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AND INVESTIGATION MECHANISM

MICI-CII-UR-2022-0199

**COMPLIANCE REVIEW RECOMMENDATION AND
TERMS OF REFERENCE**

“TACUAREMBÓ-SALTO GREEN TRANSMISSION LINE” PROJECT

(12220-01)

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COMPLIANCE REVIEW PROCESS

General objective. The Compliance Review is a tool to assist the Board of Executive Directors of the IDB Group in promoting compliance with its Relevant Operational Policies and fostering institutional learning.

Specific objective. The objective of the Compliance Review is to determine whether the IDB Group has complied with its environmental and social policies in the design, approval, execution, and monitoring of a project financed with IDB Group resources. In the event of noncompliance, the Compliance Review will determine whether it has contributed to, could contribute to, or has resulted in material, direct harm to the Requesters. A Compliance Review will be conducted only with the approval of the institution's Board of Executive Directors.

Scope of MICI action and enforcement. The scope of action of the IDB Group's Independent Consultation and Investigation Mechanism (MICI) is limited to verifying the IDB Group's compliance with its Relevant Operational Policies. The Compliance Review draws no conclusions whatsoever regarding the actions of any other party involved in the financed project. The MICI does not have authority over legal proceedings and is not a substitute for legal, administrative, or regulatory proceedings in the host countries. It is not a judicial or legal enforcement mechanism. MICI reports are not intended to be used in local regulatory or legal proceedings, nor for the purpose of ascribing responsibility or liability for harm caused by third parties.

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LINKS	
1.	MICI Public Registry record for case MICI-CII-UR-2022-0199 https://www.iadb.org/en/mici/request-detail-iic?ID=MICI-CII-UR-2022-0199&nid=35191
2.	Request MICI-CII-UR-2022-0199 https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-375034721-41
3.	Eligibility Determination Memorandum for Request MICI-CII-UR-2022-0199 https://www.iadb.org/document.cfm?id=EZSHARE-375034721-66
4.	Consultation Phase Assessment Report https://www.iadb.org/document.cfm?id=EZSHARE-375034721-133
5.	IDB Invest project website for the Tacuarembó-Salto Green Transmission Line https://www.idbinvest.org/en/projects/tacuarembó-salto-green-transmission-line?language=es
6.	Environmental and Social Review Summary, Tacuarembó-Salto Green Transmission Line project https://idbinvest.org/sites/default/files/2022-03/LAT%20Tacuarembó-Salto%20-%20Environmental%20and%20Social%20Review%20Summary%20%28ESRS%29_1.pdf
7.	Environmental and Social Action Plan, Tacuarembó-Salto Green Transmission Line project https://idbinvest.org/sites/default/files/2022-03/LAT%20Tacuarembó-Salto%20-%20Environmental%20and%20Social%20Action%20Plan%20%28ESAP%29_2.pdf
8.	Environmental Impact Assessment, Tacuarembó-Salto Green Transmission Line project (2020) https://www.idbinvest.org/sites/default/files/2023-04/Tacuarembó%20-%20Salto%20-%20Estudio%20de%20Impacto%20Ambiental_0.pdf
9.	Environmental Impact Assessment Progress Report, Tacuarembó-Salto Green Transmission Line project (2019) https://www.idbinvest.org/sites/default/files/2019-11/Informe%20de%20Avance%20de%20EsIA_Vf.docx.pdf

10. Administración Nacional de Usinas y Transmisiones Eléctricas Environmental Management Plan
<https://www.idbinvest.org/sites/default/files/2019-11/Plan%20de%20Manejo%20Ambiental%20UTE.pdf>
11. Report on the Inspection of Estancia Buen Retiro-Castillo Morató (only available in Portuguese)
https://idbinvest.org/sites/default/files/2022-11/PRESERVAR%20-%20RELAT%C3%93RIO%20DA%20VISTORIA%20NA%20EST%C3%82NCIA%20BUEN%20RETIRO%202022-05-11_0.pdf
12. Technical Inspection Report: Estancia Buen Retiro-Castillo Morató, in connection with the Tacuarembó-Salto, Uruguay, Green Transmission Line Project, (March 2023)
https://idbinvest.org/sites/default/files/2022-11/PRESERVAR%20-%20RELAT%C3%93RIO%20DA%20VISTORIA%20NA%20EST%C3%82NCIA%20BUEN%20RETIRO%202022-05-11_0.pdf
13. Technical Inspection Report on the potential harm to cultural heritage on the Estancia Buen Retiro-Castillo Morató property caused by from the 500-kV high-voltage line between Tacuarembó and Salto, Uruguay (March 2023)
https://www.idbinvest.org/sites/default/files/2023-03/Tacuaremb%C3%B3-%20Salto%20-%20Informe%20Arqueologia%20Monica%20Bolanos%20marzo%202023_0.pdf

ABBREVIATIONS

CAO	Archeological construction monitoring
CAPO	Pre-construction archeological monitoring
MEC	Ministry of Education and Culture
MGM	Management Grievance Mechanism
MICI	Independent Consultation and Investigation Mechanism
TORs	Terms of Reference
UTE	Administración Nacional de Usinas y Transmisiones Eléctricas

EXECUTIVE SUMMARY

The Project. The general objective of the “Tacuarembó-Salto Green Transmission Line” project (operation 12220-01) is to ensure the current and future reliability of the national electricity system in Uruguay and support the integration of increased renewable energy production by expanding the electricity network. The project was classified as a Category “B” operation (local and short-term adverse environmental and social impacts for which effective mitigation measures are readily available). The Board of Executive Directors of the Inter-American Investment Corporation (IIC) approved a loan to the “Fideicomiso Financiero Línea de Transmisión Tacuarembó-Salto” trust for a total of US\$114,069,000.

The Request. The Request was filed by two residents and owners of registered property 610 in the department of Paysandú, Uruguay, who are represented by two attorneys and an environmental expert for the purposes of the MICI process. The 3,175-hectare property encompasses the site known as “Estancia Buen Retiro” and includes a building erected between 1902 and 1904 known as Castillo Morató, as well as several stone walls or fences that were built before the nineteenth century. The property was declared a Departmental Historical Heritage Site in 2020 and a National Historical Monument of Uruguay in 2022. The Requesters alleged noncompliance with the Environmental and Social Sustainability Policy and with International Finance Corporation (IFC) Performance Standards in relation to: (1) country laws; (2) consultations; and (3) natural habitats and cultural sites.

Alleged harm. The Request describes potential harm to historical heritage that may diminish its historical or archeological value, including the spoiling or impairment of the condition or quality of the site and impacts on the landscape. In addition, in February 2023, the Requesters informed the MICI of actual harm to the stone fences, which had collapsed in certain areas.

From the Consultation Phase to the Compliance Review Phase. The case was transferred to the Compliance Review Phase because the Consultation Phase team identified a series of obstacles to initiating a conflict resolution process during the assessment stage and because the Client indicated via email that it “does not consider it advisable to arrange an in-person meeting to pursue a transactional agreement.” Given the decision made by the Client and the obstacles identified, the MICI determined that initiating a dispute resolution process was not feasible.

Analysis. This Recommendation analyzes two core issues arising from the allegations made by the Requesters: (1) consultations, and (2) cultural heritage.

The MICI is of the opinion that a Compliance Review Phase is needed to shed light on whether Management: (1) verified that the Client conducted the requisite consultation process, including the following actions: (a) disclosing and disseminating relevant information in advance; (b) encouraging affected parties to participate; (c) facilitating meaningful participation; and (d) duly documenting the consultation process; (2) ensured that the Client adequately addressed the community’s concerns and questions during the public consultation process, pursuant to

directives B.6 and B.7 of Operational Policy OP-703 and IFC Performance Standard 1; (3) verified that the consultations of the affected parties who use the cultural heritage incorporated the views of those individuals as stipulated in IFC Performance Standard 8; and (4) verified that the Client effectively implemented the monitoring measures relating to the imposition of easements established in the Environmental Management Plan (record of the Client's contact with property owners and complaint log).

The MICI will verify whether Management ensured that: (1) registered property 610, Castillo Morató, and the stone fences were evaluated by the Client as critical cultural heritage in accordance with directives B.2, B.7, and B.9 of Operational Policy OP-703 and IFC Performance Standard 8, both during the environmental impact assessment and during the project implementation phase, especially after the site was declared a Departmental Historical Heritage Site (2020) and a National Historical Monument of Uruguay (2022); and (2) in relation to registered property 610, Castillo Morató, and the stone fences, the Client designed and implemented suitable measures for preserving cultural heritage and preventing and mitigating any risks to that heritage, pursuant to the provisions of directives B.2, B.7, and B.9 of Operational Policy OP-703 and IFC Performance Standard 8.

Recommendation for a Compliance Review. The MICI recommends to the Board a Compliance Review focused on verifying compliance with the IIC Environmental Sustainability Policy; the Environment and Safeguards Compliance Policy (Operational Policy OP-703), specifically Directives B.2 (country laws and regulations), B.6 (consultations), B.7 (supervision and compliance), and B.9 (natural habitats and cultural sites); and IFC Performance Standards 1 (assessment and management of environmental and social risks and impacts) and 8 (cultural heritage), in relation to the allegations raised by the Requesters.

The questions. Taking into account the information gathered by the MICI, the investigation will focus on answering the following questions in connection with the Relevant Operational Policies:

- Did Management ensure that the Client carried out a meaningful stakeholder engagement and consultation process?
- Did Management ensure that the Client properly identified, evaluated, and categorized the potential project risks and impacts in connection with the required analysis of the cultural heritage of registered property 610, Castillo Morató, the stone fences, and the landscape, as established in the Relevant Operational Policies?
- Did Management ensure that the Client established measures to prevent, avoid, and mitigate the project's potential adverse impacts on registered property 610, Castillo Morató, the stone fences, and the landscape in connection with its monitoring of the aforementioned impacts, in accordance with the Relevant Operational Policies?
- Did Management, by means of its supervisory role, ensure that the measures addressing the aforementioned potential impacts were implemented and carried out in accordance with the Relevant Operational Policies?

- In the event of noncompliance with the requirements of Operational Policy OP-703 or Performance Standards 1 or 8, did that noncompliance cause any harm to the Requesters?

Terms of reference. Under the proposed terms of reference, the investigation, if approved, would be carried out within a period of 187 business days from the date the Compliance Review Panel is established. The panel would consist of the Compliance Review Phase Coordinator and two experts, who will investigate the facts through a document review, targeted interviews, and, if deemed appropriate, a mission to the project site. The Compliance Review Phase team will attempt to complete the investigation within a term of six months, as recommended in Article 43 of the MICI Policy (document CII/MI-1-4).

I. THE PROJECT

- 1.1 The “Tacuarembó-Salto Green Transmission Line” project (the project), financed by IDB Invest, was approved by the Board of Executive Directors of the Inter-American Investment Corporation (the Board) on 22 September 2020 for a total of US\$114,069,000. The borrower is “Fideicomiso Financiero Línea de Transmisión Tacuarembó-Salto,” incorporated under Uruguayan law as a trustee, and the sponsor is Administración Nacional de Usinas y Transmisiones Eléctricas (UTE or the Client). The project is currently in the implementation phase and has a construction phase that is expected to last 42 months. It accounts for around 6.6% of the existing high-voltage transmission network.¹
- 1.2 The project cuts across the departments of Salto, Paysandú, Río Negro, and Tacuarembó. It consists of: (1) the construction, operation, and maintenance of a 350-km 500-kV high-voltage transmission line; (2) construction of a substation in the Chamberlain area; (3) reinforcement of a substation in the department of Salto; and (4) delivery of auxiliary services that will interconnect substations in the departments of Tacuarembó and Salto.²
- 1.3 The project was designed to ensure that the towers would be installed in rural areas with low population density while avoiding commercial forest stands and high-value-added enterprises. The project design also sought to ensure that the route of the line would not be near sites of historical or archeological interest. However, the possible existence of culturally relevant sites along the route was not ruled out. The project determined that some 1,000 to 1,100 towers spaced 350 m-400 m apart would need to be installed. The 500-kV high-voltage line would have an easement strip of 40 m on each side, while the 150-kV line would have an easement strip of 30 m on each side. According to project documents, easements would have to be imposed on 263 registered rural properties, but the project would not result in the resettlement or economic displacement of any individuals.³
- 1.4 **Project objective.** The project seeks to ensure the current and future reliability of the national electricity system in Uruguay and support the integration of increased renewable energy production by expanding the electricity network.⁴
- 1.5 **Project category.** Pursuant to the IDB Invest Environmental and Social Sustainability Policy, the project was classified as a Category “B” operation, since the potential environmental and social risks associated with project implementation and operation could be mitigated with feasible and readily-available measures. Based on the potential environmental and social risks and impacts identified, Management determined that the following International Finance Corporation (IFC) Performance Standards applied to the project: Performance Standard 1, “Assessment and Management of Environmental and

¹ IDB Invest project website for the [Tacuarembó-Salto Green Transmission Line](#) project. Project scope and objective.

² IDB Invest. [Environmental and Social Review Summary, Tacuarembó-Salto Green Transmission Line Project](#). p. 1.

³ Idem, pp. 1 and 4-6.

⁴ IDB Invest project website for the [Tacuarembó-Salto Green Transmission Line](#) project. Project scope and objective.

Social Impacts;” Performance Standard 2, “Labor and Working Conditions;” Performance Standard 3, “Resource Efficiency and Pollution Prevention;” and Performance Standard 4, “Community Health, Safety, and Security.”⁵ Management also included the following actions regarding cultural heritage in the environmental and social action plan: (1) implementation of archeological construction monitoring (CAO); and (2) a chance cultural and heritage finds plan (including archaeological, paleontological, and historical finds).⁶

- 1.6 **Environmental and social impacts.** The potential environmental and social impacts identified by the team were: (1) impacts on biodiversity and the natural habitat, in particular harm to birds due to collisions or electrocutions and habitat loss; (2) resource efficiency and pollution prevention; (3) labor conditions and community health, safety, and security; (4) impacts on land use and involuntary resettlement; and (5) cultural heritage.⁷

II. THE REQUEST AND MANAGEMENT’S RESPONSE

A. The Request⁸

- 2.1 **Who submitted the Request?** On 17 November 2022, the Independent Consultation and Investigation Mechanism (MICI) received a Request from two residents and owners (the Requesters) of a property in the department of Paysandú, Uruguay, who are represented by two attorneys and an environmental expert for the purposes of the MICI process.
- 2.2 **Context of the Request.** The Requesters had contacted the MICI in March 2022, and their complaint was processed under case file MICI-CII-UR-2022-0186. However, in the Registration phase, the MICI found that the Requesters had not previously contacted IDB Invest Management to address the issues raised in the Request and that the Requesters intended to establish initial contact. The MICI did not register the Request at that time to give the Requesters the opportunity to review the case with the Management Grievance Mechanism (MGM).⁹ In November 2022, the Requesters decided to return to the MICI because they felt that their concerns had not been addressed.¹⁰
- 2.3 **Allegations made in the Request.** The Requesters alleged noncompliance with the Environmental and Social Sustainability Policy and with IFC Performance Standards in relation to: (1) country laws; (2) consultations; and (3) natural habitats and cultural sites.

⁵ IDB Invest. [Environmental and Social Review Summary, Tacuarembó-Salto Green Transmission Line Project](#). p. 1.

⁶ [Environmental and Social Action Plan](#), p. 11.

⁷ IDB Invest. [Environmental and Social Review Summary, Tacuarembó-Salto Green Transmission Line Project](#). pp. 2-6.

⁸ [Original request for case MICI-CII-UR-2022-0199. MICI-CII-UR-2022-0199, Eligibility Memorandum, Tacuarembó-Salto Green Transmission Line Project](#). pp. 4-5.

⁹ The [IDB Invest MGM](#), established in 2021, is a channel for individuals or groups to submit environmental, social, or corporate governance complaints related to IDB Invest-financed projects or projects that IDB Invest is considering financing.

¹⁰ [MICI-CII-UR-2022-0199, Eligibility Memorandum, Tacuarembó-Salto Green Transmission Line Project](#). p. 4.

- 2.4 The Requesters alleged potential harm to registered property 610 in the department of Paysandú, which is owned by the Requesters, resulting from the construction of around 20 lattice towers, 48 meters in height, for a high-voltage electric transmission line. The potential harm described by the Requesters includes the diminishment of the property's historical value and landscape degradation. The 3,175-hectare property encompasses the site known as "Estancia Buen Retiro" and includes a building erected between 1902 and 1904 known as Castillo Morató, as well as several stone walls or fences that were built before the nineteenth century. The property was declared a Departmental Historical Heritage Site by means of Paysandú Departmental Council Decree 8,185 of December 2020 and a National Historical Monument of Uruguay by means of Ministry of Education and Culture (MEC) Resolution 40/022 of February 2022.
- 2.5 The Requesters claim that the property was not properly identified as historical heritage. Therefore, the project did not perform a comprehensive analysis of alternatives, nor did it implement suitable measures to prevent and mitigate its impact on historical heritage, including the potential diminishment of the property's historical and archeological value resulting from the spoiling or impairment of its condition or quality and adverse impacts on the landscape. The Request claims that the project also did not implement the following procedures, which are required for culturally significant sites: (1) verification with a specialist to ensure that the project will not cause any harm; (2) preparation of a sociocultural assessment as part of the environmental impact assessment; (3) development of measures to mitigate any potential impact; and (4) specific measures to prevent damage to critical cultural sites. Furthermore, the Requesters allege that the necessary measures to protect the area's historical value were not implemented even after the property was declared a Departmental Historical Heritage Site and a National Historical Monument of Uruguay. According to the Request, this constitutes a failure to comply with Uruguayan law and with the IDB Invest Environmental and Social Sustainability Policy.¹¹
- 2.6 The Requesters alleged noncompliance relating to the consultation process and access to information. The Request alleged that the consultation process was not conducted in the proper manner, ensuring the participation of all people who could potentially be affected by the project. The Requesters also said the consultation process took place after the project design was finalized and thus did not incorporate meaningful stakeholder participation. Lastly, as regards access to information, at the time the Request was submitted on 17 November 2022, the Requesters said they had not been given access to the findings of an evaluation of the property performed by a cultural heritage specialist. Recommended by Management as part of the MGM process, the specialist's visit took place in April 2022, and her report was available in May 2022. Nevertheless, the Requesters said they were not able to access the document until November 2022, when it was posted on the IDB Invest project website.

¹¹ [Original request for case MICI-CII-UR-2022-0199](#), p. 4.

- 2.7 **The Requesters' allegations of harm connected to project construction and execution.** The Request discusses potential harm to historical heritage that may diminish its historical or archaeological value, including the spoiling or impairment of the condition or quality of the site and impacts on the landscape.
- 2.8 **Allegations of harm made in messages received after the Request.** The Requesters told the MICI that the construction works began during their interaction with the MGM, before they submitted their complaint in November 2022. Those works involved the excavation of pits and the pouring of concrete for the installation of the towers. They pointed out that these actions were taken without implementing archeological conservation procedures to ensure that the works would not harm any artifacts that could be present in the subsoil. They also indicated that the works were not following the safety protocols for excavations. In addition, on 16 February 2023, the Requesters informed the MICI of actual harm to the stone fences, which had collapsed in certain areas.

B. Management's Response¹²

- 2.9 **Context.** In the response it submitted on 8 December 2022, Management said it had complied with the provisions of the Environmental Sustainability Policy and it was making its best effort to address the concerns raised by the Requesters, even though reaching agreements had not been possible. Management's Response included: (1) information on the Requesters' allegations; (2) information on the legal and administrative remedies initiated by the Requesters in the Uruguayan legal system to ensure that the high-voltage line would not pass through their property; and (3) a discussion of the various interactions between Management and the Requesters that had taken place since March 2022.
- 2.10 **Response to the allegations made in the Request.** Management offered the following response to the Requesters' allegations:
- 2.11 **Country laws.** Management pointed out that, in accordance with the Sustainability Policy, the Client was informed of its obligation to comply with Uruguayan law and the requirements of the Environmental and Social Sustainability Policy from the moment the project was declared eligible. Management also told the MICI that environmental and social due diligence was performed in 2019. As part of that process, Management reviewed information on the project environmental analysis and the preliminary Project Environmental and Social Due Diligence Report, held meetings with various stakeholders, and visited several areas where the line would be installed. During that stage, Management verified that the public consultation process, the imposition of easements, and the environmental licensing process had adhered to Uruguayan law.

¹² [IDB Invest Management's Response to Request MICI-CII-UR-2022-0199, Tacuarembó-Salto Green Transmission Line Project, MICI-CII-UR-2022-0199, Eligibility Memorandum, Tacuarembó-Salto Green Transmission Line Project](#). pp. 6-7.

- 2.12 **Consultations.** Management related that, in accordance with Directive B.6 of the Environment and Safeguards Compliance Policy (Operational Policy OP-703), the Client held two public dissemination and outreach events: one in Salto in November 2019 and one in Tacuarembó in December 2019. At those events, the findings of the environmental analysis were presented, the impact of the easements was discussed, and attendees were given an opportunity to express their main concerns regarding the project.
- 2.13 **Natural habitats and cultural sites.** In the Response, Management confirmed that registered property 610 in the department of Paysandú, where Estancia Buen Retiro is located, was one of the 263 properties affected by the imposition of the easement strip required for construction of the high-voltage line. It also confirmed that the property has cultural heritage features and that the MEC, in February 2022, declared that the property encompassing Estancia Buen Retiro and Castillo Morató was a National Historical Monument.
- 2.14 Management shared two documents issued by the MEC in March 2022 regarding Resolution 40/022 declaring Estancia Buen Retiro a National Historical Monument. The first was a memo from the Director of the MEC's National Cultural Heritage Commission to the Director of the UTE, in which the Director of the National Cultural Heritage Commission referred to Resolution 40/022 declaring registered property 610 a National Historical Monument and said: (1) the MEC was fully aware of the project on registered property 610 and its potential impacts when it issued the resolution; (2) the high-voltage line would not adversely affect the appearance of Castillo Morató or the stone fences located on the site; (3) the project would not adversely affect the landscape, since high-voltage towers are not an unusual feature against the rural Uruguayan landscape; and (4) in conclusion, in light of the foregoing, the overhead high-voltage lines would not adversely affect the fundamental cultural heritage conditions of the manor, the stone walls, or the landscape. The second document was a letter from the Minister of Education and Culture to the Director of the UTE. In that letter, the Minister stated that the National Historical Monument designation did not have any legal effect that would impede the project works, and there was no public policy reason warranting the suspension or modification of the works, nor was there any obstacle to implementation of the works planned by the UTE.
- 2.15 According to Management, after the MICI put it in touch with the Requesters in March 2022 in the context of the first complaint and its processing by the MGM, one of the measures taken under the MGM was a site visit involving Management, the Client, a cultural heritage expert, and the Requesters. At that visit, Management tried to determine whether registered property 610 in its entirety could be considered a critical cultural site pursuant to the provisions of the Environmental and Social Sustainability Policy. On 30 November 2022, Management released the expert's report to the public via its website. That report indicated that, under Performance Standard 8, the property's critical heritage features were: (1) Castillo Morató, which is located more than 1,600 m from the proposed

track of the high-voltage line; and (2) two stone fences, which are located 120 m from the closest point of the line.¹³

- 2.16 The expert concluded that there was no impediment to construction of the project on the site provided that the following mitigation measures were implemented: (1) relocation of the route of the line 500 m to the east of one of the stone fences; (2) systematic implementation of archeological prospecting activities along the entire route of the line, including archeological rescue of any finds; and (3) development of a heritage education program to increase the community's awareness of the site's cultural value.¹⁴ Regarding the first measure in particular, Management said it "tried to convince" the UTE to relocate the track of the line approximately 250 m to the east of the current route. However, the Client told Management that it had already proposed this action to the Requesters, who rejected the proposal. In Management's view, the second and third measures would be addressed as part of the project's Environmental and Social Action Plan. According to Management's Response, the Environmental and Social Action Plan stipulated that the Client would implement a CAO plan as well as a chance cultural and heritage finds plan, which include the following actions: (i) systematic archeological prospecting activities along the entire route of the line; (ii) archeological rescue of any potential finds in coordination with the relevant authorities; and (iii) execution of a program to increase the community's awareness of the heritage value of the rescued objects.¹⁵

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

- 3.1 **Registration and eligibility.**¹⁶ The Request was received by the MICI on 17 November 2022, registered on 22 November 2022, and declared eligible on 13 December 2022. During the registration and eligibility determination period, the MICI reviewed relevant documentation to analyze the project context, the allegations, and the way those allegations had been addressed by Management before the Request was submitted to the MICI. The MICI also held a video call with the Requesters and their Representatives and asked Management and the Requesters for additional information on the allegations. The MICI determined that it did not need to conduct a mission to the project site during the eligibility determination period for this case because it had enough information to perform the required analysis.

¹³ Safeguarding Archeology and the Environment. Report from the Inspection of Estancia Buen Retiro (2022), p. 37. Specifically, the archeologist, Ms. Tatiana Costa, concluded that: "Based on the information available and after visiting the site, there were no heritage features on the property that could be considered critical under Performance Standard 8 other than Castillo Morató and the stone walls (farmyard and pasture)."

¹⁴ Idem, p. 37.

¹⁵ [IDB Invest Management's Response to Request MICI-CII-UR-2022-0199, Tacuarembó-Salto Green Transmission Line Project](#), p. 7.

¹⁶ [MICI-CII-UR-2022-0199, Eligibility Memorandum, Tacuarembó-Salto Green Transmission Line Project](#).

- 3.2 **The Consultation Phase.**¹⁷ The assessment stage of the MICI Consultation Phase began on 14 December 2022. During that stage, the MICI performed a document review and held meetings with Management, the Client, and the Requesters. The Consultation Phase team conducted an expedited assessment of conditions to determine whether it would be possible to proceed with a dispute resolution process because eight months had passed since the original complaint was submitted to the MICI in March and because the works were already underway when the second complaint was received in November 2022. During the Consultation Phase assessment stage, the MICI held six bilateral meetings with the Requesters, IDB Invest Management, and the Client.
- 3.3 In its analysis of conditions for initiating a Consultation Phase conflict resolution process, the MICI identified the following obstacles: (1) the time elapsed and narrowing window of opportunity; (2) impacts of parallel administrative and legal proceedings on a potential dispute resolution process; and (3) lack of trust between the Parties. After analyzing the available information and as a result of the bilateral meetings, the MICI shared a potential roadmap for a dialogue process with the Parties despite the aforementioned obstacles. However, on 16 December 2022, the Client stated in an email that it “does not consider it advisable to arrange an in-person meeting to pursue a transactional agreement.” Given the decision made by the Client and the obstacles identified, the MICI determined that initiating a dispute resolution process was not feasible.

Table 1.
Timeline of MICI actions during preparation of the Compliance Review
Recommendation and Terms of Reference

Date	Actions
2023	
23 February	Transfer of the case to the Compliance Review Phase
23 February	Meeting with Management
24 February	Request for additional documentation from Management
1 March	Meeting with the Requesters
10 March	Delivery of additional documentation requested from Management
22 March	Approval by the Board of a six-business-day extension of the deadline for the preparation of the draft Recommendation and Terms of Reference (TORs)
27 March	Delivery of additional documentation requested from Management
31 March	Draft Recommendation and TORs sent to Management and the Requesters
24 April	Approval by the Board of an eight-business-day extension of the deadline for comments on the draft
4 May	Deadline for Management and the Requesters to submit comments on the draft Recommendation and TORs
12 July	Recommendation sent to the Office of the Secretary for translation and subsequent distribution to the Board for approval by short procedure

¹⁷ [MICI-CII-UR-2022-0199, Consultation Phase Assessment Report, Tacuarembó-Salto Green Transmission Line Project](#). pp. 6-7 and 14-16.

- 3.4 **Beginning of the Compliance Review Phase.** The case was transferred to the Compliance Review Phase on 23 February 2023. The transfer of the case to the Compliance Review Phase marks the beginning of the 21-business-day period established in the MICI policy during which the MICI prepares a draft recommendation that is submitted to Management and the Requesters for comment. That 21-business-day period expired on 23 March 2023. However, the MICI had to ask Management for certain documents, and the Requesters shared additional information. For that reason, the MICI asked the Board to approve a six-business-day extension of the deadline for sharing the draft recommendation with Management and the Requesters. Preparation of the recommendation required the review and analysis of documents posted on the IDB Invest website, certain confidential project documents, and information that Management and the Requesters shared with the MICI for consideration at this stage of the process. In addition, the MICI held meetings with Management and with the Requesters to outline the steps of this new phase of the MICI process, listen to their concerns, and answer any questions they might have.
- 3.5 **Possible noncompliance.** From the allegations made in the Request, the MICI found that some of Management's obligations under the [IIC Environmental Sustainability Policy](#); the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)), specifically Directives B.2 (country laws and regulations), B.6 (consultations), B.7 (supervision and compliance), and B.9 (natural habitats and cultural sites); and the [Access to Information Policy](#) need to be better understood and require further analysis in relation to this Request to verify compliance. The MICI also identified potential noncompliance with IFC Performance Standards 1 ([assessment and management of environmental and social risks and impacts](#)) and 8 ([cultural heritage](#)). The analysis performed by the MICI pursuant to paragraph 39 of its Policy examines Management's obligations under these Relevant Operational Policies from the moment Management got involved in the project.
- 3.6 **Core issues analyzed in this Recommendation.** Based on the foregoing, this Recommendation analyzes two core issues arising from the allegations made by the Requesters: (1) consultations, and (2) cultural heritage.¹⁸
- 3.7 The views discussed in the next section are not a determination by the MICI as to Management's compliance or noncompliance with its Relevant Operational Policies. It is precisely the purpose of the Compliance Review recommended in this document to investigate and confirm or disprove indications of potential noncompliance and answer the questions arising from the review conducted at this stage of the process. That investigation is the appropriate mechanism for the MICI to be able to gather and examine additional relevant project information and determine compliance or noncompliance with the Relevant Operational Policies.

¹⁸ Allegations concerning country laws and access to information will be addressed in the cultural heritage section.

- 3.8 On 31 March 2023, the MICI sent a draft Recommendation to the Parties, who had a period of 15 business days to comment. IDB Invest Management requested an extension of the comment period by an additional eight business days, which was granted for both parties. The final version objectively and impartially reflects the comments that the MICI deemed relevant. The final version is submitted for consideration by the Board of Executive Directors of the Inter-American Investment Corporation, which has the authority to approve the MICI's Recommendation to conduct or not conduct a Compliance Review investigation.
- 3.9 **Comments on the draft Recommendation.** The extension of the draft Recommendation comment period ended on 4 May 2023. The MICI received comments from the Requesters on 24 April and from Management on 4 May. The MICI thanks Management for its willingness to share the additional documents requested and appreciates that the format used to share them facilitated the MICI's processing and analysis thereof. The MICI would also like to thank the Requesters and Management for the efforts they put into preparing their comments and emphasize that the quality of the comments submitted enabled it to add relevant information to the Recommendation.
- 3.10 Figure 1 provides an overview of the stages of the MICI process completed to date for case MICI-CII-UR-2022-0199. On 12 July 2023, the Recommendation was sent to the Office of the Secretary for translation and distribution to the Board for approval by short procedure.

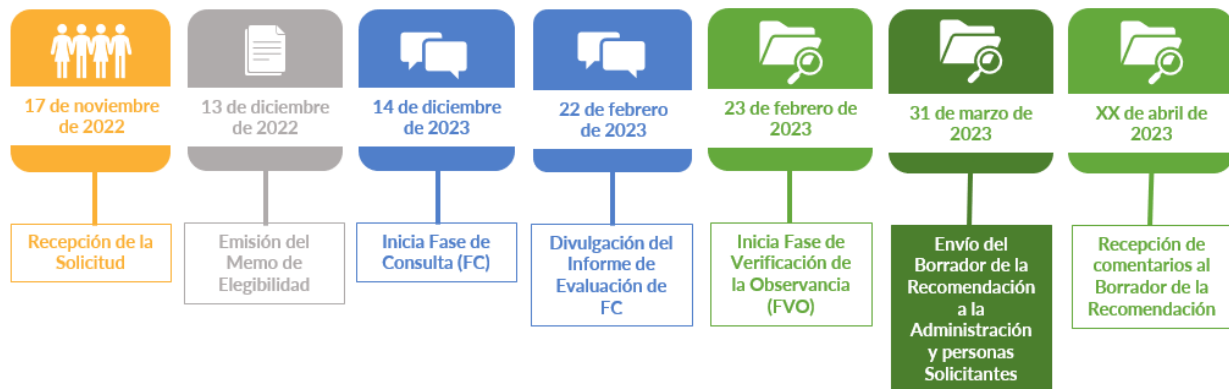


Figure 1. Stages of the MICI process completed to date for case MICI-CII-UR-2022-0199.
Source: The MICI.

IV. GROUNDS FOR CONDUCTING A COMPLIANCE REVIEW

4.1 **Applicable policies.** The following paragraphs analyze indications of compliance or noncompliance with the [IIC Environmental Sustainability Policy](#); ¹⁹ the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)), specifically as regards Directives B.2 (country laws and regulations), B.6 (consultations), B.7 (supervision and compliance), and B.9 (natural habitats and cultural sites); the IDB Invest [Access to Information Policy](#); and IFC Performance Standards 1 ([assessment and management of environmental and social risks and impacts](#)) and 8 ([cultural heritage](#)), in the context of the allegations made by the Requesters.

4.2 **Issues analyzed.** This section analyzes: (A) the issues for which an investigation is or is not recommended, based on the applicable Relevant Operational Policies; and (B) the allegations of harm and the likelihood that they have occurred or could occur as a result of potential noncompliance with the Relevant Operational Policies.

A. Analysis of the Relevant Operational Policies

Were the requirements established in the Relevant Operational Policies for the consultation process met?

4.3 **Relevant Operational Policies.** In its analysis of the Requesters' allegations regarding potential noncompliance in the consultation process, the MICI will focus on the requirements of the [IIC Environmental Sustainability Policy](#) in effect at the time of the project's approval by IDB Invest; the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)), specifically Directives B.6 (consultations) and B.7 (supervision and compliance); and IFC Performance Standard 1 ([assessment and management of environmental and social risks and impacts](#)).

4.4 **Consultations with the affected parties.** Operational Policy OP-703 Directive B.6 requires consultations with affected parties and consideration of their views as part of the environmental and social assessment process. For the purposes of this project, which was classified as a Category "B" operation, the policy states that the affected parties must be consulted at least once, preferably during the preparation or review of the Environmental and Social Management Plan. In addition, the policy requires that affected parties be kept informed of project-related impacts and the associated mitigation measures. Furthermore, Performance Standard 1 states that effective consultation is a two-way process that should: (1) begin early in the process of identifying environmental and social risks; (2) be based on the prior disclosure and dissemination of the relevant information; (3) promote the inclusive engagement of those individuals and groups who are directly affected; (4) be

¹⁹ The indications of compliance or noncompliance are analyzed against the IIC Environmental and Social Sustainability Policy and Operational Policies in effect at the time of project approval, and the MICI's analysis takes only those policies into account.

free of external manipulation or coercion; (5) enable meaningful participation; and (6) be documented.²⁰

- 4.5 **Supervision.** Both the IIC Environmental Sustainability Policy and Operational Policy OP-703 Directive B.7 state that the institution assumes responsibility for monitoring compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations.²¹
- 4.6 The following paragraphs analyze the indications of compliance or noncompliance with the Relevant Operational Policies listed above. This analysis is divided into five main sections: (1) the consultation process; (2) mapping of the affected parties; (3) documentation of the consultation process; (4) consultations with the owners of the cultural heritage property; and (5) verification that the consultation process was meaningful.
- 4.7 **Consultation process.** The MICI found information regarding the UTE's planned outreach activities in the Environmental Impact Assessment Progress Report (2019).²² That report indicated that the UTE planned to hold two informational meetings prior to project implementation to present the project scope, stages, and benefits to the community. According to the timeline in that report, one of those meetings would be held on 29 November 2019 in the city of Salto, while the second would take place on 6 December 2019 in the city of Tacuarembó. The meetings would be announced through mass media outlets. At those meetings, the project, its environmental analysis, and the easements would be discussed, and an opportunity would be provided for a dialogue with the participants.²³ In its Response, Management discussed the meetings conducted by the UTE and provided the MICI an image of the invitation to the 29 November 2019 meeting in Salto.²⁴
- 4.8 Management's comments on the draft Recommendation included information regarding: (1) the notice for the 29 November 2019 meeting in Salto; (2) the first slide of UTE's presentation explaining the project; and (3) the UTE's social media posts following the meetings.²⁵ The MICI asked Management for documentation from those meetings, as required by Performance Standard 1, including: announcements inviting the public to participate in the consultation process published on mass media outlets, including information on the project and the measures implemented to ensure that the affected

²⁰ Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts, p. 9.

²¹ IIC Environmental Sustainability Policy and Operational Policy OP-703, Directive B.7: Supervision and compliance, pp.11-12.

²² The Environmental Impact Assessment Progress Report (2019) is a preliminary version of the final Environmental Impact Assessment (2020). The Environmental Impact Assessment Progress Report is the version currently posted on the IDB Invest website.

²³ Environmental Impact Assessment Progress Report (2019), p. 90.

²⁴ [IDB Invest Management's Response to Request MICI-CII-UR-2022-0199, Tacuarembó-Salto Green Transmission Line Project](#), p. 5.

²⁵ Management's comments, p. 4.

communities and individuals would participate, and meeting minutes or summaries. Management said it had asked the UTE for additional information, which it would share with the MICI as soon as it was available. In their comments, the Requesters said they were not notified about those meetings and noted that the process used by the UTE to notify the public about the easements (a notice published in the Official Gazette) was not an effective approach by current standards.²⁶

- 4.9 Management's comments also included information on three informational events held in Tacuarembó, Paso de los Toros, and Salto, respectively, in May 2022 to introduce the contractor, China Machinery Engineering Corporation (CMEC). When preparing the draft Recommendation, the MICI received the public outreach plan, as well as invitations and photos from those events. Those documents relate useful information regarding the contents of the presentation. For the purposes of this recommendation and in order to understand whether there are indications of compliance or noncompliance with the consultation process requirements set out in Performance Standard 1, it would have been useful to have additional documentation that specifically addressed the preliminary project consultation meetings held in Salto and Tacuarembó in November and December 2019.
- 4.10 **Mapping of affected parties.** The Environmental Impact Assessment (2020) included a section that identified, prioritized, and categorized individuals and groups of interest in the project area of influence. That section of the Environmental Impact Assessment discussed the methodology for identifying the various stakeholders and the process for classifying them by their ability to influence the project and by the impact the project could have on them. The analysis found that local producers who owned the properties through which the high-voltage line would pass would have significant influence on the project but would be highly impacted by it as well.²⁷
- 4.11 **Documentation of the consultation process.** Documents analyzed by the MICI or provided by Management as of this time have limited evidence of the concerns, questions, comments, or recommendations received from the community at the consultations. To give an example of how limited this information is, the Environmental Impact Assessment has just one reference to the involvement of the owners of the La Cueva del Tigre estate at the public hearing in Tacuarembó in which their concerns regarding the high-voltage line crossing their property, a historically and archeologically significant site, are documented. The Environmental Impact Assessment mentioned that contact was made with the owners of that estate.²⁸
- 4.12 **Consultations with the owners of the cultural heritage property.** The MICI noted that the Requesters and Management provided contradictory information regarding the notifications and the meetings between the Parties. In its comments on the draft Recommendation, Management said the Requesters were informed of the project during

²⁶ The Requesters' comments, p. 1.

²⁷ [Environmental Impact Assessment \(2020\)](#), pp. 45-46.

²⁸ [Environmental Impact Assessment \(2020\)](#), p. 83.

the design stage.²⁹ However, in the Request, the Requesters claim that they learned of the project from a newspaper article on 2 July 2020 and that the Client did not notify them directly. The Requesters also pointed out that the Environmental Management Plan includes monitoring measures for the imposition of easements, under which the Client must keep records of its contact with property owners and the complaints it has received, so that it can measure the progress made on a monthly basis or upon request.³⁰

- 4.13 According to the Requesters, once they learned of the project, they asked the Client to meet with them so they could inform it of the historical significance of their property. The Client met with the Requesters in August and October 2020.³¹ Following those meetings, the Client prepared a proposal to change the route of the transmission line. According to the documentation provided by Management, the proposal was shared with the Requesters via email in January 2021.³² That documentation included copies of the emails sent to the Requesters. In addition, Management's comments on the draft Recommendation reported that the proposal was shelved in November 2021 because no response had been received from the Requesters.³³ Meanwhile, even though the messages between the Requesters and the Client confirm that the proposal was shelved 10 months after being shared with the Requesters, the Requesters' comments indicate that the proposal to change the route was presented to them at a meeting with the UTE. They say the proposal would have increased the number of towers installed on their property, and they had only one week to accept or reject it.³⁴
- 4.14 **Verification that the consultation process was meaningful.** Due to the contradictory information regarding the consultation process before project approval provided by the Requesters and Management, in addition to the limited information on how that process was carried out (dissemination of events, participant logs, and documentation of the issues discussed, the concerns expressed by the community, and the responses provided) detected by the MICI when it was preparing the Recommendation, the MICI should verify whether Management: (1) verified that the Client conducted the requisite consultation process, including the following actions: (a) disclosing and disseminating relevant information in advance; (b) encouraging affected parties to participate; (c) facilitating meaningful participation; and (d) duly documenting the consultation process; (2) ensured that the Client adequately addressed the community's concerns and questions during the public consultation process, pursuant to directives B.6 and B.7 of Operational Policy OP-703 and IFC Performance Standard 1; (3) verified that the consultations of the affected parties who use the cultural heritage incorporated the views of those individuals as stipulated in IFC Performance Standard 8; and (4) verified that the Client effectively

²⁹ Annex I – Management's Response, p. 5.

³⁰ Environmental Management Plan, p. 38 of the PDF. The Requesters' comments, p. 1.

³¹ [Original request for case MICI-CII-UR-2022-0199](#). [MICI-CII-UR-2022-0199, Eligibility Memorandum, Tacuarembó-Salto Green Transmission Line Project](#). p. 2.

³² UTE's file on the Morató family, included in Management's comments as footnote 6, pp. 71-75.

³³ Idem. pp. 76-79.

³⁴ Annex 2 – Requesters' comments, p. 3.

implemented the monitoring measures relating to the imposition of the easements established in the Environmental Management Plan (records of the Client's contact with property owners and complaint log). Therefore, the MICI has determined that a Compliance Review is necessary to shed light on the actions and measures taken or mandated by Management to ensure compliance with the abovementioned Relevant Operational Policies.

Were the requirements established in the Relevant Operational Policies for cultural heritage and the respective management measures met?

- 4.15 **Relevant Operational Policies.** In its analysis of the Requesters' allegations regarding potential impacts on cultural heritage, the MICI will focus on the requirements of the [IIC Environmental Sustainability Policy](#); ³⁵ the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)), specifically as regards Directives B.2 (country laws and regulations), B.7 (supervision and compliance), and B.9 (natural habitats and cultural sites); the IDB Invest [Access to Information Policy](#); and IFC Performance Standards 1 ([assessment and management of environmental and social risks and impacts](#)) and 8 ([cultural heritage](#)), in relation to the allegations made by the Requesters.
- 4.16 **Country laws and regulations.** Operational Policy OP-703 Directive B.2 states that operations will be designed and carried out in compliance with the environmental laws and regulations of the country where the project is being implemented.³⁶
- 4.17 **Preventing damage to cultural heritage.** Operational Policy OP-703 Directive B.9 states that the Bank will not support operations or activities that, in its opinion, significantly degrade critical cultural sites.³⁷ The environmental assessment process will identify and assess impacts on critical cultural sites. For other non-critical cultural sites, appropriate measures will be taken to protect their integrity and function. For operations where archeological or historical artifacts can be expected to be found either during construction or operation, the Client will prepare and implement chance find procedures based on internationally accepted practices.³⁸
- 4.18 **The objective of Performance Standard 8 is to protect cultural heritage from the adverse impacts of project activities and support its preservation.** The applicability of Performance Standard 8 must be established during the environmental and social risks

³⁵ The indications of compliance or noncompliance are analyzed against the IIC Environmental and Social Sustainability Policy and Operational Policies in effect at the time of project approval, and the MICI's analysis takes only those policies into account.

³⁶ Operational Policy OP-703, Directive B.2: Country laws and regulations, p.8.

³⁷ Operational Policy OP-703 states that critical cultural sites include but are not restricted to those protected (or officially proposed by governments for protection) such as World Heritage Sites and National Monuments. They also include areas recognized as protected by traditional local communities. The guidelines for Operational Policy OP-703 state: "Damage, in the context of a critical cultural site, means spoiling, compromising, or impairing the condition or quality of a critical cultural site to the point that it will reduce its spiritual, historical, or archeological value."

³⁸ Operational Policy OP-703, Directive B.9: Natural habitats and cultural sites, p.12.

and impacts identification process, and implementation of the actions needed to protect cultural heritage is managed through the Client's Environmental and Social Management System. Importantly, paragraph 5 of this Performance Standard states that its requirements apply to cultural heritage regardless of whether or not it has been legally protected or previously disturbed.³⁹

- 4.19 Performance Standard 8 states that (1) the Client must comply with national laws on the protection of cultural heritage and will identify and protect cultural heritage by ensuring that internationally recognized practices for the protection of cultural heritage are implemented; (2) in the event that there is a chance of impacts to cultural heritage, the Client will retain professionals to protect it; (3) the Client will site and design the project to avoid significant adverse impacts to cultural heritage, and, if the project is located in an area where cultural heritage is expected to be found, the Client will develop provisions for managing chance finds; and (4) where a project may affect cultural heritage, the Client will consult with affected communities who use the cultural heritage with a view to incorporating the views of those affected communities into the decision-making process.⁴⁰
- 4.20 **Access to information.** The IDB Invest Access to Information Policy states that any information on the Bank and its activities that is not included on the list of exceptions should be disclosed to the public, with a view to maximizing access to all documents. The list of exceptions includes commercially sensitive information; financial information; deliberative information; legal, disciplinary, or investigative matters; communications with Executive Directors' Offices; security and safety; and personal information.⁴¹
- 4.21 **Supervision and compliance.** Both the IIC Environmental Sustainability Policy and Operational Policy OP-703 Directive B.7 state that the institution assumes responsibility for monitoring compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations.⁴²
- 4.22 The following paragraphs analyze indications of compliance or noncompliance with the Relevant Operational Policies listed above.
- 4.23 **The project and Castillo Morató.** The route of the high-voltage line crosses through Estancia Buen Retiro, the estate where Castillo Morató is located. The tower closest to Castillo Morató is 1,615 m away from the structure. However, the tower closest to the stone fence surrounding the structure, which was built in the nineteenth century, is 120 m away.⁴³ When the project was approved on 22 September 2020, registered property 610

³⁹ Performance Standard 8: Cultural Heritage, p. 1.

⁴⁰ Performance Standard 8: Cultural heritage.

⁴¹ Operational Policy OP-102.

⁴² IIC Environmental Sustainability Policy and Operational Policy OP-703, Directive B.7: Supervision and compliance, pp.11-12.

⁴³ CAO plan for the 500-kV high-voltage line project (Salto-Chamberlain-Tacuarembó), May 2022. Departments of Salto, Paysandú, Río Negro, and Tacuarembó, p. 26. Satellite images of the project where the distance between the route, Castillo Morató, and the stone fences is measured.

in the department of Paysandú had not yet been declared a Departmental Historical Heritage Site or a National Historical Monument of Uruguay.⁴⁴ That declaration took place later.

- 4.24 **According to the Environmental Impact Assessment, the historical/architectural value of Castillo Morató had been established previously.** In the landscape subsection of its symbolic environment section, the Environmental Impact Assessment Progress Report (2019) pointed out that Castillo Morató was located in the department of Paysandú and would be approximately 2 km away from the high-voltage line. That report notes that the structure was built in the early nineteenth century and that it had significant historical and architectural value.⁴⁵ The environmental impact assessment performed an analysis of unique cultural features found along a 4 km strip on each side of the route of the high-voltage line. That analysis listed Castillo Morató (1.57 km away from the high-voltage line) as one of 11 unique cultural features identified in the area due to the historical and architectural significance of the structure.⁴⁶
- 4.25 **Implementation of the actions set out in the Environmental and Social Action Plan (2019) relating to Performance Standard 8 did not take into account Castillo Morató's historical and architectural value.** Through the Environmental and Social Action Plan, Management complied with the requirement to include the following cultural heritage actions before the contract was signed: (1) implementation of a CAO plan; and (2) implementation of a chance cultural and heritage finds plan (including archeological, paleontological, and historical finds).⁴⁷ Nevertheless, even though Management was aware that the environmental impact assessment had identified Castillo Morató as a structure with historical and architectural value and despite the fact that paragraph 5 of Performance Standard 8 states that the requirements of the performance standard apply regardless of whether the cultural heritage has been legally protected or previously disturbed, as mentioned above, the MICI has determined that an investigation is necessary to understand the reasons why the Environmental and Social Action Plan did not include specific measures requiring the evaluation of the site in accordance with the performance standard. As discussed below, the project, at some later date, developed tools for use during the construction process to detect potential mitigation measures.
- 4.26 **Documents developed from the Environmental and Social Action Plan that were analyzed by the MICI in relation to application of Performance Standard 8.**⁴⁸ The

⁴⁴ Registered rural property 610, seventh real property register of the Department of Paysandú, which is the site of Estancia Buen Retiro and Castillo Morató, was declared a Departmental Historical Heritage Site by the Departmental Council of Paysandú by means of Decree 8,185 of 30 December 2020 (Decree 8,185 of 2020 of the Departmental Council of Paysandú). The MEC declared the entire property a National Historical Monument of Uruguay by means of Resolution 40/022 of 17 February 2022.

⁴⁵ Environmental Impact Assessment Progress Report, p. 55.

⁴⁶ Environmental Impact Assessment (2020), pp. 56-57.

⁴⁷ Environmental and Social Action Plan, p. 11.

⁴⁸ The MICI also asked Management for the Archeological Impact Assessment. As of the submission of this draft, the MICI had not yet received that document.

Environmental and Social Action Plan stipulates the need to prepare a CAO. In 2021, a CAO for the project as a whole was developed, and that document is included in the Construction Environmental Management Plan.⁴⁹ The project also developed a CAO Plan (2022) that aims to spell out the activities that would be conducted as part of pre-construction archeological monitoring (CAPO) and CAO. That plan indicates that the construction of two towers less than 150 m away from the stone fence surrounding Castillo Morató could have a direct impact on the structures.⁵⁰ Accordingly, a CAPO (August 2022) and a CAO (November 2022) specifically addressing the property in question were prepared.

- 4.27 The CAPO is a tool that identifies the potential impact on archeological heritage and establishes additional monitoring or mitigation measures, while the CAO is a mitigation measure that seeks to mitigate, as much as possible, predictable or unpredictable archeological impacts whose diagnostic assessment depends on incidents detected during the works.⁵¹ These documents should be analyzed further in a compliance review in order to determine: how they incorporated the requirements of Operational Policy OP-703 Directive B.9 and Performance Standard 8, seeing as the project did not identify the critical cultural heritage from its outset; how the requirements of Operational Policy OP-703 Directive B.9 and Performance Standard 8 were implemented in the CAPO and the CAO, to the extent that they did; and the role Management played during supervision.
- 4.28 **Management's actions during the MGM intervention.** The Requesters contacted the MICI in March 2022. At the time, the MICI determined that the Requesters had not previously contacted IDB Invest Management to address the issues raised. After receiving the Request through the MGM, Management contacted the Requesters. As part of the MGM process, Management conducted a site visit to Estancia Buen Retiro with the UTE and an expert who specializes in the application of Performance Standard 8. The objective of the visit was to determine whether registered property 610 in its entirety could be considered a critical cultural site pursuant to the provisions of Performance Standard 8 and the Environmental and Social Sustainability Policy.⁵²
- 4.29 The archeological expert submitted a report to Management in May 2022. That report concluded that the property's critical heritage features were: (1) Castillo Morató and (2) the stone fences. Nevertheless, registered property 610 in its entirety was declared a National

⁴⁹ The CAO identified 160 towers along the route that were located near stone structures and called for field inspections. Tower 468, located within 200 m of the stone fence surrounding Castillo Morató, was identified as a tower that would require CAPO due to the risk of impacts during construction.

⁵⁰ CAO Plan for the 500 kV high-voltage line project (Salto-Chamberlain-Tacuarembó). Departments of Salto, Paysandú, Río Negro, and Tacuarembó, p. 33.

⁵¹ CAPO/CAO Report for the 500-kV high-voltage line (Salto-Chamberlain-Tacuarembó) project. Presented to the National Cultural Heritage Commission (2022). This document specifically addresses registered rural property 610 in the department of Paysandú.

⁵² IDB Invest Management's Response to Request MICI-CII-UR-2022-0199, Tacuarembó-Salto Green Transmission Line Project, p. 6.

Historical Monument. In response to those findings, the Requesters indicated in their comments that it was not Management's place to determine which features of the property should be considered critical cultural sites, since the entire property should be recognized as such per the definition of critical cultural site set forth in Operational Policy OP-703. The archeologist also recommended prevention and mitigation measures to ensure that there would be no impediments to the project works on the property. As a prevention measure, she recommended relocation of the route of the line 500 m to the east of one of the stone fences. As mitigation measures, she recommended: (1) systematic implementation of archeological prospecting activities along the entire route of the high-voltage line, including archeological rescue of finds; and (2) development of a heritage education program to increase the community's awareness of the site's cultural value. The archeologist's report concluded that, as long as the recommended mitigation measures were implemented, she was of the opinion that there was no impediment to construction of the line from the perspective of Performance Standard 8.⁵³

- 4.30 Regarding the first measure proposed by the expert, Management said it "tried to convince" the UTE to relocate the track of the line approximately 250 m to the east of the current route. However, the Client told Management that it had already proposed this action to the Requesters, who rejected the proposal. As mentioned above, the Requesters indicated in their comments that the Client presented this proposal to them at a meeting and told them the offer would be valid for one week. They also said the proposal entailed a significant increase in the number of towers installed on their property. Therefore, it also did not comply with the exclusion criteria established in the Environmental Impact Assessment Progress Report and would have increased the potential impact on the cultural site. In Management's view, the mitigation measures listed as (1) and (2) in the previous paragraph would be addressed as part of the project's Environmental and Social Action Plan.
- 4.31 Management posted the expert's report on its website on 30 November 2022, which is the date the Requesters and the Client gained access to the mitigation measures recommended by the archeologist. The Access to Information Policy, in relation to the environmental and social information on investments regularly disclosed to the public, states that "IDB Invest discloses environmental impact assessments and other relevant environmental and social impact evaluations produced by the client according to the project's risk category," including other assessments when they are relevant and available; and (2) the policy's list of exceptions to disclosure does not include such documents as archeological studies. Neither of those two assumptions supports the conclusion that Management had an obligation to disclose the archeologist's report. However, the MICI is of the opinion that the preferable course of action would have been to give the Client and the Requesters access to the proposed mitigation measures when Management received the report from the archeologist in May 2022.

⁵³ Safeguarding Archeology and the Environment. Report from the Inspection of Estancia Buen Retiro (2022), p. 37.

- 4.32 **Recent actions.** In November 2022, the Client began works involving heavy machinery on the property. On 16 February 2023, the Requesters notified the MICI that some sections of the stone fences surrounding the largest pasture had collapsed. The MICI notes that Management conducted a mission from 27 February to 1 March 2023, which involved the participation of two experts to perform technical inspections of the potential damage to the cultural heritage on registered property 610. The main findings of those experts are summarized below.
- 4.33 The report prepared by the historian, Ms. Mónica Bolaños, found that: (1) the section of the wall visited (the segment that runs from tower 465 to tower 468) is in a good state of repair, any wear and tear has been caused by the passage of time and natural and human factors, and most of the abnormalities found along the section of the wall that was visited were not caused by machinery; and (2) due to the distance between the wall and the high-voltage line, the infrastructure does not adversely affect the stability of the architectural heritage features. The expert also recommended continuous archeological monitoring for the duration of the works.⁵⁴
- 4.34 The report prepared by the archeologist, Mr. Clayton Galdino Rosendo dos Santos, found that: (1) the cause of the collapse of certain sections of the stone fence was due to factors such as wear from the passage of time, use, and the maintenance performed on the structure; (2) at every place the fence collapsed, it collapsed inward due to the impact of rainwater and the sediment that had accumulated due to rain and wind along its outer face. In the archeologist's opinion, this rules out the possibility that the collapse was caused by vibrations from the installation of the towers; and (3) the fence and the high-voltage line can use the same geographic support because the distance between them is greater than 120 m.⁵⁵
- 4.35 Meanwhile, the Requesters claim that several sections of the stone wall around the larger pasture collapsed at the very moment that the project machinery was put into operation. They note that one of the sections that collapsed is 183 m away from the closest tower. They point out that the walls have stood for 300 years and yet collapsed precisely at that moment.
- 4.36 Given the contradictory views discussed above, the MICI will verify whether Management ensured that adequate management measures were implemented during the project works to protect the integrity of the fences that the Requesters allege were damaged by the project construction works.

⁵⁴ Technical Inspection Report on the potential harm to cultural heritage on the Estancia Buen Retiro-Castillo Morató property stemming from the 500-kV high-voltage line between Tacuarembó-Salto, Uruguay (March 2023), pp. 20-21.

⁵⁵ Technical inspection report: Estancia Buen Retiro - Castillo Morató, in connection with the Tacuarembó-Salto, Uruguay, Green Transmission Line Project, (March 2023), pp. 20-21 and 25.

- 4.37 **Access to information.** When it was preparing the draft Recommendation, the MICI discovered that the Environmental Impact Assessment posted on the project website was not the final version of the document, but rather an Environmental Impact Assessment Progress Report from 2019. The final version of the Environmental Impact Assessment that Management shared with the MICI is from 2020. The MICI thanks Management for publishing the final version of the document in accordance with the provisions of the IDB Invest Access to Information Policy. The MICI also appreciates Management's efforts to increase the information available to the public through the project website, including the reports prepared by the experts in March 2023, which were posted on the site while the comments on the draft Recommendation were being prepared.
- 4.38 Two of the three archeologists' reports that have been published are in Portuguese. To ensure that potentially affected persons can access those documents, the MICI recommends that Management translate those reports into the official language of the country where the project is being implemented.
- 4.39 Based on the analysis that the MICI has performed at this stage, which evaluates the indications of compliance and noncompliance, the MICI has determined the following:
- 4.40 (1) The MICI should verify whether Management ensured that registered property 610, Castillo Morató, and the stone fences were evaluated by the Client as critical cultural heritage pursuant to Directives B.2, B.7, and B.9 of Operational Policy OP-703 and IFC Performance Standard 8, both during the environmental impact assessment and during the project implementation phase, especially after the property was declared a Departmental Historical Heritage Site (2020) and a National Historical Monument of Uruguay (2022).
- 4.41 (2) The MICI should verify whether Management ensured that the Client designed and implemented adequate measures to preserve cultural heritage and prevent and mitigate any risk to that heritage in relation to registered property 610, Castillo Morató, and the stone fences, pursuant to the provisions of Directives B.2, B.7, and B.9 of Operational Policy OP-703 and IFC Performance Standard 8.

B. Analysis of the allegations of harm and the possibility that they have or will occur as a result of the potential noncompliance of the Relevant Operational Policies.

- 4.42 **Harm related to potential lapses in the consultation of affected parties.** In the event of noncompliance with the Relevant Operational Policies in relation to the consultation of affected parties, there is the possibility that the community, and the individuals directly affected by the project in particular, were not properly consulted about the project. As a result, it would not have been possible for them to participate in the consultations where information on the potential negative impacts was shared at the appropriate time for the community to express their views on those impacts and the associated mitigation measures and for the community's views to have been evaluated to determine whether

those potential negative impacts could cause harm and how severe that harm would be if it occurred.

- 4.43 **Harm related to the potential improper identification of cultural heritage on registered property 610 and associated mitigation measures.** In the event of noncompliance in the identification of cultural heritage on registered property 610, Castillo Morató and the stone fences, and the associated management measures in accordance with the Relevant Operational Policies, the situation described by the Requesters regarding damage to cultural heritage, including the potential diminishment of the property's historical and archeological value due to the spoiling or impairment of its condition or quality, the deterioration and collapse of the stone fences, and adverse impacts on the landscape, would be consistent with the materialization of the risks and impacts that the Relevant Operational Policies seek to prevent, thus resulting in potential harm just as the Requesters have described.

V. TERMS OF REFERENCE FOR A COMPLIANCE REVIEW

- 5.1 **The MICI recommends a Compliance Review.** The MICI recommends to the Board a Compliance Review focused on verifying compliance with paragraphs 7(i) and 7 (vii) of the [IIC Environmental Sustainability Policy](#),⁵⁶ Directives B.2, B.6, B.7, and B.9 of the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)); and IFC Performance Standards 1 (as regards consultations) and 8 (as regards cultural heritage), given the limited and contradictory information provided by the Requesters and Management regarding the consultations and the Requesters' allegations of a failure to identify the property as cultural heritage and the resulting potential impacts on its historical, archeological, and scenic value.
- 5.2 **The Compliance Review Report.** The investigation's deliverable will be a Project Compliance Review Report (report), which will present the findings of the investigation and a determination as to compliance or noncompliance with the aforementioned Relevant Operational Policies. If evidence of noncompliance is found, the report will seek to determine whether or not that noncompliance is linked to the Harm alleged by the Requesters. The report will include details on the methodology used by the investigation panel and could include project-specific or systemic recommendations.
- 5.3 **What the Compliance Review will address.** Taking into account the preliminary public documentation analyzed by the MICI, the investigation will focus on answering the following questions in connection with the Relevant Operational Policies:
- Did Management ensure that the Client carried out a meaningful stakeholder engagement and consultation process?

⁵⁶ The indications of compliance or noncompliance are analyzed against the IIC Environmental and Social Sustainability Policy and Operational Policies in effect at the time of project approval, and the MICI's analysis takes only those policies into account.

- Did Management ensure that the Client properly identified, evaluated, and categorized the potential project risks and impacts in connection with the required analysis of the cultural heritage of registered property 610, Castillo Morató, the stone fences, and the landscape, as established in the Relevant Operational Policies?
- Did Management ensure that the Client established measures to prevent, avoid, and mitigate the project's potential adverse impacts on registered property 610, Castillo Morató, the stone fences, and the landscape in connection with its monitoring of the aforementioned impacts, in accordance with the Relevant Operational Policies?
- Did Management, by means of its supervisory role, ensure that the measures addressing the aforementioned potential impacts were implemented and carried out in accordance with the Relevant Operational Policies?
- In the event of noncompliance with the requirements of Operational Policy OP-703 or Performance Standards 1 or 8, did that noncompliance cause any harm to the Requesters?

A. Proposed methodology

- 5.4 The proposed investigation would review the documentary record and conduct targeted in-person, virtual, or hybrid interviews as the primary methods of inquiry regarding Management's actions or omissions from the beginning of its involvement in the project until the date the investigation is completed. The MICI could also conduct a mission to the project site to gather information that is useful and relevant to the investigation. The findings would be compared against the Relevant Operational Policies to make a determination of compliance or noncompliance. Lastly, in the event that noncompliance is found, a causal relationship analysis would be performed to determine whether that noncompliance can be linked to the alleged harm.

B. Timeline and team

- 5.5 The proposed investigation would be completed within 187 business days from the date the Compliance Review Panel is formed. However, the Compliance Review Phase team will attempt to complete the investigation within a term of six months, as recommended in Article 43 of the MICI Policy (document CII/MI-1-4). The proposed schedule of activities for the Compliance Review is set out below.

Proposed timeline for case MICI-CII-UR-2022-0199

Verificación de la Observancia para MICI-CII-UR-2022-0199	MES 00				MES 0				MES 1				MES 2				MES 3				MES 4				MES 5				MES 6				MES 7				MES 8				MES 9				
Actividades Principales	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	33	34	35	36	37	38	39	40	41	42	43	44	
1 Contratación de personas expertas																																													
2 Tiempo de trabajo efectivo por las personas expertas																																													
3 Elaboración del Informe Preliminar																																													
4 Preparación para la misión (si así corresponde) y entrevistas a actores relevantes																																													
5 Misión de verificación (si así corresponde) de hechos en el área del Proyecto																																													
6 Verificación final de datos																																													
7 Emisión del Informe Preliminar																																													

Source: Prepared by the MICI.

5.6 The Compliance Review panel would consist of the Compliance Review Phase Coordinator and two experts selected from the MICI roster based on the needs of the technical issues to be analyzed.

5.7 The names of those experts will be communicated to the Board, Management, and the Requesters through a direct notification once the experts have been retained.

Estimated budget⁵⁷

⁵⁷ This section contains confidential information and will not be disclosed pursuant to the provisions of the IDB Access to Information Policy (document GN-1831-28), Section 4.6: "confidential or sensitive information" exception.

**Annex I. Management's comments on the draft version of the Compliance Review
Recommendation**

ANNEX II. THE REQUESTERS' COMMENTS ON THE DRAFT VERSION OF THE COMPLIANCE REVIEW RECOMMENDATION

The Parties' comments on the draft Recommendation and Terms of Reference for case MICI-CII-UR-20220199

"Tacuarembó-Salto Green Transmission Line"¹

Paragraph number (Please write just the paragraph number. All other information will be deleted.)	Comments
1.3	<p>It is true that "the project was designed to ensure that it would avoid commercial forest stands and high-value-added enterprises," but it is also true that the Environmental and Social Review Summary states: "In the layout of the high-voltage line, the proximity to known sites of historical or archeological interest was avoided...", page 6 of https://idbinvest.org/sites/default/files/2022-03/LAT%20Tacuarembó-Salto%20-%20Environmental%20and%20Social%20Review%20Summary%20%28ESRS%29_1.pdf</p> <p>The facts show that the project did not adhere to what was stated in the Environmental and Social Impact Summary.</p>
1.5	<p>It would be good to link to the Environmental and Social Action Plan cited here. We are assuming that you are referring to the document found at https://idbinvest.org/sites/default/files/2022-03/LAT%20Tacuarembó-Salto%20-%20Environmental%20and%20Social%20Action%20Plan%20%28ESAP%29_2.pdf, but we are asking for the link just in case.</p>
1.6	<p>In addition to the adverse impacts mentioned in this paragraph, the Environmental and Social Review Summary also lists "adverse impacts to archeological heritage." Page 2 of the document cited in footnote 5, (Environmental and Social Review Summary, Tacuarembó-Salto Green Transmission Line Project). https://idbinvest.org/sites/default/files/2022-03/LAT%20Tacuarembó-Salto%20-%20Environmental%20and%20Social%20Review%20Summary%20%28ESRS%29_1.pdf</p>
2.11	<p>This paragraph says that Management verified that the process adhered to Uruguayan law but makes no mention of the Environmental and Social Sustainability Policy or the Performance Standards. At any rate, the Requesters have reported violations of Uruguayan regulations and clear noncompliance with the provisions of the Environmental Impact Assessment used to obtain the Environmental Pre-Authorization.</p>

¹ This matrix was prepared by the MICI as a recommendation to help the Parties prepare their comments. Its use is not compulsory. The matrix can be modified to add as many rows, columns, and issues as needed so the Parties can share all of their comments on the document.

<p>2.12</p>	<p>The Requesters were not notified nor were they aware of the meetings discussed in this paragraph. The “notification” method used by the UTE was a notice in the Official Gazette, a mechanism that is over a century old. Such a mechanism leaves much to be desired in terms of compliance with the practices set out in the Environment and Safeguards Compliance Policy. It was not until July 2020 when the Requesters found out about the meeting, indirectly, from an article in <i>El País</i>. The Requesters tried to engage the UTE in a dialogue. They asked the UTE to meet and participated in those meetings, at which they notified the UTE of the historical and cultural significance of the property.</p> <p>The Environmental Management Plan states that the UTE will keep and submit, on a monthly basis or upon request, a <i>“Record of UTE’s contacts with property owners. Complaint log. Measured by % completed.”</i></p> <p>We would like to be given access to those records.</p> <p>The plan also states that “the following reports will be prepared:</p> <ul style="list-style-type: none"> - <i>Reports on community and affected property owner engagement forums</i> - <i>Complaints and claims report (if applicable).</i> <p>Those reports should conclude that the Requesters were not notified and should include and document the complaints and claims made by the Requesters.</p> <p>https://www.idbinvest.org/sites/default/files/2019-11/Plan%20de%20Manejo%20Ambiental%20UTE.pdf</p>
<p>2.13</p>	<p>There is a key point that should be addressed. You cannot say that the aim was to determine whether the property had cultural heritage features because <u>the entire property has been declared a heritage site</u>. Clearly, the presence of cultural heritage features and being a heritage site are not synonymous, and yet Management persistently tries to speak of “heritage features,” repeatedly overlooking the fact that the entire property is a National Historical Monument.</p>
<p>2.14</p>	<ol style="list-style-type: none"> 1. Please note that where the text says, “dirt walls,” it should say, “stone walls.” 2. The memo was not from the MEC’s Natural Cultural Heritage Commission but rather from the Commission’s Director. UTE’s attorneys presented this memo at an amparo hearing. As we pointed out in court, the contents of that memo were signed by the Director, so it is not the Heritage Commission that is subscribing or endorsing the memo. 3. A November 2022 report prepared by Mr. Mazzarino (an archeologist appointed by the MEC to oversee the construction firm) states: <i>“the installation of the towers will impact the skyline, disrupting the alignment and complementarity of Castillo Morató’s stone structures with the other stone fences found in the vicinity. At this juncture of the project, modifying the route is no longer possible.”</i> That statement contradicts what was said in the memos cited in this paragraph. Notably, neither Mr. Mazzarino nor Ms. Tatiana Costa are experts in landscape assessments. To date, there has not been any report prepared by a specialist who is qualified to assess the impact on the landscape of this National Historical Monument.

2.14, cont.	<p>The MEC letter states that the National Historical Monument designation does not have any legal effect that would impede the project works, but the project's own Environmental Impact Assessment says one of the exclusion criteria for selecting the path was "the avoidance of lands protected by law and known historical heritage sites..." Page 17 of the Environmental Report Summary from February 2021.</p> <p>The MEC to the archeologists it retained and to the Environmental Impact Assessment experts.</p>
2.15	<p>Is Management trying to change the definition set out in the Environment and Safeguards Compliance Policy or reconstrue the boundaries established by the Uruguayan government as the confines of the National Historical Monument?</p> <p>Regarding the Uruguayan government's National Historical Monument designation, though we have already mentioned this in our comment on paragraph 2.13, we will repeat it here: It is not the IDB's place to determine how much of a property that has been declared a National Historical Monument <i>can be considered</i> critical cultural heritage for the simple reason that the entire property is a National Historical Monument.</p> <p>As for Management and its pursuit of different interpretations, the definition of critical cultural site set out in the Environment and Safeguards Compliance Policy is strikingly clear: according to the performance standard, critical cultural sites "<i>include but are not restricted to those protected (or officially proposed by governments for protection) such as World Heritage Sites and National Monuments...</i>"</p> <p>The property is clearly a critical cultural site.</p>
2.16	<p>As an expert in cultural heritage, the expert made a determination on the stone walls, not on environmental or landscape concerns. The harm to this National Historical Monument also includes damage to the National Historical Monument in terms of landscape degradation.</p>
2.16	<p>This paragraph should contextualize the rejection of the proposal, mentioning dates, etc. The alternative proposal was presented at a meeting, the Requesters were told that the offer would be valid for one week, and the alternative proposal involved a significant increase in the number of towers on the National Historical Monument property. These are not the conditions of a meaningful dialogue with stakeholders. Furthermore, the alternative proposal also did not comply with the exclusion criteria provisions of the Environmental Impact Assessment, heightened the impact on the landscape, caused more damage to a critical cultural site, and increased the potential for archeological harm.</p>
2.16	<p>When Management says, "the other measures," what is it referring to?</p>
3.3	<p>It should be noted for the record that the Requesters were willing and ready to dialogue. During the "Consultation Phase," they were always willing to dialogue, they extended invitations to visit the property, and they sought to reach negotiated solutions.</p>
4.7	<p>See the comment for paragraph 2.12.</p>
4.9	<p>Footnote 24 cites a document that we could not find on the project website (https://www.idbinvest.org/en/projects/tacuarembu-salto-green-transmission-line?language=es).</p> <p>There was no contact with the Requesters prior to the meetings held in mid-2020 at the Requesters' request.</p>

4.13	We recommend that you include the definitions of “critical cultural site” and “damage” set out in the policies, since those definitions help the reader understand the damage and the geographic relevance. The definition of “critical cultural site” is included in paragraph 4.26. It would be helpful to include the definition of “damage” both here and in paragraph 4.26. The Performance Standard provides the following definition: “ <i>Damage, in the context of a critical cultural site, means spoiling, compromising, or impairing the condition or quality of a critical cultural site to the point that it will reduce its spiritual, historical, or archeological value.</i> ”
4.21	This paragraph states that IDB Invest complied with addressing the implementation of the CAO and the chance finds plan. However, we have not seen any discussion of compliance during implementation, which is underway. Shouldn’t this say that Management “complied with the <u>development of the criteria and plans</u> for implementation of the CAO and the chance finds plan...”?
4.22	If possible, we would like to be given access to the following documents: CAO Plan for the 500 kV high-voltage line project (Salto-Chamberlain-Tacuarembó). Departments of Salto, Paysandú, Río Negro, and Tacuarembó, p. 33. CAPO/CAO Report for the 500-kV high-voltage line (Salto-Chamberlain-Tacuarembó) project. Presented to the National Cultural Heritage Commission (2022).
4.23	If possible, we would like to have more precise information on such points as the dates of and the personnel involved in the CAPO and the CAO, as well as findings and graphic documentation.
4.25	This paragraph is similar to paragraph 2.15. We reiterate our comment for paragraph 2.15 above.
4.27	We have commented on this issue for paragraph 2.16.
4.30	We would appreciate being given access to the final version as well.
4.35	Could you add “and damage to the landscape” after “collapse of the stone fences?”
5.3	Idem. Stone fences “and the landscape” for both bullets, because otherwise you are focusing the harm on just the stone fences, but the Requesters are of the opinion that the harm extends to the landscape.

Additional comments

The implementation of the environmental and social sustainability policies aims to “achieve positive development outcomes” and thereby generate “benefits in the communities where the business operates.” To that end, the IIC “requires its clients to apply the relevant sector guidelines” and requires its clients to engage the affected communities in a robust public consultation process...and preserve cultural heritage in accordance with... IFC Performance Standard 8.

Clearly, compliance with the environmental and social sustainability policies is not optional, and the application of those policies is not left to the Client’s discretion. To the contrary, it is a requirement of the Bank-issued loan or grant. Nevertheless, in this case the actions taken by IDB Invest have been reduced to “trying to convince” the Client, which weakens implementation of the environmental and social sustainability policies, boiling them down to a mere recommendation. Even the UTE has stated that, after the MICI got involved, the IDB told it that “nothing at all was going to change” (taken from a transcript from the UTE’s appearance before parliament on 11 April 2023).

We believe this could set a worrisome precedent and could undermine the weight that should be given to the environmental and social policies and the Environmental and Social Policy Framework. The Requesters notified the Client of the historical heritage that would be harmed more than two years before the works began, giving the Client ample time to prepare new studies, develop suitable mitigation measures, etc. The Client chose not to, perhaps because it felt that the Bank's policies were beneath it.

The new Environmental and Social Policy Framework says that success “will only be as good as its implementation.” If the Board does not give clear guidelines as to the importance of complying with, adhering to, and enforcing the policies and the new framework, the institution runs the risk of downplaying their importance and taking a step backward in its commitment to effectively manage environmental and social issues in Bank operations.

The IIC Environmental and Social Sustainability Policy states: *“the Environmental and Social Action Plan, along with the project environmental and social management plans, form an integral part of the subsequent legal agreements between IDB Invest and the client.”* Meanwhile, the Implementation Guidelines for the Environment and Safeguards Compliance Policy state: *“Environmental and Social Management Plans are used and modified, as necessary, during project implementation.”* Thus, these policies have established mechanisms to respond to omissions or discoveries that the Bank may make at later stages of implementation of agreements. At this time, we find ourselves in such a situation, in which the Bank can still take action to prevent damage from being caused to a critical cultural site with its involvement and full awareness in a flagrant violation of the environmental and social sustainability policies that the Bank so proudly displays in its official documents, press releases, and statements.

The Client is trying to impose its way of conducting business through its actions, making the execution of this massive work a priority precisely because it involves the property belonging to those who are reporting the problem. The Bank, in the implementation of the signed agreements that establish the obligation to comply with its environmental and social sustainability policies, has an opportunity and the necessary tools to halt implementation until the findings of the Compliance Review Phase are brought to light.