzed by the MICI, the investigation will focus on answering the following questions related to ROPs:

- How did the IDB verified that, even in the absence of an ESMP for the Project, there was appropriate identification, assessment and characterization of the potential direct and indirect social and environmental risks and impacts of the Project, particularly related to (i) contamination from the Project's unfinished works and the consequent potential health and environmental impacts, and (ii) occupational health and safety issues related to the movement of materials and the consequent potential impacts on livelihoods?

Was there a proper compliance review through its supervisory function in accordance with OP-703, directive B.7?

- Did the IDB verified that the Executing Agency established and implemented suitable environmental and social management measures to prevent, avoid and mitigate the potential adverse risks and impacts of the Project related to (i) contamination from the Project's unfinished works and the consequent potential health and environmental impacts, and (ii) occupational health and safety issues related to the movement of materials and the consequent potential impacts on livelihoods?

Was there a proper compliance review to verify that these measures were established and implemented, through its supervisory function in accordance with OP-703, directive B.7?

- If the requirements of OP-703 were not complied with, was any harm caused or could any harm have been caused to the Requesters?

**Terms of Reference (ToR).** According to the ToR proposed for the investigation, if approved, it would be carried out within 6 months from the constitution of the compliance review panel formed by the phase coordinator and two experts, who will use a documentary review and focused interviews as a method to investigate the facts, in addition to a mission to the Project site if deemed appropriate.



## I. THE PROJECT

- 1.1 **Program Approval.** The Rio de Janeiro National Tourism Program (hereinafter, “PRODETUR” or the “Program”), financed by the IDB, was approved by the Board of Executive Directors (hereinafter, the “Board”) on September 15, 2010, in the amount of \$187,000,000<sup>2</sup>. The Program's borrower is the State of Rio de Janeiro, and its Executing Agency is the Ministry of Tourism, Sports and Leisure (hereinafter, “Executing Agency”). The Program closed in July 2021 with a 37% disbursement level of the original loan resources<sup>3</sup>.
- 1.2 **Program Objectives.** The Program objective was to contribute to the increase in employment, domestic income, and foreign revenue created by the sector through the consolidation and diversification of the tourism offerings in the State of Rio de Janeiro, and also to increase tourism spending in those areas considered part of the Program<sup>4</sup>.
- 1.3 **Environmental and Social Impacts Identified.** The potential environmental and social impacts identified that supported the approval of the Bank's operation were: (1) deficiencies in basic sanitation, including inadequate disposal of solid waste; (2) disorderly land use and occupation; (3) lack of environmental education; (4) almost non-existent environmental management at the local level, including the management of conservation units; and (5) widespread degradation of areas of environmental, cultural, and tourist interest<sup>5</sup>.
- 1.4 **Program Category.** In accordance with the IDB's Environmental and Social Sustainability Policy, the Program was ranked as Category “B”<sup>6</sup>, because the potential environmental and social risks associated with the development and operation of the Program may be mitigated with the implementation of available and feasible measures. The loan proposal established the following Operational Policies applicable to the Program, based on the potential environmental and social risks and impacts identified: the Environment and Safeguard Compliance Policy (OP-703), the Natural Disaster Risk Management Policy (OP-704), the Involuntary Resettlement Operational Policy (OP-710) and the Disclosure of Information Policy (OP-102)<sup>7</sup>.
- 1.5 **Amendments to the Loan Agreement.** During its execution, three amendments were made to the Loan Agreement 2411/OC-BR. The first one was in 2012, referring to the

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<sup>2</sup> The Program suffered a reduction in resources, as stated in the previous paragraph, which ended with a value of \$82,045,692.47 (\$41,486,692.47 from the loan, and \$40,559,000.00 from the State). (See [Management's Response](#), p. 2)

<sup>3</sup> [Project Closure Report \(PCR\)](#), p.12 (November 24, 2021).

<sup>4</sup> [Proposed Loan for the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro \(BR-L1210\)](#), p. 9.

<sup>5</sup> [Environmental and Social Management Report of the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro](#), p. 24. (April 19, 2010).

<sup>6</sup> [Environmental and Social Management Report of the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro](#), p. 12 (April 19, 2010).

<sup>7</sup> [Proposed Loan for the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro \(BR-L1210\)](#), p. 9.

amendment of the Executing Agency<sup>8</sup>; the second in 2015, referring to the term extension for the disbursement of loan resources until August 31, 2017, initially agreed for a four-year term, from August 8, 2011 to August 7, 2015; and the third in 2018, which included the disbursement term extension, the partial waiver of loan resources and their reallocation, as well as the modification of actions and activities included in the Program components<sup>9</sup>.

- 1.6 **The Project is Part of One of the Five Components of the Program<sup>10</sup>.** The claim submitted by the Requesters refers to the works related to the fourth component referred to Infrastructure for Access to Destinations and Basic Services of the Program<sup>11</sup>. The fourth component consisted of: a) the preparation of feasibility studies and executive projects such as civil works for access improvement (Estrada Parque Capelinha-Visconde de Maúa-Resende - RJ163, Estrada Parque Visconde de Maúa - Maromba RJ151, Tourist Assistance Station/Center in Buzios, Mangaratiba and Angra); and b) sanitation and drainage systems (Paraty Historical Center, Vila de Abraão-Ilha Grande-Angra dos Reis), (the latter, hereinafter, the "Project")<sup>12</sup>.
- 1.7 **Project Objectives.** The objectives of the Project were to carry out drainage, paving, landscaping, lighting and street furniture works, as well as to expand the water supply system and the sanitary sewerage system of Vila do Abraão<sup>13</sup>.
- 1.8 **Project Works Started and Suspended 8 Months Later.** On January 2, 2017 (eight months after the works started), the Executing Agency suspended the construction works<sup>14</sup>. The work was stopped due to judicial seizures affecting the resources disbursed by the Bank in the Program's accounts.

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<sup>8</sup> [First Amendment to the Loan Agreement between the IDB and the State of Rio de Janeiro](#), (May 9, 2012).

<sup>9</sup> [Third Amendment to the Loan Agreement between the IDB and the State of Rio de Janeiro](#), (November 26, 2018).

<sup>10</sup> Component 1 was aimed at supporting the thematic reclassification and diversification of the offering of Polo Litoral, with the consequent increase in the average tourist expenditure; and to support the tourism activity expansion towards the interior of the State by increasing employment in Polo Serra. Component 2 included actions aimed at diversifying the State's tourism image and ensuring the effectiveness and efficiency of promotion and marketing channels. Component 3 included activities aimed at institutional strengthening. Component 4 included the development of feasibility studies and infrastructure projects for access to destinations and basic services. Component 5 was aimed at developing environmental management actions. See [Proposed Loan for the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro \(BR-L1210\)](#), p.7-9.

<sup>11</sup> [Environmental and Social Management Report of the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro](#), p. 6 (April 19, 2010).

<sup>12</sup> [Proposed Loan for the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro \(BR-L1210\)](#), p.13.

<sup>13</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#), p. 3 (August 30, 2022).

<sup>14</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#), p. 3 (August 30, 2022).

- 1.9 **The Project is Excluded from the Program.** The Project was removed from the Program in November 2018, when the third and last amendment to Loan Agreement 2411/OC-BR was made. The last disbursement under the Program was made on June 30, 2020<sup>15</sup>.

## II. THE REQUEST AND MANAGEMENT'S RESPONSE

### A. The Request<sup>16</sup>

- 2.1 **Who submits the Request?** The MICI received the Request on July 12, 2022, submitted by a family of four small-scale fishermen (hereinafter, the "Requesters") residing in the community of Vila do Abraão in Ilha Grande, Municipality of Angra dos Reis, State of Rio de Janeiro, Brazil. This family includes the owner of a vessel hired by the Project to transport materials (hereinafter, the "Requester").
- 2.2 **Request Context.** One of the Requesters (the "Requester") had contacted IDB Management on September 24, 2018 to state their concern regarding the livelihood loss due to the sinking of the vessel "Eterno"<sup>17</sup>. The Request was subsequently received by Management through its Environmental and Social Complaint Protocol on July 1, 2022, and forwarded to the MICI on July 12, 2022<sup>18</sup>.
- 2.3 **Allegations of the Request.** The Requesters alleged non-compliance with the Bank's Operational Policies regarding: (1) environmental and health impacts on the Requesters related to the suspension of works and abandonment of materials, and (2) allegations of harm related to the loss of their livelihoods.
- 2.4 **The Project Failed to Meet the Objectives.** The Requesters stated that the works started in 2016 and the inauguration was scheduled for July 2017. However, it turned out that the completion was not going to materialize as scheduled because, even in June 2017, the work site was still not in operation. They also alleged that the proposed objectives were not met due to the failure to develop two new water supply and sanitation and urbanization systems in Vila do Abraão, which included paving, drainage, structural recovery, bridge construction, landscaping and public lighting<sup>19</sup>.
- 2.5 **Health Impacts.** The Requesters alleged potential damage to their health as a result of the work, the machinery and the material abandoned in the community's only town square.

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<sup>15</sup> [Third Amendment to the Loan Agreement between the IDB and the State of Rio de Janeiro](#), (November 26, 2018), [Project Closure Report \(PCR\)](#) (November 24, 2021).

<sup>16</sup> [Request for Case MICI-BID-BR-2022-0189](#), (July 12, 2022).

<sup>17</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#), p. 6 (August 30, 2022).

<sup>18</sup> [Request for Case MICI-BID-BR-2022-0189](#), (July 12, 2022).

<sup>19</sup> [Request for Case MICI-BID-BR-2022-0189](#), p. 2 (July 12, 2022).

This has contributed to the accumulation of water and created conditions leading to the transmission of diseases such as dengue fever, chikungunya and zika<sup>20</sup>.

- 2.6 **Incident Involving the Requester's Vessel "Eterno".** The Request explained that on June 14, 2016, Hécio Gomes Engenharia Ltda. (hereinafter, "HG Engenharia") hired the Requester to transport the materials of the Project. On the fifth trip, while the materials were being loaded at the dock, the Requester went to support one of the engineers with an errand of the contractor company. Upon returning, the Requester found the vessel "Eterno" sunken and inoperable because the aforementioned company had shipped, without the Requester's presence or authorization, materials with a load exceeding the agreed weight by three metric tons. In this regard, the Requesters stated in their comments that the vessel had been built for ten metric tons and registered for six metric tons, type 2, as a precautionary measure<sup>21</sup>. In their comments to the Draft Recommendation Report, the Requesters also stated that an administrative investigation, identified by number 31.836/2017, concluded that the vessel was in excellent conditions and had all the life-saving and navigational equipment<sup>22</sup>.
- 2.7 **Repair Expenses.** The Requesters alleged that they covered the expenses to repair the vessel. They also took, without the contractor's help, all necessary measures to ensure the assistance to the vessel's passengers, the safety of river traffic, as well as to avoid contamination of the surrounding water, referred to in the Request as "the scene of the crime." They waited seven months for the company HG Engenharia to recognize the expenses incurred in the repair. However, in the absence of any response, they turned to the Public Defender's Office<sup>23</sup>.
- 2.8 **Impacts Stated by the Requesters.** In conversations with the MICI, the Requesters reported that the sinking of the vessel "Eterno" caused economic damage and the loss of their livelihoods. As a result, they incurred debts generated by the cost of the repairs and daily living expenses<sup>24</sup>. As stated in the Request, the Requester had to sell the vessel in 2018 to pay part of the acquired debts and has not been able to recover their livelihood. The Requester states that they have been unable to pay medical expenses due to lack of income, and their health has deteriorated. Finally, the Requester adds and clarifies in the comments to the Draft Recommendation Report that both the incident and the efforts to seek livelihoods as well as means to advocate for the family in the investigations have caused a significant stress burden that translates into possible effects on his and on the family's mental health<sup>25</sup>.

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<sup>20</sup> [Request for Case MICI-BID-BR-2022-0189](#), p. 2 (July 12, 2022).

<sup>21</sup> [Request for Case MICI-BID-BR-2022-0189](#), p. 4 (July 12, 2022).

<sup>22</sup> The MICI does not have any reference to this administrative investigation nor access to such documentation.

<sup>23</sup> [Request for Case MICI-BID-BR-2022-0189](#), p. 4 (July 12, 2022).

<sup>24</sup> [Consultation Phase Assessment Report](#), p. 5 (July 20, 2023).

<sup>25</sup> [Consultation Phase Assessment Report](#), p. 5 (July 20, 2023).

## **B. Management's Response<sup>26</sup>**

- 2.9 **Safeguard Compliance.** Management's Response was that the Project was designed and executed in compliance with the environmental safeguards set forth in the Environmental and Safeguard Operational Policies OP-703 and Disaster Risk Management Policy OP-704, aimed at ensuring environmental sustainability. Management also acknowledged that the expected benefits of the Project and its objectives were not realized because the Project was cancelled and excluded from the Program's investments<sup>27</sup>.
- 2.10 **Information in the Response.** The Response included: (1) information on the Program and the Project, including community engagement actions, and the details of their start, implementation and cancellation; (2) the allegations of the Requesters and Management's response as part of the actions to comply with the safeguards; and (3) reference to the communications between Management, the Executing Agency and the Requesters, as well as the documentation sent as part of the measures to solve the case.
- 2.11 **Start of the Project Works.** Management's response was that the bidding process for the works included in the Project concluded in March 2016, and the HG Engenharia company was awarded the Contract. Management also stated that the work began with the opening of trenches to install the sewage drainage pipe in the street parallel to the seashore, as well as the water supply network and part of the drainage network in different streets<sup>28</sup>.
- 2.12 **Response to the Request Allegations.** Regarding the allegations of the Requesters, Management responded that the Project was designed and executed in compliance with environmental safeguards; that the potentially negative impacts on the area were assessed; and that necessary measures were taken to anticipate, minimize and mitigate those impacts<sup>29</sup>.
- 2.13 **Program Safeguard Monitoring Mission.** Management's Response was that on June 3 and 5, 2019, it conducted a Program Safeguard Monitoring Mission to check its compliance and monitor the status of the works in progress. Management added that it requested the preparation of corrective action plans, if necessary, for cancelled or

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<sup>26</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#)

<sup>27</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 5.

<sup>28</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#), p. 3 (August 30, 2022).

<sup>29</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 5.

uncompleted works to mitigate potential consequences, with a deadline set for June 30, 2020<sup>30</sup>.

- 2.14 **No Contact with the Requesters.** Management stated that one of the Requesters contacted the Executing Agency five times between September 25, 2018 and March 28, 2019, during which time Management had no direct contact with the potentially affected person<sup>31</sup>. Management stated that it requested the Executing Agency to submit information on the measures implemented to solve the case. Management pointed out that the Executing Agency submitted inconclusive documents offering a different perspective from what was stated by this person<sup>32</sup>.
- 2.15 **Regarding Damages.** Regarding the specific allegations of the Requesters on the damage to the vessel suffered by one of them, Management clarified that, as of the date of the first communication on September 24, 2018, the Agreement between the Executing Agency and the Works Contractor had already been terminated<sup>33</sup>.
- 2.16 **2022 Claim.** Management reported that on June 1, 2022, one of the Requesters filed a claim with Management through the Bank's Claims Portal and requested its support. Management's response was that, together with the Executing Agency, it would seek an update on the progress of the Project.<sup>34</sup>.
- 2.17 **Information Provided by the Executing Agency and Data on Court Proceedings.** Management explained that the Executing Agency sent the documents it had previously sent and reported it about an investigation process at the Public Prosecutor's Office of the State of Rio de Janeiro. It also stated that a court proceedings regarding compensation for material damages was pending before the Court of Justice of Rio de Janeiro<sup>35</sup>.

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<sup>30</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 5.

<sup>31</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 6. Management reported that it requested the Executing Agency to submit the measures being carried out to solve the case. The Executing Agency submitted the following documents: (i) Clarifying Letter to the Contractor's Bank (11.08.2018); (ii) UCP/Prodetur 028/2019 Official Letter (03.28.2019); (iii) Contractual Termination Request and Terms between the Contractor and the Executing Agency (03.13.2018 and 08.03.2018, respectively); (iv) Proof of Payments Made to the Contractor; and, (v) Expertise Orders of the Brazilian Navy, Port Captaincy Delegation in Angra dos Reis (06.13.2017).

<sup>32</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 6.

<sup>33</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 6.

<sup>34</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 7.

<sup>35</sup> [Management's Response to the Notification of Registration of Request and Petition for Management Response, MICI-BID-BR2022-0189 regarding the "National Program for Tourism Development - Prodetur Nacional - Rio de Janeiro" - \(BR-L1210\)](#) p. 7. The MICI checked that Process No. 0072460-11.2022.8.19.001 is underway at a Trial Court.



### III. THE MICI PROCESS TO DATE AND METHODOLOGY OF THIS RECOMMENDATION

- 3.1 **Registration and Eligibility**<sup>36</sup>. The Request was received by the MICI on July 1, 2022, registered on August 2 of the same year and declared eligible on September 30, 2022, regarding the following issues: (i) health and environmental impacts as a result of the abandonment of work, machinery and materials after work suspension; and (ii) alleged damages due to the incident with the vessel during the short period of the Project execution.
- 3.2 **Exclusions at the Eligibility Stage.** The Eligibility Memorandum excludes the Requesters' allegations regarding the community's environmental impacts, living conditions and cultural heritage caused because the Project did not meet the proposed objectives by not being carried out. It is not possible to link failure allegations because the Project was not carried out, with potential non-compliance with the ROPs<sup>37</sup>.
- 3.3 **The Consultation Phase**<sup>38</sup>. The assessment stage of the MICI Consultation Phase (CP) began on October 3, 2022. During this stage, a documentary review was carried out and meetings were held with Management and the Requesters. The CP team carried out an assessment to determine whether conditions existed to start a dispute resolution process facilitated by the MICI. During the CP assessment stage, the MICI held 10 bilateral meetings with the Requesters and IDB Management. The MICI had no contact with the Executing Agency because Management reported that the Executing Agency, which is normally part of the MICI process, was dissolved after the operation closed<sup>39</sup>.
- 3.4 While analyzing the conditions to start a dispute resolution process, the CP identified several barriers, which is why the MICI determined that it was not feasible to start a dispute resolution process<sup>40</sup>.
- 3.5 **Start of the Compliance Review Phase.** The case was transferred to the Compliance Review Phase (CRP) on July 20, 2023. Once the case was transferred to the CRP, there was a period of 21 business days established by the MICI Policy to prepare the preliminary version of the Recommendation and submit it for comments to Management and the Requesters. The 21-business-day period expired on August 18, 2023. However, the CRP requested an extension of 15 business days to the Board of Directors to share the Draft Recommendation with Management and the Requesters, because it was necessary to request some documents from Management. Therefore, in order to make this Recommendation, it was necessary to review and analyze the documents published on the IDB's website, as well as Program and Project documents and information shared by Management and the Requesters with the MICI to be considered at this stage of the

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<sup>36</sup> [MICI-BID-BR-2022-0189 Eligibility Memorandum](#).

<sup>37</sup> [MICI-BID-BR-2022-0189 Eligibility Memorandum](#), p.5

<sup>38</sup> [Consultation Phase Assessment Report](#), (July 20, 2023).

<sup>39</sup> [Consultation Phase Assessment Report](#), p. 7 and 8 (July 20, 2023).

<sup>40</sup> [Consultation Phase Assessment Report](#), p. 9 (July 20, 2023).

process. In addition, the Mechanism held meetings with both Management and the Requesters to describe the process objective in this new MICI stage, listen to their allegations, and answer any questions.

**Table 1**  
**Chronology of MICI Actions During the Recommendation Stage for a Compliance Review and Terms of Reference (TOR)**

Date	Actions
<b>2023</b>	
July 20	Case transferred to the CPR
July 21	Meeting with the Requesters
July 24	Meeting with Management
July 27	Request submitted to the Board of Directors for term extension for the Draft Recommendation and TOR preparation
July 31	Request to Management for additional documents
August 3	Board of Directors' approves a 15-business-day term extension for the Draft Recommendation and TOR preparation
August 4	Receipt of additional documents requested from Management
August 11	Second receipt of additional documents requested from Management
August 22	Third receipt of additional documents requested from Management
August 24	Fourth receipt of additional documents requested from Management
September 11	Draft Recommendation and TOR sent to Management and the Requesters
October 12	Deadline for Management and the Requesters to submit comments on the Draft Recommendation and TOR

3.6 **Possible Non-Compliance.** From the allegations submitted in the Request, the MICI found that some of Management's obligations regarding the [Environmental and Safeguard Compliance Policy in](#) its directives B.3 (pre-assessment and classification), B.4 (other risk factors), B.5 (environmental assessment requirements) and B.7 (monitoring and compliance) require to be consulted within the scope of this claim for compliance purposes. The analysis, carried out by the MICI under paragraph 39 of its Policy, examines Management's obligations under these ROPs from the time Management became involved in the Project until it exited the Project.

3.7 **Central Issues Analyzed in this Recommendation.** The indications of possible non-compliance regarding the lack of adequate identification of environmental and social risks and impacts, as well as the lack of management measures design and implementation to address those risks and impacts, particularly related to (i) the possible contamination by the unfinished works of the Project and its consequent potential impacts to health and the environment, and (ii) the sinking of a vessel and its consequent potential impacts to livelihoods.



- 3.8 **This Stage is Not a Determination of Compliance.** The considerations contained in the following section do not constitute a determination by the MICI regarding Management's compliance or non-compliance with the ROPs. The Compliance Review recommended in this document is precisely intended to investigate and understand whether or not the indications found at this stage constitute non-compliance and to answer any questions arising from the review carried out at this stage of the process. Such review is the appropriate space for the MICI to obtain and study additional relevant information on the Project, and to determine compliance or non-compliance with the ROP.
- 3.9 **Draft Recommendation Sending.** On September 11, 2023, the MICI sent the Draft Recommendation to the Parties for their comments within a period of 15 business days. Regarding this term, the MICI requested an extension of 7 business days, which was granted for both parties. The final version objectively and impartially includes those comments considered relevant by the MICI. The final version is submitted for the consideration of the IDB's Board of Executive Directors, which is the competent body to approve the MICI Recommendation to carry out or not a Compliance Review.
- 3.10 **Draft Recommendation Comments.** The deadline for submitting comments on the Draft Recommendation expired on October 12, 2023. The MICI received comments from the Requesters on September 18, 2023, and from Management on October 12, 2023. The MICI thanks Management for its willingness to share the additional requested documents and acknowledges that the format in which they were shared facilitated their processing and analysis. In addition, the Mechanism appreciates the efforts of both the Requesters and Management in the preparation of comments and emphasizes that the quality of the comments submitted has made it possible to include relevant information into the Recommendation.
- 3.11 **Confidential Annex.** In the past, investigation reports included redacted (blacked out) text relating to confidential information. The MICI has modified this practice to ease the reading and understanding of the public report, especially for claimants, so that the information is not interrupted by this redacted text. The text that used to be redacted (blacked out) is now included in a confidential Annex in which only confidential information from Management reinforcing non-compliance findings found in the MICI's investigation is included. The information is classified as confidential by the Bank in accordance with the IDB's Access to Information Policy (hereinafter, "ATI").
- 3.12 For the sake of transparency, the MICI records the existence of this confidential Annex, which is shared only with IDB and the Bank's Board of Executive Directors. This is a comprehensive Recommendation Report, both in its preliminary version shared with the parties and in its final version. Confidential information that is not publicly shared does not amend, condition, restrict, or distort the report content in its findings, compliance determinations, conclusions, and recommendations.

3.13 Figure 1 summarizes the stages of the MICI's process developed to date for Case MICI-BID-BR-2022-0189.



Figure 1. Stages of the MICI's process developed for Case MICI-BID-BR-2022-0189.  
Source: The MICI

#### IV. REASON TO CARRY OUT A COMPLIANCE REVIEW

4.1 **Applicable Policy.** The following is an analysis of the indications of compliance or non-compliance with the Environmental and Safeguard Compliance Policy ([OP-703](#)), in its directives B.3 (pre-assessment and classification), B.4 (other risk factors), B.5 (environmental assessment requirements), and B.7 (monitoring and compliance), as part of the allegations made by the Requesters.

4.2 **Matters Analyzed.** This section analyzes: (A) the matters that are recommended or not for investigation based on the applicable ROPs; and (B) the allegations of damages and the possibility that they have occurred or are likely to occur as a result of possible non-compliance with the ROPs.

##### A. ROP Analysis

4.3 According to the Requesters' allegations, the following section analyzes identified environmental and social risks and impacts, and management measures, during the design, execution, closure and post-closure particularly related to (i) possible contamination from the unfinished works of the Project and their consequent potential impacts to health and the environment; and (ii) possible non-compliance with occupational health and safety measures and their consequent potential impacts on livelihoods.

4.4 **Relevant Operational Policy (ROP).** For the analysis of the Requesters' allegations regarding potential non-compliance, the MICI will focus on the Environmental and Safeguard Compliance Policy requirements ([OP-703](#)), in its directives B.3 (pre-assessment and classification), B.4 (other risk factors), B.5 (environmental assessment requirements), and B.7 (monitoring and compliance).

- 4.5 **Policy OP-703 – Directive B. 3.** It states the need to consider the environmental and social impacts in the Bank's operations and to assess and rank them according to their level of potential impact, so that appropriate environmental safeguards and environmental review requirements may be defined. It also states that the IDB will periodically identify risks of environmental impacts and other factors that may affect sustainability, and will periodically assess the performance of its procedures for pre-assessing and ranking operations according to their potential environmental impacts. It adds, as relevant to this case, that those operations that may cause mainly localized and short-term negative environmental impacts, including associated social impacts, and for which effective mitigation measures are already available, will be ranked as “**Category B**” and will normally require an environmental and/or social analysis focused on specific issues identified during the screening process, as well as an Environmental and Social Management Plan (hereinafter, “ESMP”)<sup>41</sup>.
- 4.6 **Policy OP-703 - Directive B.4.** It requires that, in addition to risks representing environmental impacts, the Bank identify and manage other risk factors that may affect the environmental sustainability of its operations, particularly risks associated with sensitive social and environmental concerns. Also, depending on the nature and severity of the risks, the Bank, together with the Executing Agency, should design appropriate measures to manage those risks <sup>42</sup>.
- 4.7 **Policy OP-703 – Directive B.5.** It establishes that the ESMP must include the key impacts and risks of the proposed operation; the design of the environmental/social measures proposed to avoid, minimize, compensate and/or mitigate the key impacts and risks; the consultation or participation program agreed for the Project; and the framework for monitoring environmental and social risks and impacts throughout project implementation. It also states that an environmental analysis must be carried out in the operations which require an environmental assessment but are not subject to an EIS or a Strategic Environmental Assessment (SEA). This analysis must include an assessment of the potential environmental, social, health and safety impacts and risks associated with the operation, and show the measures planned to control those risks and impacts.<sup>43</sup>.
- 4.8 **Policy OP-703 – Directive B.7.** It points out that the institution assumes responsibility for monitoring compliance with all safeguard requirements provided for in the Loan Agreement and in the Project's credit or operational regulations.<sup>44</sup>.
- 4.9 The following is an analysis of the indications of compliance or non-compliance with the aforementioned ROPs, divided into (1) identification of environmental and social impacts and measures in general, and (2) environmental and social impacts and measures of work management in the execution, closure or post-closure stage of the Project.

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<sup>41</sup> [OP-703, directive B.3](#) Pre-assessment and Classification, p. 8.

<sup>42</sup> [OP-703, directive B.4](#) Other Risk Factors, p. 9.

<sup>43</sup> [OP-703, directive B.5](#) Environmental Assessment Requirements, p. 9.

<sup>44</sup> [OP-703, directive B.7](#) Monitoring and Compliance, p. 11.

(i) *General identification of environmental and social impacts and management measures in the Project*

4.10 The following is the MICI's analysis of the general identification of environmental and social impacts of the Project.

4.11 **Macro Risk Assessment.** Management explained in its comments to the Draft Recommendation that the SEA prepared for the Program included a detailed analysis of the different projects planned for funding, including the Project. The aforementioned analysis identified potential and strategic risks and impacts of the Program<sup>45</sup>. Management further stated that the Program's Operating Manual (hereinafter, "POM") detailed the eligibility criteria for the different projects and the specific procedures for managing the types of operational risks and impacts, particularly those related to infrastructure and basic services<sup>46</sup>. It also points out that the ESMR summarized the specific potential impacts associated with each of the Program's anticipated components and interventions and sets out the measures to avoid, mitigate or compensate for negative impacts. Indeed, the MICI agrees that the POM provided this detail and that the ESMR contains a statement of positive and negative impacts of the Project. However, the MICI keeps stating that there is no evidence in any of the documents reviewed that the specific impacts of the Project had been assessed in an ESMP, being a Project of the representative sample<sup>47</sup>. Therefore, the MICI must check in its investigation whether the aforementioned SEA and the POM were sufficient for Management to discard the preparation of an ESMP.

4.12 **Category B Program and the Requirement of an ESMP.** In accordance with OP-703, directive B.3, Category B operations will normally require an environmental and/or social analysis focused on specific issues identified during the screening process, as well as an ESMP. Management interpreted in its comments to the Draft Recommendation Report the word "normally" as meaning that an ESMP is not required in all cases. Therefore, it did not require one. The MICI, upon analyzing the Project's environmental instruments, found no evidence of the existence of an ESMP, despite the fact that the MESMP, in its item 4.34, requires it to be prepared<sup>48</sup>. It should be noted that, according to the Project Monitoring Report<sup>49</sup> for the period of January to June 2022, mentioned in the Program

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<sup>45</sup> [Strategic Environmental Assessment](#), p. 166-167, 240-249.

<sup>46</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro, p. 16-18 \(January 2010\).](#)

<sup>47</sup> Management refers to the following impact statements: "Positive: Improvement of accessibility conditions to the municipalities and attractions present; boosting of the Polo's economy; creation of employment and income. Negative: noise generation, traffic disturbance, erosion, sedimentation in watercourses."

<sup>48</sup> The MESMP in its item 4.34 states: "The preparation of environmental assessments and associated ESMPs and their implementation are the responsibility of the Program's executing agency, which must submit them to the Bank for review and approval". Similarly, item 4.44 on the ESMP in Category A and B projects states: "The socio-environmental management measures for projects classified as Category A and Category B will be defined in the respective Environmental and Social Management Programs (ESMP), whose actions must be implemented according to their schedules".

<sup>49</sup> [Project Monitoring Report](#), period Jan-Jun 2020, p. 1.

Closure Report<sup>50</sup>, the Program did not have an ESMP either, because the preparation of such document was not previously requested, as indeed Management has stated.

- 4.13 **Management's Comment on the Equivalence of All the Project Documents to an ESMP.** Management stated that, at the time of loan approval, the set of documents, including the POM and its technical exhibits, ESMR, MESMP, SEA, and the required national licenses, equivalent to an ESMP, were considered. The reason is that all of them had the proper guidelines for the environmental and social management of the works and had the technical content required in an ESMP. This is reflected in paragraph 2.6 of the Loan Proposal, approved by the Board of Executive Directors<sup>51</sup>. This document states that for the projects in the representative sample, including the Project, the necessary environmental impact studies were carried out and the necessary environmental licenses were obtained, or the process to obtain them was started. The MICI understands Management's assessment regarding the role of guidelines for the preparation of an ESMP. However, the Project was one of those in the representative sample, and the MESMP in its item 4.34 had required the ESMP. Therefore, the MICI must check in its investigation whether the aforementioned set of Program documents was indeed sufficient for Management to discard the preparation of an ESMP.
- 4.14 **Environmental Licensing.** The ESMR established that the works of the Program, including those of the Project, were subject to environmental licensing. Also, the State Environmental Institute or Council was responsible for defining the enforceability criteria, detail or necessary environmental studies, taking into account the environmental risks and characteristics of the projects. Thus, for minor undertakings, simplified environmental studies could be required<sup>52</sup>.
- 4.15 **Environmental Licenses and Studies for the Project works.** Management, in its comments to the Draft Recommendation Report, provided evidence that the Project had two different licenses: (i) Preliminary and Installation License (LPI) No. IN023540 for the implementation of the sewage treatment and water distribution system<sup>53</sup>, and (ii) Simplified Environmental License (LAS) No. IN020132 related to drainage, landscaping and paving works<sup>54</sup>. Regarding this item, the MICI repeats that it has not been able to find, at this stage, the relevant studies submitted to the State Environmental Institute or Council. These studies were the basis for the approval of the Project licenses as planned by the ESMR.
- 4.16 The following is the MICI's analysis of the environmental and social management measures, in general, of the Project.

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<sup>50</sup> [Project Closure Report \(PCR\)](#), November 24, 2021, p. 24.

<sup>51</sup> [Loan Proposal](#), p. 14,15.

<sup>52</sup> [Environmental and Social Management Report of the National Program for Tourism Development - PRODETUR Nacional - Rio de Janeiro](#), p. 8 (April 19, 2010).

<sup>53</sup> [Preliminary and Installation License \(LPI\) No. IN023540](#) dated June 19, 2013.

<sup>54</sup> [Simplified Environmental License \(LAS\) No. IN020132](#) dated July 3, 2012.

4.17 **Management Plans Foreseen in the MESMP.** The MESMP, which is a Program document, states that the impact management, monitoring and mitigation plans, as well as the measures for their follow-up in the Project, must be presented in the ESMP<sup>55</sup>. This is compatible with what OP-703 states for Category B projects. However, as we have previously stated, although an SEA was prepared to define the environmental management guidelines for the Program, and the relevant licenses from the competent authorities were obtained, the MICI has not had access to the environmental studies supporting them. The MICI repeats that there was no ESMP for either the Program or the Project, an issue that the MICI will have to investigate.

4.18 **Environmental Diagnosis Required to Assess Risk Prevention Measures.** As for the POM's Annex M<sup>56</sup> on the Basic Content of Environmental Management Programs, it provided that (i) the identification of the most important or critical social and environmental aspects, including the identification of contamination sources and degradation processes, and (ii) the identification and evaluation of land use development and action plans, among other activities, were to be carried out<sup>57</sup>. Based on the results of the environmental diagnosis, the following were to be formulated: (i) guidelines for the sanitation and environmental management of urban centers; (ii) guidelines for the recovery of degraded areas, taking into account the environmental objectives established, economic and technical resources, and institutional capacity; (iii) evaluation and proposal of guidelines for risk prevention, including measures for their monitoring and prevention; and (iv) evaluation and proposal of guidelines for risk prevention, when applicable, including an estimate of the economic, social and environmental costs of potential accidents, as well as the means for their monitoring and prevention, including costs and legal basis<sup>58</sup>. The MICI was to check in its investigation whether the forecast of the aforementioned environmental management programs' basic content was sufficient for Management to discard the preparation of an ESMP.

(ii) *Identification of impacts and measures of work management in the execution, closure or post-closure stage of the Project*

4.19 **Identification of Impacts on Execution and Closure.** The MICI reviewed the Program's public documentation regarding the Bank's supervisory role over the studies or instruments to identify risks and impacts during the execution and closure of the Project.<sup>59</sup> However, it did not find any information in this regard. The POM stated that, for the

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<sup>55</sup> [Environmental and Social Planning and Management Manual](#), p. 28.

<sup>56</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex M, Environmental Management Programs \(January 2010\).](#)

<sup>57</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex M, Environmental Management Programs, p. 4 \(January 2010\).](#)

<sup>58</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex M, Environmental Management Programs, p. 4, 5 \(January 2010\).](#)

<sup>59</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex N, Basic Content for Environmental Audits, Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex M, Environmental Management Programs, Environmental and Social Management Report \(PRODETUR-RIO DE JANEIRO\).](#)



effective execution of the Program, the Executing Agency was to have the support of a consulting firm specialized in program management, as well as a firm to monitor the works and assessment of the Program<sup>60</sup>. According to Management's comments to the Draft Recommendation, the Executing Agency received the reports prepared by the firm. The latter reported to the Bank concerns or non-compliance of an environmental or social nature, identified throughout the life of the Program or during the Bank team's monitoring visits. It will be the MICI's responsibility to investigate whether the Bank carried out its supervisory function regarding compliance with the environmental and social safeguards in the Project under the aforementioned schedule.

- 4.20 **Identification of Management Measures on Execution and Closure.** The MICI found information in the POM and in Appendix H1 on the obligations to design environmental and social management measures in sanitation works. They detail the management of these works to mitigate environmental and social impacts during the execution and closure of the Project, which are described below and also allow understanding how they were to have been implemented. In addition, Technical Annexes H and L on sanitation and drainage projects, respectively, were included in the Program's management tools, following the guidelines set forth by the POM. Whether or not these management measures were implemented, and how the Bank monitored them, would have to be the subject of investigation as concluded below.
- 4.21 **Management Measures Regarding Sanitation Works. Excavations and Earth Moving.** The POM's Appendix H-1<sup>61</sup> on the Instructions for the Socio-environmental Treatment of Basic Sanitation Projects (water and sanitary sewage) includes measures that are worth mentioning in this Recommendation, related to the Project works. Thus, for example, on excavations and earth works, they were to: (1) orderly dispose of the piles of excavated materials in the trenches and reuse the excavated material as landfill as much as possible; (2) convey the water drained from the trenches through the water table lowering system, through pipes to the nearest rainwater collection box, preventing the water from flowing into the public roadway; (3) all material resulting from the excavations was to be retained in the area for handling after the pipeline lease. However, after topographic grading of the excavated sites, the surplus was to be moved to the landfill areas<sup>62</sup>.
- 4.22 **Management Measures Regarding Sanitation Works. Demobilization and Work Site.** The measures of interest were as follows: (1) all infrastructure used during the construction of the system units was to be relocated and removed at the end of the work; (2) during and after the works, there may be degradation of land use caused by the use of construction materials, abandonment of areas used in temporary facilities, improper

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<sup>60</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro, p. 52-55 \(January 2010\).](#)

<sup>61</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex H, Appendix H-1 on Environmental Instructions for Sanitation Projects \(January 2010\).](#)

<sup>62</sup> [Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex H, Appendix H-1 on Environmental Instructions for Sanitation Projects, p. 45 \(January 2010\).](#)

disposal of removed materials, lack of cleanliness of areas explored and/or used in facilities; (3) abandonment of the camping area without restoring its original use was not be allowed, nor was the abandonment of construction materials, equipment or parts of disused equipment; (4) concrete waste was to be placed in appropriate locations, which were to receive adequate treatment; and (5) the landscaping treatment to be given to the service road areas, once the works are completed, was to consist in spreading the topsoil stored during construction, grading the land and renaturing with grass and native species<sup>63</sup>.

- 4.23 **Management Measures Regarding Sanitation Works. Recovery of Working Areas.** Annex III, Environmental Monitoring and Work Management Specifications, of the ESMR<sup>64</sup> regulates the procedures for the recovery of working areas and dumps, such as the construction material removal, land cleanliness, land covering and drainage systems implementation for soil conservation and erosion control.
- 4.24 **Information on Excavations and Earth Moving.** Section 7.7 of the POM's Appendix H-1 states that in places where excavations and earth works will be carried out, the executing companies are to previously inform the population about the start and completion of the action through signs placed at the work sites<sup>65</sup>. For the MICI, it is not clear if this information on the start or completion of the excavations was delivered. In this case, the Requesters allege that they were not informed about the start of the excavation works nor, because of the cessation of work, of their end.
- 4.25 **Occupational Safety Measures.** The MICI reviewed the Project documents to understand whether measures had been planned related to the incident alleged by the Requesters, specifically the vessel's sinking because the work contractor (that is, its staff) loaded the materials to be moved in excess of the vessel's capacity. The alleged incident had an impact on the livelihoods of the Requesters, as argued in the Request. These allegations infer a potential lack of compliance by the Bank in checking that the Executing Agency required its contractors to implement occupational health and safety rules for its staff, which were to have been set for the Project, as required by the Project documents, namely Appendix H1 of the POM. This potential lack of compliance could have contributed to the incident regarding the vessel and the eventual impact on livelihoods, as described in the Request.
- 4.26 **Precautionary Measures to Ensure the Right Way of Moving Materials.** As stated above, the MICI confirmed that the aforementioned Appendix H1 provides for some measures related to occupational health and safety. In addition, its articles 7.3, 7.7 and 7.17 include those measures to be adopted by contractors during the implementation of

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<sup>63</sup>[Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex H, Appendix H-1 on Environmental Instructions for Sanitation Projects](#), p.52 (January 2010).

<sup>64</sup>[Environmental and Social Management Report, Annex III, Environmental Monitoring and Work Management Specifications](#), p. 3-6.

<sup>65</sup>[Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro. Annex H, Appendix H-1 on Environmental Instructions for Sanitation Projects](#) (January 2010).



the works<sup>66</sup>: (1) illustrative talks, educating workers to follow strict safety rules, clarifying the risks to which they are subject and stimulating their interest in accident prevention issues; and (2) precautionary measures, which, insofar as relevant, were to ensure the right way of moving materials and tools. For the MICI, it is not clear whether the Bank ensured that the Executing Agency required the contractor to comply with these measures, and whether its staff knew and checked not only the loading capacity of the vessel, but also had the diligence and care in the loading process, so that the movement of materials could be carried out correctly.

- 4.27 **The Project Monitoring Report Required the Study on the Project Status.** The Project Monitoring Report<sup>67</sup> for the period January to June 2020, mentioned in the Program Closure Report, had determined that a specific study was to be prepared to assess the potential social and environmental impacts of the cancelled works under the Program, because some of them began to occur prior to the work's withdrawal from the planned scope. The MICI understands Management's willingness to identify the Project status at the time of closure. However, for the MICI, it is not clear why Management did not agree with the Executing Agency on a delivery date of this specific study or why it did not follow up on it.
- 4.28 **Recommended for Investigation.** For the MICI, it is not clear how the Bank checked the identification and assessment of the Project's environmental and social risks and impacts without an ESMP, nor what were the reasons for not requiring the preparation of this instrument which had been required by the Program documents. For the MICI, it is also not clear whether the Bank has checked the fitness of the environmental and social measures provided for in some Program documents and whether it has also monitored compliance with those measures related to (i) sanitation works, specifically excavation and earth moving, demobilization and construction site measures, and working area recovery; and (ii) occupational health and safety matters for the correct movement of materials. Finally, although the MICI highlights the Bank's willingness for the Executing Agency to conduct a study on the unfinished works and environmental and social liabilities status in the Project, the MICI did not find the reasons why no date was set for the delivery of this study, nor why there was no follow-up on its compliance. This prevented the Bank from understanding whether or not it was necessary to implement measures at the execution, closure or post-closure stage of the Project. As a result, the MICI considers that it needs to investigate to determine whether the Bank complied with OP-703, in its directives B.3, B.4 and B.5 and B.7 regarding the aspects indicated.

**B. Analysis of the Allegations of Harm and the Possibility that they have Occurred or are Likely to Occur as a Result of Possible Non-Compliance with the ROPs.**

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<sup>66</sup>[Operating Manual of the National Program for Tourism Development, PRODETUR Nacional, State of Rio de Janeiro, Annex H, Appendix H-1 on Environmental Instructions for Sanitation Projects](#) (January 2010).

<sup>67</sup> [Project Monitoring Report](#), period Jan-Jun 2020, p. 1.

- 4.29 **This refers to the damage regarding the potential deficiency in the identification and assessment of potential social and environmental risks and impacts, and in the implementation of corresponding management measures, as well as in the Bank's supervisory function.** If non-compliance with the ROPs were to be determined through an investigation, it could have contributed to the damage to health, environment and occupational safety, causing potential harm to livelihoods due to the vessel's sinking alleged in the Request and which the ROPs seek to avoid.

## **V. TERMS OF REFERENCE FOR A COMPLIANCE REVIEW**

- 5.1 **The MICI recommends a Compliance Review.** The MICI's recommendation to the Board of Directors is to conduct a Compliance Review focused on reviewing compliance with the Environmental and Safeguard Compliance Policy ([OP-703](#)), in its directives, B.3, B.4, B.5, and B.7. This is to be done in the context of the conflicting information submitted by the Requesters and Management regarding compliance with the safeguards to monitor the execution and closure of the Project, as well as the Requesters' allegations about the resulting potential impacts to health and livelihoods.
- 5.2 **Compliance Review Report.** The product of the investigation will be a Report of Compliance Review on the Project (Report), which will show the findings of the investigation process and the determination of compliance with the ROPs. If non-conformities are identified, they will be analyzed to determine whether or not they are related to the damage alleged by the Petitioners. This Report will include a detail of the methodology used by the Investigation Panel and may present specific or systemic Recommendations.
- 5.3 **To Be Answered in the Compliance Review.** Considering public documentary preliminary information analyzed by the MICI, the investigation will focus on answering the following questions in relation to the ROPs:
- How did the IDB verified that, even in the absence of an ESMP for the Project, there was adequate identification, assessment and characterization of the potential direct and indirect social and environmental risks and impacts of the Project, particularly related to (i) potential contamination from the Project's unfinished works and the consequent potential health and environmental impacts, and (ii) occupational health and safety issues related to the movement of materials and the consequent potential impacts on livelihoods? Was there a proper compliance review through its supervisory function in accordance with OP-703, directive B.7?
  - Did the IDB verified that the Executing Agency established and implemented suitable environmental and social management measures to prevent, avoid and mitigate the potential adverse risks and impacts of the Project related to (i) potential contamination from the Project's unfinished works and the consequent potential health and

environmental impacts, and (ii) occupational health and safety issues related to the movement of materials and the consequent potential impacts on livelihoods?

Was there a proper compliance review that these measures were established and implemented through its supervisory function in accordance with OP-703, directive B.7?

- If the requirements of OP-703 were not complied with, was any harm caused or could any harm have been caused to the Requesters?

#### **A. Proposed Methodology**

- 5.4 The proposed investigation would use documentary review and interviews, face-to-face, virtual or in hybrid mode, focused as the primary method of inquiry of the facts, regarding the actions or omissions of Management, from the beginning of its involvement in the Project to the completion date of the investigation. The MICI will evaluate whether a mission to the Project site would be necessary to collect useful and relevant information for the investigation. Based on the results of the comprehensive review of documents, interviews and possible mission, the ROPs would be compared to determine compliance or non-compliance. Finally, in the event of finding non-compliance, a causal relationship analysis would be performed to determine the existence or not of links between the non-compliance and the alleged harm.

#### **B. Schedule and Team**

- 5.5 The proposed investigation will be carried out within a period of 6 months as of the formation of the Compliance Review Panel, as suggested by Article 43 of the MICI Policy (MI-47-8). The following is the proposed schedule for Compliance Review activities:

### Proposed Schedule for Case MICI-BID-BR-2022-0189

Compliance Review for MICI-BID-BR-2022-0189		MONTH 00				MONTH 0				MONTH 1				MONTH 2				MONTH 3				MONTH 4				MONTH 5				MONTH 6			
Main Activities		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
1	Hiring of specialists																																
2	Effective working time by experts																																
3	Preparation of Preliminary Report																																
4	Mission preparation (if applicable) and stakeholder interviews																																
5	Fact-finding mission (if applicable) in the Project area																																
6	Final data check																																
7	Issuance of Preliminary Report																																

**Source:** Prepared by the MICI.

- 5.6 The compliance review panel would be composed of the phase coordinator, two experts to be selected from the roster according to the needs of the technical topics to be analyzed.
- 5.7 After being hired, the names of the experts will be directly notified to the Executive Board, Management, and the Requesters through direct notice.

### Estimated Budget<sup>68</sup>

<sup>68</sup> This section contains confidential information and will not be disclosed, in accordance with the provisions of Section 4.6, exception "Confidential or Sensitive Information" of the Access to Information Policy of the Inter-American Development Bank (document GN-1831-28).

**Annex I. Confidential Information of Justification for Conducting a Compliance Review.**

This confidential annex only includes confidential information from Management that reinforces the findings of noncompliance established in MICI's investigation. The information is classified as confidential by IDB Invest under the application of IDB Invest's Access to Information Policy.

## Annex II. Management's Comments on the Draft Version of the Recommendation for a Compliance Review

### Management's Comments on the Draft Recommendation and Terms of Reference (ToR) for Case MICI-BID-BR-2022-0189 “National Program for Tourism Development - PRODETUR Nacional - Río de Janeiro”

#### General Comments

We are at the MICI's disposal to provide further information relevant to the specific case. Considering the high number of the documents previously shared, which may make it difficult to interpret them as a whole, we add clarifications about the set of instruments adopted as part of the Program, as well as the monitoring and follow-up schedule carried out. In some cases, we mention information previously shared. In others, we add new documents that seem relevant to us, always for clarification purposes. We remain at the MICI's disposal for any further clarification required.

It is important to emphasize that the Program had a set of delimited instruments to guide its proper management from environmental and social perspectives. Based on the analyses prepared at the time of loan preparation, a schedule was established. This consisted of different monitoring levels: one level associated with the applicable national legislation and its regulations for work licensing; another associated with the additional set of instruments delimited in the MESMP; another associated with the institutional structure required in the Loan Agreement and the POM for the execution of the Program, which included specialists for these issues; and, finally, another level associated with the work monitoring required for the execution of the Program's works. These instruments and mechanisms, associated with the Bank's team monitoring, form a solid set that we believe is appropriate to include in the Draft Recommendation. We add to our comments specific information in this regard.

The Program is closed and does not have an active Executing Unit. However, former members of the Program's implementation and management support team have been contacted by Management to identify the existence of information relevant to the investigation. This information was added to the comments.

The Draft Recommendation would benefit from more detailed and specific information on the nature of the contractual relationship between HG Engenharia and the subcontractor, as well as the contractual relationship between the Bank and the Mutual/Executing Unit. The due diligence process carried out by the Bank at the time of receiving information on the vessel's sinking is not reflected in the document.

Paragraph No.	Specific Comments
4.11	<b>Risk Assessment for a Multiple Works Program and for the Representative Sample Specific Works.</b> As part of the loan preparation, since it is a Global Multiple Works Program (GOM), a Strategic Environmental Assessment (SEA) was prepared, including a detailed analysis of a sample of different projects planned for financing. This analysis identified potential and strategic risks and impacts for the Program, which were the basis for the specific environmental and social management plans for all the Program's works and interventions.

Paragraph No.	Specific Comments
	<p>In addition, as stated in paragraph 2.6 of the Loan Proposal approved by the Board of Executive Directors (document PR-3590), the necessary environmental impact studies were carried out for the projects in the representative sample, the appropriate environmental licenses were obtained or the process to obtain them was started, and the specific monitoring and management measures to be applied were defined. In other words, the projects in the representative sample were the subject of a specific assessment, and the Ilha Grande Project was among them.</p> <p>As for the ESMR, which was part of the Loan Proposal prepared for the operation, it summarized the specific potential impacts associated with each of the components and interventions planned for the Program and establishes the measures to avoid, mitigate or compensate for the negative impacts (<a href="#">page 30, item 6.15 from the ESMR</a>).</p> <p>It is also worth mentioning that the Program Operating Manual for all Prodetur Nacional operations, one of which is the National Program for Tourism Development in Rio de Janeiro, included technical annexes for each theme or work to be considered for the Tourism Programs, such as, for example, transportation projects, sanitation projects, redevelopment projects, etc. The POM detailed eligibility criteria for the different projects and specific procedures for managing the types of risks and impacts of the operations in these different areas. Throughout the execution, risks associated with the different projects were monitored, based on the Program Operating Manual (POM) and the Manual of Environmental and Social Management and Planning (MESMP) of the Program.</p> <p>Related to the above, the following reports and monitoring mission reports are made available to the MICI. They show the Bank's active role in monitoring activities and its recommendations to the Executing Agency, including recommendations for the management of environmental and social issues (October 2015, February 2014, March 2012).</p>
4.12 and 4.13	<p><b>Multiple Works Program with Specific Instruments for the Environmental and Social Management of Each Project.</b> Category B operations, according to OP-703, “will normally require an environmental and/or social analysis focused on specific issues identified during the screening process, as well as an Environmental and Social Management Plan (ESMP).” In the specific case of this Program, given the specific features of the multiple works financing instrument, which does not require a definition of all the works at the time of loan approval, an SEA, or environmental analysis, was carried out, which was the main guide to define the environmental management guidelines for the Program and was completed prior to the Program’s first disbursement. The Program’s ESMR defined that “in addition to the application of the instruments established in the applicable legislation of the country, the environmental management of the Program shall follow the guidelines and criteria for project preparation and environmental protection included in the MESMP and in the POM and its technical annexes” (page 31, chapter VII of the ESMR). As part of the Program preparation, in accordance with the aforementioned OP-703 and Program Category B, prior social and environmental analyses (SEA) were</p>

Paragraph No.	Specific Comments
	<p>conducted and included in the Program's management tools following the guidelines established in the POM, its technical annexes (more specifically Annexes H and L), and the MESMP of National Prodetur.</p> <p>It is very important to mention that, at the time of loan approval, the aforementioned set of instruments – POM, ESMR, MESMP, SEA, the required national licenses – were considered equivalent to an ESMP, because, as a whole, they had the appropriate guidelines for the environmental and social management of the works. The Program does not have an ESMP under this nomenclature, but it does have all the technical contents required for an ESMP, which is why the Board of Executive Directors did not object to its approval.</p> <p>In summary, the alleged Project was designed in compliance with the socio-environmental safeguards provided for in OP-703, OP-765, and OP-704. Socio-environmental technical feasibility analyses were conducted; social management and communication programs were carried out; and risk prevention and mitigation measures associated with the works were established during the execution of the Project.</p>
4.15 and 4.18	<p><b>The Project Had the Pertinent Licenses and Studies.</b> The existence of the pertinent applicable licenses was one of the requirements established in the Program's environmental management documents. Due to its characteristics, the works that were the subject matter of the claim required two different licenses: Preliminary and Installation License IN023540, related to the water distribution and sewage treatment system, and the Simplified Environmental License IN020132, related to drainage, landscaping and paving works, all of which are planned as part of the Project. The licenses, in addition to the Program's environmental management instruments, required the preparation of environmental studies as a condition of eligibility and execution. The licenses were in force at the time of execution of the works in question.</p> <p>At the time the project was approved, it was considered to be in compliance with the applicable policies regarding mitigation measures, as stated in the previous item of this document.</p> <p>Finally, we state the existence of a Preventive Environmental Action Plan for the Works prepared by the firm hired to execute the Project (HG Engenharia) as part of the conditions of its environmental license. The document established, among other things, the expected impacts and the programs to be implemented for their proper management.</p>
4.20	<p><b>Mechanisms Adopted for the Identification of Impacts on Execution.</b> The Loan Agreement defined the need to apply the guidelines provided by the POM which, in turn, established the need to have a specific firm to monitor the works (POM's page 24). This Program had an administration structure that included a company responsible for the monitoring of works. The reports prepared by the firm were received by the Executing Agency, which reported to the Bank concerns or non-compliance of an environmental and social nature, identified throughout the life of the Program and/or during the Bank team monitoring visits.</p> <p>The Work Monitoring Report sent to the Bank in 2018 contained descriptive and photographic information on the execution of the Project works. It was one of the documents used to support the decision making regarding the</p>



Paragraph No.	Specific Comments
	management of the Program closure. Similarly, the Safeguard Monitoring Report carried out in July 2019 requested the executor to carry out a “mapping of the situation of those works whose execution was started within the scope of the Program but which were cancelled for several reasons.”
4.25	<b>Earthmoving and Excavation Program as part of the Preventive Environmental Action Plan.</b> The Preventive Environmental Action Plan for the Works defines an Earthmoving and Excavation Program (page 61/84). The Work Monitoring Report contains photographic records of the signage, guards and fencing used during excavation and earth works (especially photos included on pages 17 to 42).
4.26 and 4.27	<b>Occupational Safety and Team Training Programs as part of the Preventive Environmental Action Plan.</b> The Preventive Environmental Action Plan for the Works prepared by the contractor in 2016 defines programs related to occupational safety and material movement, especially “Programas del Serviço Especializado em Engenharia de Segurança e em Medicina do Trabalho” [Programs of the Specialized Service in Safety Engineering and Occupational Medicine] and “Programa de Treinamento Ambiental dos Trabalhadores” [Workers' Environmental Training Program] ” (page 59/84). The Work Monitoring Report sent to the Bank in 2018 contained photos of the materials movement carried out by the contractor, including some photos of the loading onto vessels (e.g., page 13). In addition, it is worth mentioning that the agreement entered into between the Executing Agency and the contractor (starting on page 30) mentions the provisions on liability related to subcontractors and insurance applicable to the Agreement. As a result, the documents that governed the responsibilities of the Executing Agency (including the POM), as well as the Preventive Environmental Action Plan for the Works, provided for measures to require the implementation of occupational health and safety rules. Similarly, we find it relevant to mention the specific information of the legal proceedings pending before the Court of Justice of Rio de Janeiro related to the case ( <a href="#">Proceeding 0007936-02.2022.8.19.0001</a> and <a href="#">Proceeding 0007936-02.2022.8.19.0002</a> ), between AAA from Carvalho Viagens Turismo e Mergulho and Hécio Gomes Engenharia. The documentation is available only to those involved in the proceedings, including the Requesters, and may provide liability-related input between the contractor and subcontractor.
4.29	The paragraph refers to a possible causality between the cancellation of the works and damages to health and the environment, but we did not identify in the MICI's Draft Recommendation what the apparent connection is between the damages alluded to and the specific deficiencies attributed to the Bank in its role as supervisor of the execution. The Executing Agency was in charge of the execution. In this regard, we believe it would be interesting to examine the evidence of the Bank's monitoring during the execution of the Project, taking into account Management's comments in this document. In addition, it is also important to point out that the suspension of the works was related to factors beyond the Bank's control, which prevented the execution of the works within the initially planned scheduled. In this regard, it is worth mentioning the financial calamity situation declared by the State of Rio

Paragraph No.	Specific Comments
	de Janeiro in 2016, which impacted the execution of the Program for several years.

### Annex III. Requesters' Comments on the Draft Version of the Recommendation for a Compliance Review.

#### The Parties' Comments on the Draft Recommendation and Terms of Reference (ToR) for Case MICI-BID-BR-2022-0189 “National Program for Tourism Development - PRODETUR Nacional - Río de Janeiro”

General Comments
2.1: To add the words “of small-scale fishermen” after the word “family.”
2.2: To substitute the words “vessel sinking” for “Eterno fishing vessel sinking” (see Remark 1).
2.6: To substitute the words “vessel sinking” for “Eterno fishing vessel sinking” (see Remark 1).
2.6: To substitute the words “partially sunken vessel” for “sunken Eterno vessel” (see Remark 1).
2.6: To add the words “or authorization” after the word “presence.”
2.6: To add the phrase “which was checked by Administrative Instruction 31.836/2017 of the DPC, which concluded that the vessel was in excellent condition, had all the rescue and navigational aid equipment” after the word “preventive.”
2.7: Add the phrase “take, without the contractor’s help, all necessary measures to ensure the assistance to the vessel’s passengers, the safety of river traffic, as well as to avoid contamination of the water around the scene of the crime” after the words “repair the vessel.”
2.8: To substitute the words “vessel partial sinking” for “Eterno fishing vessel sinking.”
2.8: To add the words “defending themselves in the investigations and...” after the words “ways of.”
2.8: To add the words “and that of their families” after the words “mental health.”
3.2: To check the relevance of Remark 2. To rewrite the paragraph.
4.15: To check the relevance of Remark 2. To add the word “because” before the last phrase.
4.26: To check the relevance of Remark 3. To substitute the word “incident” for the words “premeditated crime.”
4.26: To substitute the words “vessel sinking” for “Eterno fishing vessel sinking.”

Additional Comments
<b>Remark 1).</b> According to Brazilian legislation on the maritime authority NORMAM 9/DPC rules, the total or partial sinking of the vessel due to the loss of buoyancy resulting from the entry of water into its internal spaces due to heeling, capsizing or flooding, is called a shipwreck, as stated in the file of the administrative investigation started by the Port Captaincy Police Station in Angra dos Reis to “investigate causes and responsibilities for the sinking of the fishing vessel Eterno.” In this case, the Requesters' vessel sank near the dock and was

### Additional Comments

subsequently refloated with the help of other fishermen and neighbors in the area. It was recovered months later and subsequently sold to pay debts arising from the recovery process, not only of the vessel, equipment and personal documents on board at the time of the sinking, as well as those related to its family, whose income from the vessel meant their livelihood, but especially to comply with the obligation to ensure the safety of river traffic and avoid environmental impacts derived from oil spills or derivatives at sea, according to Law 9,537 dated December 11, 1997. It should be noted: This work was performed by the Requesters without help from the Contractor, Executing Agency or Bank.

**Remark 2).** After the reading of the aforementioned documents, we are also astonished to see that despite having financed the work and having its logo printed on the Project's signage posts, the Bank, which created the expectation of mitigating negative impacts on the community's living conditions and heritage, ended up having an environmental, social and economic impact on the local communities when it abandoned, without monitoring, the completion of the work started but unfinished, leaving an artisanal fisherman, recognized as an intangible heritage of the community, vulnerable without any support, help or guidance. Worse still, believing in impunity as a social rule, even internationally. In this regard, it is worth mentioning that the exclusion, even in the eligibility phase, of the possibility of investigating impacts on the community's living conditions and cultural heritage, as described in Article 3.3, in our opinion, was arbitrary and exclusionary because, despite having been anticipated as a negative impact in item 4.16: "interference in the welfare of the surrounding population" and indeed having been carried out when the population lost for years, in exchange for nothing, access to the only square in the town that served as a warehouse to the Contractor who continued to use the public space over 6 months after the end of the Agreement, leaving exposed points of potential contamination by mosquito-borne diseases, is it a coincidence that during 2016 diseases such as Zika and dengue have increased?

**Remark 3).** It was not possible to open all the links highlighted in blue introduced in the document as many would not open because they required passwords. In addition, although headers were included, the body of the pages contained in the annexes were blank, as may be seen from the documents sent in the attachment. We are immensely grateful for the opportunity to clarify the facts that changed our lives. However, we would like to highlight a document that caught our attention: Memorandum dated August 30, 2022, stating that Management requested the Executing Agency "the measures they were carrying out to solve the case," to which the Executing Agency sent the following documents: (i) Clarifying Letter to the Contractor's Bank (08.11.2018); (ii) UCP/Prodetur 028/2019 Official Letter (03.28.2019); (iii) Contractual Termination Request and Terms between the Contractor and the Executing Agency (03.13.2018 and 03.13.2018, respectively); (iv) Proof of Payments Made to the Contractor; and, (v) Expertise Files of the Brazilian Navy, Port Captaincy Delegation in Agra dos Reis (06.13.2017). As the Bank did not provide feedback to the Requester so that he could submit his defense and merely commented that the material "offers several and inconclusive perspectives," did the Bank request more information from the Executing Agency? The structural racism of the Bank judged the fisherman guilty of his misfortune to exempt itself from its responsibilities, preferring, it seems, to be content with the narrative of the Executing Agency, subordinated to the Government of the State of Rio de Janeiro, that the responsibility for the sinking would have been the fisherman's own negligence, during the same period in which it was renegotiating the Agreement that changed the initial objectives of the Project.

On this item, please note that, in that same Memorandum, there is the following Contractor's statement: "The contracted vessel, which belonged to the First Requester, had specific maritime transportation characteristics that allowed transporting up to 7 (seven) metric tons

### Additional Comments

per trip.” It is important to highlight that the Contractor had access to all the vessel documentation at the time of hiring. In addition, the machine operator, in addition to sailing on it several times after moving the material to inspect it, certainly had the opportunity to read the inscriptions present in the vessel’s cabin showing the loading tonnage of 6 metric tons. This action, in our opinion, shows the intention of the Contractor’s machine operator to separate the captain of the vessel to order the loading of more material than agreed. All of this considering the document showing the hypothesis that the Project drilled deep arteries in the streets without risk and impact assessment studies and barely requested for information on how to start the environmental licensing process together with the competent bodies.

The works, even after having started, were suspended for months, with the Agreement already concluded. Even so, after years of investigation, this international body found no evidence that the Environmental Council had issued a license for a project of this scale within a Conservation and World Heritage Unit. All of this was in a context of judicial blockage of the accounts of the Executing Agency, that is, SETE, an administrative body mainly subject to a federal entity whose governor was Sergio Cabral (2016), at the time, suspected of leading a criminal organization handling tenders and collecting bribes from construction companies, arrested for corruption scandals. In addition, the second judge responsible for the case, Pezao, his deputy governor, continued with the crimes after taking over the state government and was sentenced to 98 years in prison. Also, his successor Witsel was arrested and then found criminally liable, leaving Claudio Castro in charge, who was also investigated for allegedly buying respirators and other medical equipment at excessive prices in purchases intended to fight against the COVID-19 pandemic in 2020. At the time, the State was led by former Governor Wilson Witzel (PMB) and had Castro as deputy governor.

Considering that there were plans to consolidate the “tourism in the State, creating new jobs, increasing income, improving the living conditions of the local population and projecting environmental preservation combined with the sustainable growth of the place,” we are forced to admit that these objectives were not met. On the contrary, at the end of the third renegotiation, the objectives were focused on promotion, before offering the minimum structure to meet the demand. As a result, we see the impact increase. As may be demonstrated by the studies recently carried out in the territory, the leaders of this Government have probably never had the objective of carrying out the works. They only started them to justify the use of resources, otherwise why would they have abandoned their initial objective? By recalling that the number of tourists is increasing, we conclude that, at last, the operational policies have been violated because such a disaster was not anticipated. The question that should be asked is why the IDB preferred to have trust in the competence of its leaders, who were under investigation, and abandoned a fisherman and the community to their own fate. The new objectives approved in the renegotiations of the Project will end up generating the opposite of what was expected: unsustainable tourism that threatens the natural and cultural heritage of humanity. In this regard and in view of these facts, we ask you to recognize the existence of the shipwreck and the life consequences to the Requester, bringing dignity to this family of fishermen who live off the water. We also ask you to kindly omit the word “alleged” when referring to the shipwreck, sometimes treated as an incident, other times as an accident, because, according to the local culture, a man is worth his actions. In this regard, Amilcar Carvalho, a 60-year-old fisherman, refuses to be considered negligent while all those who did not respect their basic rights continue free enjoying the money they received.