



DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

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

**COMPLIANCE REVIEW REPORT**

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

**(PR-L1044, PR-L1056, PR-T1174)**

**(2419/OC-PR, 2316/OC-PR, ATN/OC-14762-PR)**

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## **ABOUT THE MICI COMPLIANCE REVIEW PROCESS**

The purpose of a Compliance Review is to investigate allegations by Requesters who assert that their rights or interests have been and/or could be directly harmed by actions or omissions of the Inter-American Development Bank that potentially fail to comply with one or more of the Bank's Relevant Operational Policies in connection with one or more operations. Accordingly, a Compliance Review investigation is aimed at determining whether a Bank action or omission with respect to a Bank-financed operation has resulted in noncompliance with the Bank's Relevant Operational Policies and has caused or could cause substantial and direct harm to the Requesters.

A Compliance Review is a fact-finding exercise designed to assist the Board of Executive Directors in promoting compliance with the Bank's Operational Policies, support the positive development outcomes of Bank-financed operations, and foster institutional learning. Compliance Reviews only address compliance with Relevant Operational Policies on the part of the Bank, without drawing any conclusion regarding the actions of any other party with respect to the Bank-financed operation in question.

After the investigation concludes, the MICI prepares and sends the Compliance Review Report to the Board for consideration by standard procedure. Based on that report, the Board makes a final decision on any actions it deems appropriate or necessary based on the MICI's conclusions and recommendations. If deemed appropriate, the Board may ask Management to prepare an action plan, in consultation with the MICI, and submit it to the Board for its consideration. Once the Board approves the report, the MICI informs the Requesters about the decision and any action plan prepared. The report is also published along with the final decision in the MICI Public Registry. Whenever relevant, the MICI will monitor the implementation of an agreed-upon action or corrective action plan through a monitoring plan, prepared in consultation with the Requesters, Management, and other stakeholders, as applicable. In this regard, the MICI will prepare a monitoring report for distribution to the Board for information purposes at least on an annual basis.

## ACKNOWLEDGEMENTS

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The Independent Consultation and Investigation Mechanism acknowledges the environment of collaboration, support, and institutional maturity at the Bank that enabled it to conduct this investigation and hopes that its findings further enrich the Bank's contributions to the region of Latin America and the Caribbean.

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LINKS	
1.	Original request <a href="http://www.iadb.org/document.cfm?id=40316044">http://www.iadb.org/document.cfm?id=40316044</a>
2.	Video testimonial #1 <a href="http://www.iadb.org/document.cfm?id=40316013">http://www.iadb.org/document.cfm?id=40316013</a>
3.	Video testimonial #2 <a href="http://www.iadb.org/document.cfm?id=40316110">http://www.iadb.org/document.cfm?id=40316110</a>
4.	Video testimonial #3 <a href="http://www.iadb.org/document.cfm?id=40316111">http://www.iadb.org/document.cfm?id=40316111</a>
5.	Video testimonial #4 <a href="http://www.iadb.org/document.cfm?id=40316112">http://www.iadb.org/document.cfm?id=40316112</a>
6.	Video testimonial #5 <a href="http://www.iadb.org/document.cfm?id=40316114">http://www.iadb.org/document.cfm?id=40316114</a>
7.	Video testimonial #6 <a href="http://www.iadb.org/document.cfm?id=40316117">http://www.iadb.org/document.cfm?id=40316117</a>
8.	Video testimonial #7 <a href="http://www.iadb.org/document.cfm?id=40316123">http://www.iadb.org/document.cfm?id=40316123</a>
9.	Video testimonial #8 <a href="http://www.iadb.org/document.cfm?id=40316123">http://www.iadb.org/document.cfm?id=40316123</a>
10.	Video testimonial #9 <a href="http://www.iadb.org/document.cfm?id=40316124">http://www.iadb.org/document.cfm?id=40316124</a>
11.	Summary of testimonials provided by the Requesters <a href="http://www.iadb.org/document.cfm?id=40317033">http://www.iadb.org/document.cfm?id=40317033</a>
12.	Memorandum of Eligibility <a href="http://www.iadb.org/document.cfm?id=40433817">http://www.iadb.org/document.cfm?id=40433817</a>
13.	Management's Response <a href="http://www.iadb.org/document.cfm?id=40387462">http://www.iadb.org/document.cfm?id=40387462</a>
14.	Recommendation for a Compliance Review and Terms of Reference <a href="https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-696">https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-696</a>
15.	Program profile, "Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices" (PR-L1044) <a href="http://www.iadb.org/Document.cfm?id=35109799">http://www.iadb.org/Document.cfm?id=35109799</a>
16.	Loan proposal, "Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices" (PR-L1044) <a href="http://www.iadb.org/Document.cfm?id=35382302">http://www.iadb.org/Document.cfm?id=35382302</a>
17.	Agreement letter Part I – PROPEF individual operation (PR-L1056) <a href="https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878089">https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878089</a>
18.	Agreement letter Part II – PROPEF individual operation (PR-L1056) <a href="https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878090">https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878090</a>
19.	Agreement letter Part III – PROPEF individual operation (PR-L1056) <a href="https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878093">https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40878093</a>
20.	Technical-cooperation operation abstract, "Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044" (PR-T1174) <a href="https://bit.ly/2K2G1wX">https://bit.ly/2K2G1wX</a>
21.	Preliminary environmental impact assessment (pEIA) for Section 2: Avenida Eusebio Ayala and Gral. Aquino (Asunción) – Ruta Mariscal Estigarribia (Campus of the Universidad Nacional de Asunción, San Lorenzo), July 2015 <a href="http://www.iadb.org/Document.cfm?id=40342552">http://www.iadb.org/Document.cfm?id=40342552</a>
22.	Environmental and social management report (ESMR), Asunción program – Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices, July 2010 <a href="http://www.iadb.org/es/proyectos/project-information-page.1303.html?id=PR-L1044">http://www.iadb.org/es/proyectos/project-information-page.1303.html?id=PR-L1044</a>
23.	Environmental and social management report (ESMR), Asunción program – Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices, October 2010 <a href="https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40413384">https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40413384</a>
24.	Timeline of environmental and social events <a href="https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-477">https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-477</a>

**ELECTRONIC LINKS**

25. Document 2. Information for the community  
[https://idbg.sharepoint.com/teams/ez-MICI/cases/\\_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-1188](https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-1188)
26. Other sources consulted  
[https://idbg.sharepoint.com/teams/ez-MICI/cases/\\_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-755](https://idbg.sharepoint.com/teams/ez-MICI/cases/_layouts/15/DocIdRedir.aspx?ID=EZSHARE-33351106-755)
27. Record of the case in the MICI Public Registry  
<http://www.iadb.org/es/mici/detalle-de-la-solicitud,19172.html?ID=MICI-BID-PR-2016-0101>

## GLOSSARY

2015 pEIA	Preliminary environmental impact assessment for Sections 2 and 3
2017 pEIA	Preliminary environmental impact assessment for Section 1.1 and update for Sections 2 and 3
Bank or IDB	Inter-American Development Bank
Board of Executive Directors	Board of Executive Directors of the Inter-American Development Bank
BRT	Bus Rapid Transit
CAPYME	Centro de Atención a la Pequeña y Mediana Empresa (consulting firm)
CIC	Centro de Información y Consultas [Information and Consultation Center]
Contractor	Mota-Engil Ingeniería & Construcciones S.A.
EIA	Environmental impact assessment
Emprender	Fundación Emprender (consulting firm)
ESA	Estudio Socio Ambiental [socioenvironmental study]
ESG	IDB Environmental and Social Safeguards Unit
ESMP	Environmental and social management plan
ESMR	Environmental and social management report (ESMR)
Executing agency	Ministry of Public Works and Communications (MOPC)
GEAM	Gestión Ambiental (consulting firm)
Harm	Any direct, material damage or loss. Harm may be actual or reasonably likely to occur in the future.
ICAS	Institutional Capacity Assessment System
IRMP	Involuntary resettlement master plan
IRSP	Involuntary resettlement specific plan
Licensed vendors	Stall or street vendors located in Mercado 4 and/or along Avenida Pettirossi, who pay a daily municipal fee to occupy their vending stalls
Loan	Downtown Redevelopment, Modernization of Metropolitan Transport, and Government Offices (PR-L1044)
Management	The Bank manager or managers in charge of the Program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices (PR-L1044) or any delegate thereof.
Metrobus	Integrated public transport system with high-capacity buses traveling on dedicated lanes
MICI	Independent Consultation and Investigation Mechanism
MICI Policy	Policy of the Independent Consultation and Investigation Mechanism (document MI-47-6)
Microcenter	Historic center of Asunción
MOPC	Ministry of Public Works and Communications

OP-102 of 2006	Disclosure of Information Policy, an Operational Policy in effect from 2006 to 2010
OP-102 of 2010	Access to Information Policy, an Operational Policy in effect since 2011
OP-703	Environment and Safeguards Compliance Policy
OP-710	Operational Policy on Involuntary Resettlement
Operation	Downtown Redevelopment, Modernization of Metropolitan Transport, and Government Offices (PR-L1044)
Panel	Compliance Review Panel
PEU	Program execution unit
PGA	Plan de Gestión Ambiental [environmental management plan]
PMA	Plan de Manejo Ambiental [environmental management plan]
PMSA	Plan de Manejo Socio Ambiental [socioenvironmental management plan] for Section 1.1
Program	Downtown Redevelopment, Modernization of Metropolitan Transport, and Government Offices (PR-L1044)
Program team	Bank staff that participates in the design, preparation, and execution of the Program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices (PR-L1044)
PROPEF	Project Preparation and Execution Facility
SEAM	Department of the Environment
Short Procedure	An abbreviated Board approval procedure, as defined by the Regulations of the Board, under which the MICI may submit matters for the Board's consideration on a nonobjection basis
SPF	IDB safeguard policy filter
SSF	IDB safeguard screening form
Standard Procedure	The submission of matters for inclusion on the agenda of the Board for consideration as defined by the Regulations of the Board
Street-front business owners	Owners of formal businesses fronting on Ruta Mariscal Estigarribia along the Metrobus route

## EXECUTIVE SUMMARY

### A. Geographic and social context

The city of Asunción, Paraguay's capital, covers 11,700 hectares and has an estimated population of 520,000, making it the country's largest urban area in terms of geography and population. The Metropolitan Region of Asunción includes 23 municipios with approximately 1.9 million inhabitants. The growth of suburban cities, coupled with a higher vehicle ownership rate in these cities than in the metropolitan area as a whole, has resulted in a scattered pattern of urban development that requires large investments in infrastructure and services.

The metropolitan area's road system is based on the country's national road network, which begins at the Microcenter of Asunción. The corridor along Avenida Eusebio Ayala (in Asunción) and its continuation, Ruta Mariscal Estigarribia (in Fernando de la Mora) is the main thoroughfare for entering and leaving the city, with the largest number of passengers, both in private and public transportation. On a daily basis, 36% of public transportation users enter the city through this corridor. A large number of vehicles of all types and sizes, from inside and outside the country, also travel on this road.

In addition to the congestion caused by an increase in the use of vehicle transportation, both vehicular and pedestrian traffic have been affected by the irregular occupation of public spaces. Sidewalks and roads are occupied for purposes that include parking, product displays in front of formal businesses, fixed stalls for informal businesses (kiosks, furniture), and canopies.

From 1984 to 2002, various urban transportation plans and management studies were prepared for the city of Asunción and surrounding areas. In 2009, the Ministry of Public Works and Communications (MOPC) reintroduced these to implement a new urban public transportation management model. The resulting plan seeks to restructure metropolitan transportation and the mobility system in response to needs for better infrastructure in the Metropolitan Region of Asunción, and particularly, a need for mass transit services in order to decrease congestion in the radial road system. To this end, the IDB has supported the Government of Paraguay with various operations through the MOPC.

### B. The program

"Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices" (PR-L1044) is a sovereign-guaranteed loan operation for a total amount of US\$125 million, aimed at rehabilitating and improving Asunción's urban and transportation infrastructure. The borrower is the Republic of Paraguay and the executing agency is the MOPC.

The program has the general objective of improving the quality of life of the population in the intervention area through the rehabilitation and upgrading of urban and transportation infrastructure. One of its four components is construction of the first metropolitan public transport corridor (Metrobus). This component, with an investment of US\$115.9 million, will finance the design, structuring, and implementation of an integrated public passenger transport system, giving priority to high-capacity bus rapid transit (BRT) in dedicated lanes. Construction will begin in the San Lorenzo-downtown Asunción corridor along Avenida Eusebio Ayala and Ruta Mariscal Estigarribia, the main corridor that carries the largest volume of passengers. The program was classified as a

category “B” operation under the Environment and Safeguards Compliance Policy (Operational Policy OP-703).

The Bank’s Board of Executive Directors approved the operation on 29 September 2010, and the loan contract was signed on 9 October 2010. However, before the loan contract could enter into force, the program had to be ratified by the Paraguayan Congress, which took place on 27 December 2013. Given that requirement and to avoid delays, in 2010 the national authorities asked the Bank to approve the use of proceeds from a Project Preparation and Execution Facility (PROPEF) line of credit to be able to conduct program preparation activities. These activities included financing for two technical studies: one for the technical, legal, and financial structure of the BRT corridor; and the other to prepare the program’s communication and outreach plan. There were also plans for a component to strengthen the institutional mechanisms and execution capacity of the MOPC. The Bank approved the PROPEF (PR-L1056) on 16 April 2010 for US\$4.9 million.

Disbursements began in July 2014. As of 12 March 2018, the program was in the implementation stage and approximately 22.54% of the resources had been disbursed.

In addition, on 3 December 2014, the Bank approved nonreimbursable technical-cooperation operation “Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044” (PR-T1174) in the amount of US\$366,000, to finance the preparation of supplementary studies to improve the traffic flow for the BRT in the locations where the route coincides with two markets, Mercado 4 and San Lorenzo.

### **C. The request**

On 17 May 2016, the MICI received a Request from a group of 11 Requesters (10 business owners and a resident of the Metropolitan Region of Asunción) who alleged harm as a result of the construction and operation of the Metrobus system being financed by the Bank under operation PR-L1044. The Requesters claimed that they were never consulted about the works, and in the case of those who will have to vacate the area, that they had not been offered any relocation alternatives or economic compensation. They also reported a lack of environmental and historic heritage impact studies.

One particular group, street-front business owners whose stores are located on the main corridor for the Metrobus (Avenida Mariscal Estigarribia), claimed that their sales will be hurt by lack of access for their customers, resulting in loss of revenue, staffing cuts, and the subsequent impact on their household finances. Other Requesters, those business owners located in Mercado 4 (licensed vendors) and/or along Avenida Pettrossi neighboring the Mercado, claimed that they will have to vacate the area to make room for the Metrobus and relocate elsewhere, without having relocation or compensation plans and without having received specific information on the relocation process or the alternatives that are available to them. Lastly, one of the Requesters from the Microcenter area fears that the Metrobus will entail the expropriation of part of her business premises and the loss of her three customer parking areas due to the path of the Metrobus. In addition, she alleged a potential adverse impact on the building in which her business operates, which is listed as a historic landmark. The other Requester from this area is afraid that his property will lose value due to the Metrobus system and access limitations.

#### **D. The MICI process**

The MICI received the Request on 17 May 2016, and it was declared eligible by the MICI Director on 26 July 2016. Since the Requesters had asked that their Request be processed for both MICI phases, the Request was transferred to the Consultation Phase to initiate the evaluation stage, during which the Requesters believed that their concerns were not being addressed by the other Parties and asked that the Compliance Review Phase be commenced.

On 25 January 2017, the Board of Executive Directors approved the Recommendation for a Compliance Review and Terms of Reference for the investigation. After that, the Investigation Panel was established. It consists of two independent experts from the MICI Roster, Ione Jezler and Guillermo Tejeiro, and Compliance Review Phase Coordinator Arantxa Villanueva. The investigation period began on 6 March 2017 and ended on 8 February 2018.

A draft version of this document was sent to Management for comment. Following a review of Management's comments, some sections of this final version reflect changes that were deemed relevant by MICI.

#### **E. Findings of the investigation**

During this Compliance Review process, the MICI analyzed whether the program did not comply with three of the Bank's Operational Policies: OP-703, in its Directives B.5, B.6, B.4, and B.9; OP-710; and OP-102.

##### **Regarding compliance with Operational Policy OP-703**

Regarding **Directive B.5** on environmental assessment requirements, the MICI found that there is an extensive set of environmental and social studies for the program that were prepared at different times and that cover various aspects. Therefore, in this document the MICI divided its analysis of the socioenvironmental assessment processes into different time periods: (i) studies that existed when the program was approved; (ii) studies after program approval, prepared for the program's environmental licensing process and its update; (iii) studies during the period after the environmental license was issued, which overlap with the execution of works in the first sections; and (iv) studies during the environmental licensing stage for the last section.

First, the MICI found that during the **program approval stage**, an environmental assessment was conducted without having a previous baseline of the parties affected by the Metrobus, so there was no data available about the type of population in the area of influence. Therefore, during that stage, there was only reference to street vendors or informal business owners as the affected population, without a preliminary classification of the affected population as a whole. In addition, while certain potential socioeconomic impacts from the Metrobus were mentioned, no mitigation measures were planned. The only plans were for the future preparation of environmental studies that determined both the overall impact and specific mitigation measures, as part of the local environmental licensing process. Lastly, the MICI found that the program was approved without an environmental and social management plan (ESMP). Therefore, the MICI believes that there was a failure to comply with Directive B.5 during the program approval stage inasmuch as an environmental assessment with baseline information about the potential affected parties was not prepared, to enable an evaluation of potential risks and impacts of the BRT on the population in the area of influence and the development of applicable

mitigation measures, and also because an ESMP had not been prepared when the program was approved.

In terms of the **stage after program approval, when studies to obtain an environmental license were prepared**, the MICI found that two socioenvironmental impact studies were prepared to request this license for the Metrobus: the first was a socioenvironmental study (ESA) in 2011; and the second was an update to the ESA in 2015, a preliminary environmental impact assessment (pEIA) for the renewal of this license. These documents focus exclusively on the population of informal occupants of public spaces and lack a socioeconomic baseline for the entire area of influence of the Metrobus. The information available about informal business owners is from 2011 and was not updated for the 2015 study. In addition, while both documents do include some mitigation measures, they are proposals of a general nature. Neither document includes an ESMP as required in Directive B.5, and both of them only establish guidelines for future plans to be prepared within the program's framework. Plans were made to prepare additional studies in the future, even though the 2015 pEIA acknowledged the existence of specific program risks such as delays, not disseminating information to the affected population, and the negative image of both the program and the executing agency. As with the documents prepared in 2010 and 2011, in 2015 there were recommendations to prepare a social management plan and a communication and public consultation plan, to decrease program risks that still had not been addressed. Therefore, the MICI believes that the environmental assessments performed after the Bank approved the program, as part of the local environmental licensing process, do not comply with Directive B.5, since they do not identify the entire population that may be affected and only analyze the impact on a single group of affected parties for which the baseline information was not updated, only include proposals for certain mitigation measures of a general nature, and do not include an ESMP.

**After the environmental license was issued**, beginning in 2016, various consulting firms were retained to collect socioeconomic data, including classification and diagnostic assessment of specific groups of affected parties for each section, and to propose options for mitigation measures, plans, and programs. The information gathered for these consulting assignments served as input for resettlement plans and for the subsequent environmental assessment, the 2017 pEIA. The objective of that assessment was to identify the potential impacts of the Metrobus and establish measures and programs necessary to reduce, mitigate, or compensate for the harm caused by the program. This included the preparation of an ESMP. Even though these studies showed progress on socioenvironmental issues for the Metrobus, they were not prepared as socioenvironmental analyses or as an ESMP pursuant to the requirements of Directive B.5.

From these documents, the MICI would like to highlight two main aspects in its findings. First, it was not until 2016 that the majority of the population affected was identified as the owners of formal businesses, who number six times more than the owners of informal businesses. In this regard, the MICI believes that because of the lack of a baseline study during the initial stages of the program, for six years the focus on the potential impacts of the Metrobus was based only on the informal occupants of public spaces. Second, the document for diagnostic assessment and identification of impacts and mitigation measures for Sections 2 and 3, which included the future preparation of plans to implement mitigation measures, was prepared after the works had already started in at least one of the subsections. The MICI believes that preparing

socioenvironmental studies in parallel with construction, and for these studies not to include concrete plans on the measures to be used and their implementation, does not fulfill the objective of conducting environmental assessments on a schedule that allows the program to properly plan and implement effective mitigation measures.

Lastly, an environmental impact assessment (EIA) was prepared in 2017, during the **environmental licensing stage for the last section of the program**, Section 1. While this assessment was prepared during an advanced stage in the program cycle, it does comply with Directive B.5. It identifies the concrete impacts of the program during the construction and operation stages for that section. In addition, it contains a management plan for these impacts, a socioenvironmental management plan (PMSA), which includes a framework of plans and programs to be prepared and implemented by the contractor. For these, the plan includes objectives and rationale; activities or impacts to be mitigated; the management measures planned; the periods for implementation; the responsibilities for execution; and the monitoring process, including specific indicators.

Regarding **Directive B.6** on consultations, the MICI found that starting in 2011, after program approval, there were a series of meetings with the community in the form of workshops, meetings, and site visits. However, the MICI concluded that these meetings do not comply with the standards of Directive B.6. First, the findings showed that the activities performed from 2011 to 2016 did not comply with these standards, since the environmental and social assessments that existed up until then did not identify the program's impacts in all its sections, particularly for the entire potentially affected population, and did not include an ESMP. This meant that during the meetings, appropriate information was not available to allow the affected parties to form an opinion and make comments on the proposed course of action, or to be part of a dialogue on the scope of the program or the proposed mitigation measures. Specifically for Section 1.1, since it was not until 2017 that an EIA was prepared for that section, the meetings conducted also lacked information to comply with the policy's standards.

In addition, the MICI found that a number of the visits had the objective of providing information on the program or collecting socioeconomic or baseline data for various diagnostic assessments beginning in 2015. Therefore, these were not intended as consultations for the affected parties pursuant to Directive B.6. Likewise, the majority of the information shared during the meetings analyzed was of a general nature, focused on the program's operational characteristics and benefits, and did not specify its risks, adverse impacts, or mitigation measures. Lastly, there is no evidence that concrete actions or plans based on the concerns expressed during these visits or meetings were considered. It is also not known how the opinions of the affected parties were evaluated or whether they somehow influenced program design, implementation, or decisions, as required by Directive B.6.

Moreover, the MICI verified that there were a number of activities to disseminate information about the program via printed materials delivered directly to the community and through mass media, and that an Information and Consultation Center (CIC) was established. In this regard, while the activities reported are a valuable mechanism to share information about important aspects of the program, they did not establish a dialogue to share appropriate information with the affected parties and for that information to be considered within the program's framework, as required in the consultation standards set forth in the policy.

Regarding **Directive B.9** on natural habitats and cultural sites, the MICI found that during the program preparation stage, critical and noncritical cultural sites that might be affected by the operation were not identified, nor was it determined whether the program or its Metrobus component might potentially damage these sites, nor were mitigation and compensation measures considered. However, the 2015 and 2017 pEIAs determined that the construction and operation of the Metrobus had the potential to impact areas with historic value and assets deemed part of the historic heritage of Asunción, specifically in terms of Section 1 to be built in the historic center of Asunción. In this regard, the 2017 pEIA identified various types of impacts on sites of historic relevance in this section's direct and indirect areas of influence. Its socioenvironmental management plan (PMSA) includes a series of measures to mitigate these impacts, to be implemented by the contractor once this section has been tendered. Therefore, the MICI concluded that the Bank **did not comply** with Directive B.9 by not performing the required actions during the time frame that the policy indicates.

Regarding **Directive B.4** on other risk factors, it was found that an important aspect that the Bank has worked on is seeking to strengthen the capacity of the program execution unit (PEU). Therefore, from the earliest program preparation stages, the risk related to the PEU's institutional capacity was identified and various measures to manage it were established, in compliance with Directive B.4.

#### **Regarding compliance with Operational Policy OP-710**

The MICI found that during the preparation stage, it became known that the program would create a need for resettlement, and subsequently a need to analyze the impact on, identify, and describe the affected population, and design a resettlement plan. However, these actions did not take place prior to program approval, and therefore the operation lacked a resettlement plan before its approval and did not comply with the requirements of Operational Policy OP-710.

After its approval, several documents regarding resettlement were prepared for the program. In July 2016, once the environmental and social impact assessment activities were restarted, an involuntary resettlement master plan (IRMP) was prepared. This document is not a resettlement plan for the program; it is a general document that establishes the general guidelines and basis for potential mitigation and compensation measures regarding resettlement, as well as criteria for preparing resettlement plans subsequently. According to the IRMP, there would not be a single plan for the entire program; instead, every subsection would have its own involuntary resettlement specific plan (IRSP).

To date, the program only has three IRSPs (for Subsections 3.1, 3.2, and 3.3) and the preparation of IRSPs for Sections 1 and 2 is pending. This means that Section 1, which is the section where since the earliest stages of the program the largest impact has been expected due to involuntary physical resettlement of vulnerable populations due to the presence of Mercado 4, as at the time of preparation of this report and with the works on this section about to begin, lacks a resettlement plan that complies with the requirements of Operational Policy OP-710. The MICI is aware that this plan is currently being prepared and that various possibilities for resettlement are being analyzed. However, the MICI is concerned because the works and tendering processes for Section 1 are moving forward without having this plan, which requires prior consultations with the affected parties. Regarding Section 3, the MICI analyzed only the IRSPs for Subsections 3.1 and 3.2, where some of the Requesters are located. These plans were found to comply with

the majority of the requirements of OP-710, although there were also some failures to comply and certain aspects that can be corrected. Nevertheless, despite not complying with all the requirements of the policy, it is important to highlight that the IRSPs represent great progress in ensuring full compliance with OP-710 and with the Bank's high standards. Likewise, since this program is in execution and the works for Section 3 have not been completed, there is an opportunity to implement the corrective measures that are deemed relevant.

#### **Regarding Operational Policy OP-102**

The MICI found that the Bank did not comply with its obligation to publish all the documents subject to mandatory disclosure pursuant to Operational Policy OP-102 in its 2006 and 2010 versions in accordance with the established time frames. In this regard, it verified that of the six documents subject to mandatory disclosure pursuant to OP-102 of 2006, five were published in 2010, and one was published upon delivery of the preliminary compliance review report to Management. Of those that were published in 2010, the MICI was only able to verify that one was published within the time frame the policy requires. Regarding compliance with the requirements of OP-102 of 2010, it was found that six environmental and social assessment documents for the program prepared while this policy was in effect were published in an untimely manner. Two of these documents were disclosed by Management in May 2018, in response to a recommendation by the MICI.

#### **F. Connection between alleged harm and noncompliance with the Operational Policies**

The Requesters alleged two types of harm: actual and potential. Regarding the first type, both Requesters located within the section under construction and those located in other sections alleged that the program's works have caused a considerable decrease in their sales due to traffic congestion and lack of access to their businesses for their customers, resulting in loss of revenue and adversely impacting their livelihoods. In terms of potential harm, the Requesters expressed concern with the possible worsening of the impacts described before once the works reach their businesses, as well as a decrease in customers during the program's operation due to a reduction in vehicle and foot traffic and a lack of parking. Separately, the Requesters from Mercado 4 claimed that they are unaware of their resettlement options and are concerned about serious financial impact if their resettlement is inadequate.

As far as harm in connection with program construction, both actual and potential, the MICI found that the program documents identified these as potential impacts. In addition, the program lacks an overall assessment that analyzes the impact of one section on another section. Therefore, the MICI found that there is a risk that the harm alleged by the Requesters could materialize. In terms of the harm in connection with the program's operation, the MICI found that a lack of parking was identified as a possible adverse impact during that stage. Therefore, there is also a risk of the alleged harm materializing if the proper measures to mitigate that impact are not implemented. The MICI did not identify any elements to determine that the program's operation can result in a decrease in vehicle and foot traffic, and thus concluded that there is no potential for causing this harm. Specifically for Mercado 4, the MICI found that there is potential for the harm alleged by the Requesters to materialize if they are not resettled based on a plan that complies with the Bank's highest standards as set out in Operational Policy OP-710.

The MICI also found that the lack of complete information created uncertainty among the Requesters throughout the program preparation period and limited their ability to plan for their businesses. In addition, the MICI concluded that the harm claimed by the one Requester who is not a business owner was not connected to the program. Lastly, the MICI found connections between the alleged harm and the findings of noncompliance regarding Operational Policies OP-703 and OP-710. It is important to note that because this program is in execution, there is an opportunity to take corrective measures to prevent the harm alleged by the Requesters and identified as possible impacts in various program documents from materializing into actual harm. To this end, it is essential that a draft action plan be presented and then implemented by Management.

## **G. Considerations and recommendations**

### **1. Considerations**

This report presents considerations about three essential issues that the MICI believes that it is important to highlight: the early identification of the population potentially affected by an operation and the timely preparation of environmental and social assessments, to ensure the timely management of the operation's impacts; the importance of complete environmental and social assessments that take into account the entire operation and its impacts; and the relevance of support from the Environmental and Social Safeguards Unit (ESG) in operations as socially complex as this one.

### **2. Recommendations**

In addition, taking into account the MICI's conclusions in this report about failures to comply with the Relevant Operational Policies and the details specific to this case, the MICI is presenting a series of recommendations to the Board of Executive Directors for consideration.

**Recommendation 1.** As established in this report, the program lacks, at the time of completion of this investigation, a resettlement plan for Section 1, where Mercado 4 is located and where a highly vulnerable population works. Therefore, the MICI recommends that Management should ensure that there is a resettlement plan in place as soon as possible for the program that has been prepared in consultation with the affected parties and complies with the requirements of Operational Policy OP-710. Particularly, the plan should mandate mitigation and compensation measures that address the specific vulnerabilities of the affected parties, ensuring that after resettlement they can improve on or at least restore the situation that they were previously in.

<b>Recommendation 1</b>	Management should ensure that there is a resettlement plan in place as soon as possible for Section 1 that has been prepared in consultation with the affected parties, complies with the requirements of OP-710, and includes, in particular, mitigation and compensation measures that address the specific vulnerabilities of the affected parties and ensure the restoration of their situations.
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**Recommendation 2.** Various environmental, social, and resettlement analyses were prepared in parallel and even after the startup of program works. Specifically, the MICI

found that the IRSPs for Subsections 3.1 and 3.2 were completed after the startup of works along this corridor. In addition, various questions were raised about the suitability of the measures designed to address the impacts during the program's construction stage, especially given the delays that occurred during that stage and the timeframes in which these documents were prepared. In addition, it was found that these resettlement plans do not include outcomes from the consultations with the population or how the information from these consultations was considered in preparing these plans. Based on the above, it is recommended that Management should conduct an environmental and social audit for these two subsections, to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, it should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.

<b>Recommendation 2</b>	Management should conduct an environmental and social audit to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.
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**Recommendation 3.** In this case, the MICI has found that the Bank identified the potential impacts on critical cultural sites during the environmental assessment for Section 1 and that it established guidance on a mitigation path that the contractor would have to develop and fulfill once this section has been tendered. Therefore, in order to protect critical and noncritical cultural sites in the historic center of Asunción, the MICI recommends that Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.

<b>Recommendation 3</b>	Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.
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**Recommendation 4.** Given the widespread presence of a vulnerable population and the requirements established in Operational Policy OP-710 on monitoring and evaluation, it is recommended that within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of that population, pursuant to the provisions of OP-710, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.

<b>Recommendation 4</b>	Within the framework of Operational Policy OP-710 and within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of the affected population, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.
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**Recommendation 5.** While preparing this report, the MICI found that the majority of documents subject to mandatory disclosure pursuant to Operational Policy OP-102 were disclosed late. Accordingly, pursuant to the provisions of the Bank Operational Policy OP-102 and in order to strengthen the transparency of Bank operations in accordance with international best practices on access to information, the MICI recommends the timely disclosure of all documents produced in the future that are subject to mandatory disclosure as indicated in OP-102 and all updates to published documents.

<b>Recommendation 5</b>	Disclose, in a timely manner, all documents produced in the future that are subject to mandatory disclosure and all updates to published documents.
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**Recommendation 6.** This case involved an analysis of economic disruption of formal business owners potentially affected by the program but not requiring physical resettlement through a resettlement plan pursuant to the standards of Operational Policy OP-710. However, despite the application of this policy in terms of economic disruption due to the program, the MICI found that OP-710 only refers to physical resettlement. Being aware of Management's efforts to bridge the gap in analyzing economic disruption through OP-710 and OP-703, the MICI would like to note that economic disruption is not a subject that is expressly included in either of these policies, so the tools developed as international best practices to address this (a plan to restore living conditions) are not included in the Bank's Relevant Operational Policies. Taking that into account and given the number of operations that cause these types of impacts and the risk of uneven subjective treatment owing to the absence of regulatory guidance, the MICI recommends evaluating the relevance of introducing language specific to this issue in the Bank's Relevant Operational Policies.

<b>Recommendation 6</b>	Evaluate the relevance of introducing language specific to the issue of economic disruption in the Relevant Operational Policies, in order to resolve the current gap in the rules.
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**Recommendation 7.** Based on the previous recommendations and in accordance with the provisions of the MICI Policy, it is recommended that Management should be instructed to prepare an action plan, in consultation with the MICI, for implementation of these recommendations and their schedule, and that Management should present this plan to the Board of Executive Directors for consideration as soon as possible, as shown in paragraph 4.10.

With respect to this recommendation, along with its comments on the preliminary compliance review report, Management has submitted a proposed action plan "to implement the MICI's recommendations." Subject to the Board of Executive Directors'

approval of the findings and recommendations contained in this report and in accordance with paragraph 49 of its Policy, the MICI would be willing to work with Management to finalize the action plan and monitor its implementation, as well as issue reports according to an ad hoc monitoring plan. Should the Board approve the recommendations in this report, a monitoring plan for implementation of the plan presented by Management will be presented, for the purpose of keeping the Board and the Requesters apprised of the status of implementation.

<b>Recommendation 7</b>	Management should prepare an action plan, in consultation with the MICI, for implementation of the recommendations included in this report that are approved by the Board of Executive Directors, containing an implementation schedule compatible with the operation under investigation, which the MICI will monitor pursuant to paragraph 49 of its policy.
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According to the provisions of paragraph 48 of the MICI Policy, following its consideration by the Board, this report will be published in the Public Registry along with Management's response and the Board's final decision.

In the event that the action plan for addressing the recommendations is approved by the Board of Executive Directors, the MICI will issue monitoring reports periodically according to the implementation schedule for the proposed actions.

## I. BACKGROUND

### A. Geographic and social context

- 1.1 The city of Asunción, Paraguay's capital, covers 11,700 hectares and has an estimated population of 520,000, making it the country's largest urban area in terms of geography and population. The Metropolitan Region of Asunción includes 23 municipios, which increase the population of the metropolitan area by approximately 1.9 million inhabitants. One of the main features of the Metropolitan Region of Asunción is the growth of suburban cities such as Luque, Fernando de la Mora, San Lorenzo, Lambaré, Ñemby, and Mariano Roque Alonso at clearly faster rates than Asunción. This, coupled with a higher vehicle ownership rate in suburban cities than in the metropolitan area as a whole (160 vehicles per 1,000 inhabitants), has resulted in a scattered pattern of urban development that requires large investments in infrastructure and services to provide coverage.<sup>1</sup>
- 1.2 The metropolitan area's road system is based on the country's national road network, which begins at the Microcenter of Asunción. The corridor along Avenida Eusebio Ayala (in Asunción) and its continuation, Ruta Mariscal Estigarribia (in Fernando de la Mora) is the main thoroughfare for entering and leaving the city, with the largest number of passengers, both in private and public transportation. On a daily basis, 36% of public transportation users enter the city through this corridor. A large number of vehicles of all types and sizes, from within the country and abroad, also travel on this road.<sup>2</sup>
- 1.3 Population growth in the Metropolitan Region of Asunción, coupled with the lack of public investment and a decline in the use of public transportation, has led to serious traffic congestion. Between 1984 and 1998, traffic volume grew by about 240%, while the use of public transportation decreased in favor of private transportation. In addition, both vehicular and pedestrian transit have been affected by the informal occupation of public spaces. Sidewalks and roads are occupied for purposes that include parking and setting up product displays in front of formal businesses, fixed stalls for informal businesses (kiosks, furniture), and canopies.<sup>3</sup>

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<sup>1</sup> IDB. Loan proposal for Paraguay, "Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices," page 2.

<sup>2</sup> GEAM plan on Sections 2 and 3, April 2016, page 13.

<sup>3</sup> Loan proposal, pages 2 and 3.

### Occupation of public spaces on sidewalks and roads of the Metropolitan Region of Asunción



Source: MOPC

- 1.4 From 1984 to 2002, various urban transportation plans and management studies were prepared for the city of Asunción and environs. In 2009, the Ministry of Public Works and Communications (MOPC) reintroduced these to implement a new urban public transportation management model. The resulting plan seeks to restructure metropolitan transportation and the mobility system in response to needs for better infrastructure in the Metropolitan Region of Asunción, and particularly, a need for mass transit services in order to decrease congestion in the radial road system.<sup>4</sup>

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<sup>4</sup> Environmental impact assessment for urban revitalization-BRT program, IVICSA, undated, pages 15 and 16. Similarly, 2015 pEIA, pages 6-8.

**List of urban mobility improvement plans and studies 1984–2002**

1984	<i>Estudio del Transporte Urbano en el Área Metropolitana de Asunción</i> [Urban transportation study in the Metropolitan Area of Asunción] (CETA Plan 1984)
1988	<i>Estudio de Factibilidad de los Proyectos de Mejoramiento de las Instalaciones de Transporte en el Área Metropolitana de Asunción</i> [Feasibility study of transportation facility improvement projects in the Metropolitan Area of Asunción]
1992	<i>Actualización del Plan CETA 1984</i> [Update of the 1984 Special traffic committee of Asunción plan]
1993	<i>Plan de Desarrollo Urbano Ambiental</i> [Environmental urban development plan]
1998	<i>Estudio de Observación de la Planificación del Transporte Urbano en el Área Metropolitana de Asunción</i> [Study to analyze urban transportation planning in the Metropolitan Area of Asunción] (CETA Plan 98)
2002	<i>Sistema Integrado de Transportes del Área Metropolitana de Asunción</i> [Integrated transportation system in the Metropolitan Area of Asunción]

Source: MICI based on pEIA

**B. The program**

1.5 The Bank’s country strategy with Paraguay (2009-2013)<sup>5</sup> includes the transportation sector as a priority area. This document indicates that “the public transportation system for metropolitan Asunción is in need of improvement, which will necessitate a change in the system’s economic and institutional model.”<sup>6</sup> Accordingly, the Bank’s support started in 2009 and took the form of three financing operations, as shown in Table 1.

**Table 1.**  
**Financing operations linked to the Metrobus program**

Operation number	Operation	Amount in U.S. dollars	Approval date
PR-L1044	Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices	125,000,000	29 September 2010
PR-L1056	PROPEF - Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices	4,900,000	16 April 2010
PR-T1174	Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044	370,000	3 December 2014

1.6 “Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices” (PR-L1044) is a sovereign-guaranteed, specific-investment loan operation for a total amount of US\$125 million (divided into two loans: the first with parallel financing from the Ordinary Capital and the Fund for Special

<sup>5</sup> The Bank’s country strategy with Paraguay (2009-2013), revised version, document GN-2541-1.

<sup>6</sup> The Bank’s country strategy with Paraguay (2009-2013), revised version, document GN-2541-1, paragraph 3.2.

- Operations, in a proportion of 80% and 20%, respectively; and the second from the Ordinary Capital). The program is aimed at rehabilitating and improving Asunción's urban and transportation infrastructure. The borrower is the Republic of Paraguay, and the executing agency is the MOPC.<sup>7</sup> Based on the impacts identified and their temporary nature, the program was classified as a category "B" operation.
- 1.7 The program has the general objective of improving the quality of life of the population in the intervention area through the rehabilitation and upgrading of urban and transportation infrastructure. To attain this objective, the program has been structured into the following main components: (i) renewal of downtown Asunción; (ii) construction of the first metropolitan public transport corridor; (iii) administration; and (iv) audits and evaluations.<sup>8</sup>
- 1.8 Component 2 of this operation was allocated an investment of US\$115.9 million for the design, structuring, and implementation of an integrated public passenger transport system, giving priority to high-capacity bus rapid transit (BRT) in dedicated lanes. The first stage will be built on the San Lorenzo-downtown Asunción corridor along Avenida Eusebio Ayala and Ruta Mariscal Estigarribia, the main corridor that carries the largest volume of passengers. This component includes financing for upgrades to infrastructure and the urban environment; a control and operations center; and promotion of the social and environmental viability of the system.<sup>9</sup>
- 1.9 The Board of Executive Directors approved the operation on 29 September 2010, and the loan contract was signed on 9 October 2010. However, the Paraguayan Congress did not ratify the program (PR-L1044) until 27 December 2013. Since the ratification was required for the loan contract to enter into force, in order to avoid delays, in 2010 the national authorities asked the Bank to approve the use of proceeds from a Project Preparation and Execution Facility (PROPEF) line of credit.<sup>10</sup> The Bank approved the PROPEF (PR-L1056) on 16 April 2010 for US\$4.9 million. The objective was to support the MOPC in performing the necessary activities for program preparation; to facilitate the start of their execution; and to advance the execution of activities included in the program that were considered to be priorities.<sup>11</sup> These activities included financing for two technical studies: the first one for the technical, legal, and financial structuring of the BRT corridor, including: (i) tools for strategic planning of transportation; (ii) analysis of the program's technical-economic, socioenvironmental, financial, and institutional-legal feasibility; (iii) detailed operational design for the BRT system; (iv) plan for the implementation and dissemination of measures; and (v) draft of the engineering project with bidding documents to jointly contract detailed designs and works construction. The second assignment to be financed was the program's communication and outreach plan. There were also plans for a

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<sup>7</sup> Loan proposal, page 1.

<sup>8</sup> Loan proposal, paragraph 1.14.

<sup>9</sup> Loans 2419/OC-PR and 2420/BL-PR, Amendment 1, September 2017.

<sup>10</sup> Annex I of PROPEF Agreement 2316/OC-PR, February 2010, paragraph 2.2.

<sup>11</sup> Annex I of PROPEF Agreement 2316/OC-PR, February 2010, paragraph 3.1.

component to support program implementation by strengthening the institutional mechanisms and execution capacity of the MOPC.<sup>12</sup>

- 1.10 Disbursements began in July 2014. The program is currently in the implementation stage, with approximately 22.54% of the resources disbursed as of 12 March 2018.
- 1.11 In addition, on 3 December 2014, the Bank approved nonreimbursable technical-cooperation operation “Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044” (PR-T1174) in the amount of US\$366,000, to finance the preparation of supplementary studies to improve traffic flow for the BRT in the locations where the route coincides with two markets, Mercado 4 and San Lorenzo.

### **C. The Request<sup>13</sup>**

- 1.12 On 17 May 2016, the MICI received a Request from a group of 10 business owners and a resident of the Metropolitan Region of Asunción who alleged harm as a result of the imminent construction and future operation of the Metrobus system being financed by the Bank under operation PR-L1044. The Requesters claimed that they were never consulted about the works, and in the case of those who will have to vacate the area, had not been offered any relocation alternatives or economic compensation. They also reported a lack of environmental and historic heritage impact studies. The chapter on Compliance Review findings includes more concrete allegations in the sections applicable to the various issues subject to analysis.
- 1.13 In terms of the alleged harm, the Requesters claimed that the works would have a twofold adverse effect on their livelihoods: the first impact would be during construction and operation of the Metrobus, when they believe that sales will be hurt by lack of access for their customers, which would mean a loss of income, staffing cuts, and the subsequent impact on their household finances; and the second impact has to do with those who have been informed that they will have to vacate the area and relocate elsewhere without any plans for relocation or compensation.
- 1.14 In this case, the nature of the harm varies depending on the geographic location of the Requesters’ businesses. Based on the impact they described, the MICI divided the Requesters into three groups:
  - 1. **Street-front business owners in Fernando de la Mora:** owners of formal businesses located on Avenida Mariscal Estigarribia.<sup>14</sup> The main impacts they alleged are expropriations of land in front of their businesses, as well as decreased revenue during Metrobus construction due to street closures,

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<sup>12</sup> Annex I of PROPEF Agreement 2316/OC-PR, February 2010, paragraphs 3.10-3.13.

<sup>13</sup> Information in this section was taken from the Request submitted and the video testimonials sent to the MICI as part of that Request, and from the Eligibility Memorandum of 5 August 2016. Available in the links section of this document.

<sup>14</sup> Street-front business owners are small or medium-sized formal operations that offer services or sell products to customers, whose point of access is via the Avenida, along the entire Metrobus route. Street-front Requesters include an electrical supply store, an optometrist, a restaurant, and a glass products store. These Requesters have their businesses in Fernando de la Mora, where Section 3 is to be built on Ruta Mariscal Estigarribia.

impacting customer access to their businesses, and during Metrobus operation due to the elimination of their current parking areas. Some Requesters from this group also mentioned that they have already laid off some of their staff because of the program, given the uncertainty regarding economic activity.

2. **Business owners located in the Mercado 4 area, including those known as “licensed vendors”**:<sup>15</sup> business owners located in Mercado 4 or along Avenida Pettirossi<sup>16</sup> adjacent to it. Their primary concern is that they were told that they will have to vacate the area to make room for the Metrobus. However, they claimed that they did not receive any information about relocation alternatives and/or compensation. Licensed vendors rely on the daily revenue generated by their businesses for their livelihood and to support their families and minor children. One has employees that they expect to have to lay off due to the economic impact on the business. This group includes mothers who are heads of household. They claim to represent the interests of a larger group of vendors at this market, which creates approximately 5,000 direct and indirect jobs.
  3. **Requesters from the Asunción microcenter area**.<sup>17</sup> There are two Requesters in this area. One Requester from this group is afraid that his property<sup>18</sup> will lose value due to the access limitations resulting from construction of the Metrobus system. The other Requester from this group, who owns a business that employs more than 250 people, fears that her finances will be hurt by the expropriation of part of her business premises for the Metrobus route, the loss of her three customer parking areas due to access being blocked by the Metrobus route, and the resulting drop in customers. In addition, she alleged a potential adverse impact on the building where her business operates, which is listed as a historic landmark.
- 1.15 All the Requesters emphasized that the uncertainty they are experiencing has resulted from the lack of effective consultations and of complete information about the program. They indicated that despite receiving a certain amount of information on general program benefits, they have not been informed of the negative impacts of Metrobus construction and operation or the planned mitigation measures. In addition, there are specific allegations regarding the lack of environmental and social impact studies.

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<sup>15</sup> Ordinance 145/2000 stipulates the rights of licensed vendors, which is the definition for those occupying public spaces in municipal land and public roads surrounding the market. These rights include the supply of running water, electricity, sewer services, and disinfection by the management of Mercado 4. In addition, these regulations set forth the conditions for leasing permits for municipal public spaces, which are payable and renewable on an annual basis, of a personal nature, scarce, and revocable. ESA, page 97.

<sup>16</sup> These Requesters' businesses are micro or small operations that sell products to customers in the market, including clothing and flowers, and a hardware store. Section 1 of the program is to be implemented in this area.

<sup>17</sup> Includes one medium-sized or large operation and one real estate owner. Section 1 of the program is to be implemented in this area.

<sup>18</sup> This is the only Requester who is not a business owner.

**D. The MICI process**

- 1.16 The Request was received on 17 May 2016 and declared eligible on 26 July 2016, since it met eligibility criteria. Given that the Requesters had asked that their Request be processed for both MICI phases, it was transferred to the Consultation Phase to commence the assessment stage.
- 1.17 During the evaluation to determine whether the Parties were willing to participate in a Consultation Phase process, the Requesters said they had decided not to participate in this process in the belief that their concerns were not being addressed by the other Parties, and they asked for the Compliance Review Phase to be initiated.
- 1.18 On 25 January 2017, the Board of Executive Directors approved the Recommendation for a Compliance Review and Terms of Reference (document MI-58-2). In accordance with the MICI Policy, two independent experts from the MICI Roster, Ione Jezler (an environmental engineer who specializes in resettlement) and Guillermo Tejeiro (an attorney who specializes in environmental law), were identified and retained. Together with Compliance Review Phase Coordinator Arantxa Villanueva, they formed the Investigation Panel. This Panel had support from Case Officers Ashley Morse, Ana María Mondragón, and Pedro León. The investigation period began on 6 March 2017 and ended on 8 February 2018.<sup>19</sup> A draft version of this document was sent to Management for comment. Following a review of Management’s comments, some sections of this final version reflect changes that were deemed relevant by MICI.
- 1.19 The following is a timeline of the actions carried out by the MICI from the receipt of the Request to the completion of this report.

**Table 2.  
Timeline of the MICI process**

Date	Actions
<b>2016</b>	
17 May	Request received
25 May	Request recorded
29 June	Management’s Response received
11-13 July	Eligibility mission to Asunción
26 July	Determination of eligibility
8-10 August	Assessment mission to Asunción for Consultation Phase
19-23 September	Assessment mission to Asunción for Consultation Phase
29 September	Assessment Report of the Consultation Phase issued
14 October	Case transferred to the Compliance Review Phase
14 November	Draft Recommendation for a Compliance Review and Terms of Reference sent to the Parties for their comments
6-7 December	Comments from the Parties on the Recommendation for a Compliance Review

<sup>19</sup> Following this investigation, the MICI received additional information from Management that was determined to be relevant and incorporated into this report.

**Table 2.**  
**Timeline of the MICI process**

Date	Actions
	and Terms of Reference received
<b>2017</b>	
17 January	Recommendation for a Compliance Review and Terms of Reference distributed to the Board of Executive Directors
25 January	Recommendation for a Compliance Review approved by the Board by means of short procedure
6 March	Compliance Review Panel formed and investigation phase started
10 April	Coordination meeting for the MICI mission to Asunción with the project team
2-6 May	MICI Compliance Review mission to Asunción
13 June	Meeting with IDB social consultant involved in the program
27 June	Meeting with the previous IDB Project Team Leader
28 June	Teleconference with the consultant responsible for social aspects during program development
5 July	Teleconference with the consortium responsible for the environmental and social study
7 July	Teleconference with the consulting firm responsible for preparing the 2017 EIA
28 August	First deadline extension approved
10 October	Meeting with the Project Team Leader
13 October	Documents sent by Management received
27 October	Documents sent by Management received
8 November	Second deadline extension approved
17 November	Teleconference with two Requesters
29 November	Meeting with IDB staff from the Transportation Division
5 December	Documents sent by Management received
15 December	Teleconference with six Requesters
18 December	Teleconference with two Requesters
<b>2018</b>	
6 February	Third deadline extension approved
8 February	Preliminary Compliance Review Report issued and sent to Management
21 February	Documents sent by Management received
6 March	Teleconference with two Requesters
7 March	Meeting with staff to verify availability of documents
12 March	Documents sent by Management received
15 March	Meeting with staff about the preliminary Compliance Review Report
23 April	Compliance Review Report sent to SEC for translation and to Management for comments
22 May	Management's comments received

Source: MICI

## II. COMPLIANCE REVIEW

### A. Policy framework

The MICI's Compliance Review process is governed by paragraphs 36 to 49 of the MICI Policy (document MI-47-6).

### B. Methodology

- 2.1 Pursuant to the terms of reference<sup>20</sup> approved by the Board of Executive Directors for the case, the investigation focused on determining, based on the findings, whether the Bank complied with Operational Policies OP-703, OP-710, and OP-102 for the three operations in question. It also sought to determine the potential connection of any noncompliance found with the harm alleged by the Requesters due to the construction and operation of the first metropolitan public transport corridor.
- 2.2 The investigation involved a detailed analysis of the Bank's documentation related to the program to which the MICI had access, as well as reviews of other relevant documents that were provided, both from inside and outside the Bank.<sup>21</sup> Likewise, the Panel, with support from Case Officer Ashley Morse, conducted a mission to Asunción from 2 to 6 May 2017. During the investigation period, there were more than 34 interviews and meetings with Bank staff at Headquarters and at the Country Office in Paraguay, with various actors involved directly or indirectly with the program, and with the Requesters.<sup>22</sup>

### C. Specific context of the Metrobus program

- 2.3 Bus rapid transit (BRT) systems have grown as an alternative to resolve mobility and environmental issues in urban areas in Latin America and around the world.<sup>23</sup> However, they are still complex transformations of urban mobility. For Paraguay, the Metrobus program involves the typical intricacies of these types of interventions, as well as the particular issues specific to this local context. Four of these issues will be explained to provide context for the subsequent analysis. They are: (i) the local requirement for legislative ratification; (ii) the requirement for the MOPC to sign agreements with the various municipios; (iii) the tendering process; and (iv) the presence of related works.
- 2.4 During the program's identification and preparation stage carried out by the IDB, the Metrobus route was planned, but detailed designs were not yet available.<sup>24</sup> As shown in the figure below, the route for the first line would run 17 kilometers from

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<sup>20</sup> MICI-BID-PR-2016-0101, Recommendation for Compliance Review and Terms of Reference for "Program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices"; "PROPEF – Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices"; and "Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044" (PR-L1044, PR-L1056, PR-T1174) (2419/OC-PR, 2316/OC-PR, ATN/OC-14762-PR). Document MI-58-2.

<sup>21</sup> The sources, which can be consulted in the links section of this document, include a complete list of the documentation reviewed for this investigation.

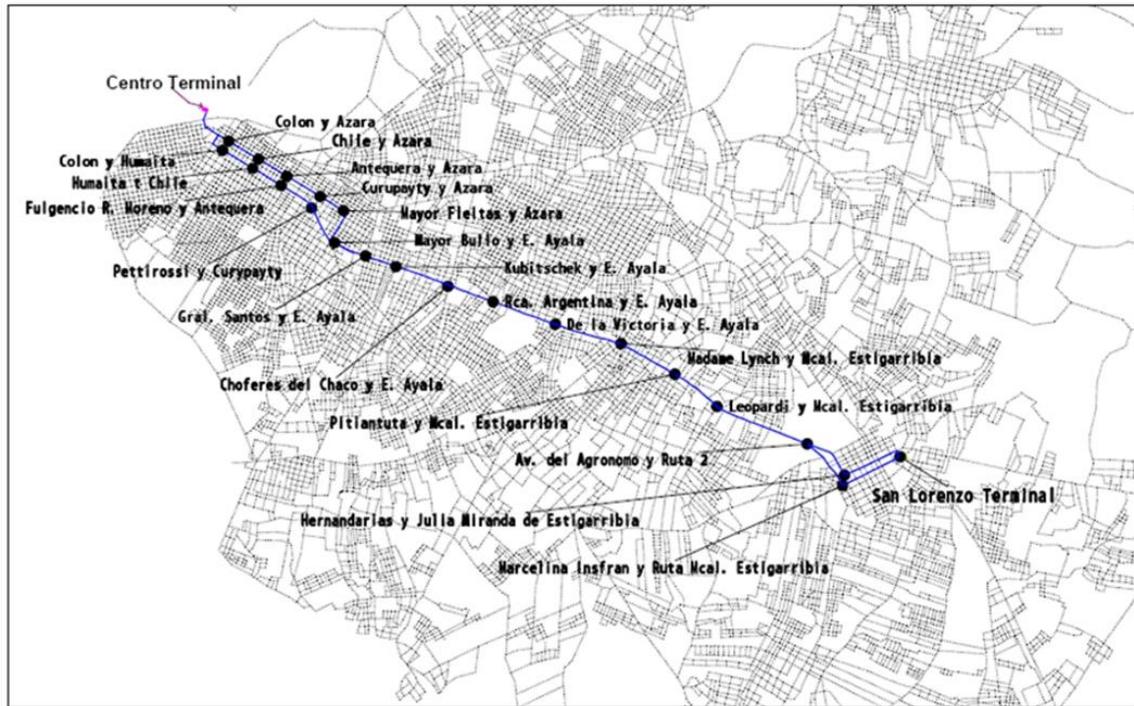
<sup>22</sup> The links section includes a complete list of the meetings held by the MICI investigation team.

<sup>23</sup> Presentation "Integrated public mass transportation system," MOPC, 30 July 2010.

<sup>24</sup> Presentation "Integrated public mass transportation system," MOPC, 30 July 2010.

the Microcenter—where the plan is to build new government offices (Component 1 of operation PR-L1044)—to San Lorenzo, along the Pettirossi, Eusebio Ayala, and Mariscal Estigarribia corridors, passing through two markets: Mercado 4 in Asunción and Mercado San Lorenzo.

Figure 1. Planned Metrobus route



Source: Presentation “Integrated public mass transportation system,” MOPC, 30 July 2010.

- 2.5 According to Management, given the large size of the program, a decision was made to prepare preliminary designs first and then continue with the preparation of specific studies to be able to finalize the detailed designs. Likewise, taking into account that the legislative ratification could take some time, a decision was made to submit the program for the Bank’s approval with preliminary information and to use the PROPEF to conduct studies, taking advantage of the waiting period<sup>25</sup> between IDB approval (2010) and legislative ratification (2013).
- 2.6 The planned route involved three municipios—Asunción, Fernando de la Mora, and San Lorenzo—with which the MOPC was to sign agreements to ensure the program’s viability prior to tendering contracts. These agreements were supposed to “specifically make reference to the active participation of these parties in the design, implementation, and support of the communication, relocation, resettlement, and economic redevelopment plans of the various affected parties, and guarantee the operation and sustainability of the works in financial,

<sup>25</sup> Management’s Response to the Request, paragraph 3.

- environmental, and social terms.”<sup>26</sup> The MOPC signed agreements with each of the three municipios during 2009 and 2010. Due to the circumstances and timelines involved in the program, these agreements had to be subsequently extended.<sup>27</sup>
- 2.7 As a result of the studies conducted under the PROPEF,<sup>28</sup> the Government of Paraguay decided to divide the Metrobus works into four sections to be executed in two stages. The initial stage is for the construction of Sections 2 and 3. After an international competitive bidding process, the project was awarded to Mota-Engil Ingeniería & Construcciones S.A. in late March 2016, through a contract for the update of the final design and construction;<sup>29</sup> the second stage is for the construction of Section 1.
- 2.8 In addition, based on interviews conducted by the Panel, the contracting firm had decided to divide the work into several subsections to facilitate execution of works and preparation of various studies (see Figure 2). The plans were to move forward only after completing the corresponding subsection. According to information received on the progress of the works from Management, the works in Subsection 3.3 began in November 2016.<sup>30</sup> Works for Subsection 3.2 started in July 2017, and works for Subsection 3.1 have not started.<sup>31</sup> As of March 2018, none of the sections had been completed.

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<sup>26</sup> Loan contract, special provisions, clause 3.03(f).

<sup>27</sup> According to information provided by Management, the agreements were as follows: (1) an agreement with the municipality of Asunción, signed on 23 June 2009, valid for three years, which was extended in December 2009 until the end of the program; (2) an agreement with the municipality of San Lorenzo, signed on 10 November 2010, valid for five years, which was extended in June 2016 until the end of the program; and (3) an agreement with the municipality of Fernando de la Mora, signed on 16 November 2010, valid for five years, which was extended in April 2016 until the end of the program. See: Management’s Response to the Request, paragraph 16, table of responses to the allegations

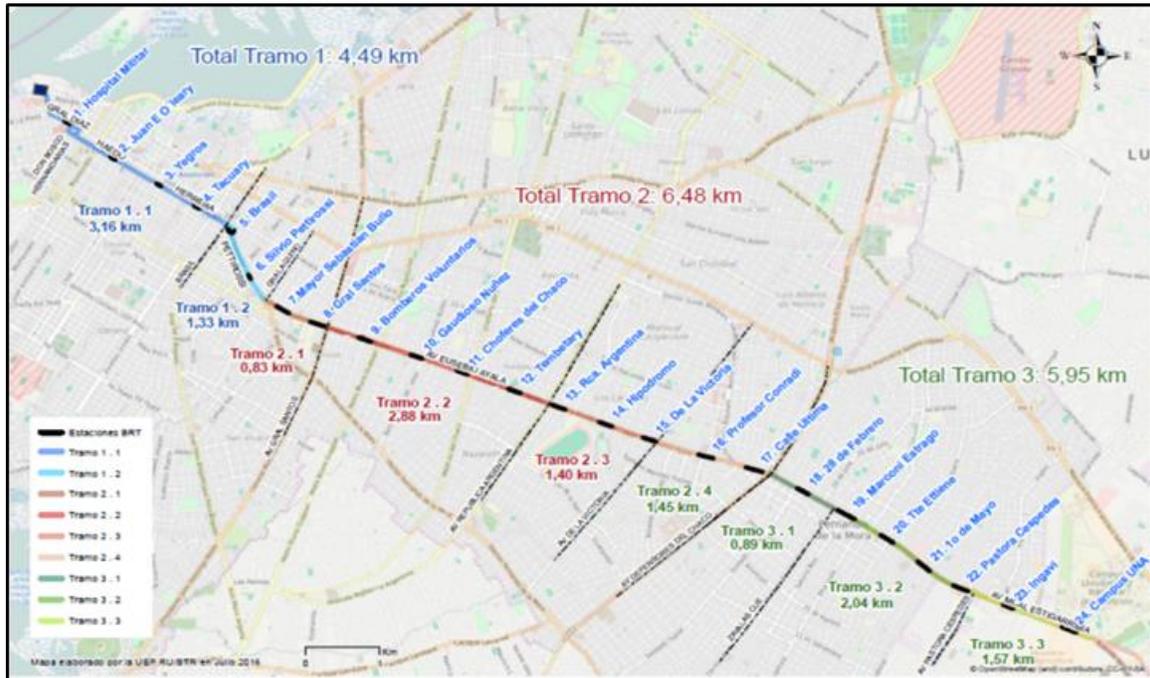
<sup>28</sup> Management’s Response to the Request, paragraph 8.

<sup>29</sup> Management’s Response to the Request, paragraph 8.

<sup>30</sup>

<sup>31</sup>

Figure 2. Division of works into subsections



Source: PEU presentation, May 2017.

- 2.9 For Sections 1 and 4, where Mercado 4 of Asunción and Mercado San Lorenzo are located, respectively, construction was postponed until the second stage, since more time was required to analyze alternative routes, given that the presence of these markets posed major social challenges. Likewise, in parallel with the program, in 2012 the municipality of Asunción, seeking better organization and improved security for licensed vendors and for Mercado 4 overall, began an improvement project for Mercado 4 with financing from the Itaipú Binational Entity.<sup>32</sup> This project includes identifying and creating spaces to relocate about 214 licensed vendors within the market, by restoring one building and constructing another.<sup>33</sup> In that area, the execution of Metrobus works depends on the progress of the improvement project for Mercado 4 since that project has required the temporary relocation of vendors to the Metrobus corridor area, while one building is restored and the other constructed in the market.
- 2.10 Regarding Section 4, on 18 July 2016, the members of the San Lorenzo Municipal Council decided that the Metrobus would not run through the downtown area of

<sup>32</sup> Information obtained during the Compliance Review mission and from <https://www.itaipu.gov.br/es/sala-de-prensa/noticia/itaipu-aprobo-4-millones-de-dolares-para-modernizar-el-mercado-4>.

<sup>33</sup> Information obtained during the Compliance Review mission and from <https://www.itaipu.gov.py/es/sala-de-prensa/noticia/mejoramiento-del-mercado-4>.

that city.<sup>34</sup> As a result, the MOPC decided that the Metrobus would run only as far as Universidad Nacional de Asunción, before entering San Lorenzo, therefore eliminating Section 4 of the program.

- 2.11 The timeline in Table 3 shows the main milestones and actions regarding the program, as well as the dates when the documents relevant to the Compliance Review were completed.

**Table 3.**  
**Timeline of events 2009-2017<sup>35</sup>**

2009	
23 June	Agreement between the MOPC and the municipality of Asunción, valid for three years
26-29 October	Identification mission
16 December	Agreement between the MOPC and the municipality of Asunción extended until the end of the program
2010	
3 February	Safeguard policy filter (SPF) and safeguard screening form (SSF) completed
19 February	In-person ERM meeting; program profile and environmental and social strategy approved
5 March	Program profile completed
16 April	Operation PR-L1056: "PROPEF - Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices" approved
27 June-3 July	Orientation mission
July	Environmental and social management report (ESMR), public version
July	Preliminary environmental assessment
30 August-3 September	Special/analysis mission for the program
September	Resettlement plan framework for urban revitalization of San Jerónimo neighborhood and relocation of informal businesses in the BRT section
<b>29 September</b>	<b>Operation PR-L1044: "Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices" approved</b>
October	ESMR updated
9 October	Loan contract between the IDB and Paraguay for operation PR-L1044 signed
10 November	Agreement between the MOPC and the municipality of San Lorenzo, valid for five years
16 November	Agreement between the MOPC and the municipality of Fernando de la Mora, valid for five years

<sup>34</sup> News from MOPC, "El Metrobús no llegará al centro de San Lorenzo por decisión de sus concejales" [The Metrobus will not reach downtown San Lorenzo because of a decision made by its council members], 20 July 2016. <http://www.mopc.gov.py/el-metrobus-no-llegara-al-centro-de-san-lorenzo-por-decision-de-sus-concejales-n3378>.

<sup>35</sup> The date of the documents shown in this table corresponds to the date reflected on their cover page.

2011	
18 July	Department of the Environment (SEAM) issued an environmental license for the program
18 November	Socioenvironmental study (ESA), LOGIT-CIA-GSD+ consortium
18 November	Conceptual design for the corridor
Undated	Environmental impact assessment. Owners of rights-of-way. BRT Bus consortium
2012	
2013	
27 December	Congress ratified the program
2014	
15 April	Bank approved the program's eligibility
3 December	Operation PR-T1174: "Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044" approved
2015	
July	Preliminary environmental impact assessment (pEIA) for Sections 2 and 3
26 August	SEAM issued an environmental license for Sections 2 and 3 of the program
2016	
March	MOPC awarded the works contracts for Sections 2 and 3
April	Social baseline report and diagnostic assessment of public space occupants for Sections 2 and 3 of the first Metrobus corridor
6 April	Agreement between the MOPC and the municipality of Fernando de la Mora extended until the end of the program
May	Reports on the social management plan for public space occupants in Sections 2 and 3
17 May	MICI received Request from 11 Requesters
10 June	Involuntary resettlement master plan (IRMP)
1 June	Agreement between the MOPC and the municipality of San Lorenzo extended until the end of the program
26 August	Order to begin contract from the MOPC to the company Mota-Engil - design stage
September	Information gathering and mitigation measures for impacts of Metrobus works on formal businesses. CAPYME
26 November	Order to begin works in the corridor became effective
November	Works began for Subsection 3.3 and alternative streets
December	First version of involuntary resettlement specific plan (IRSP), Subsection 3.3. PEU social team
2017	
January and May	Diagnostic assessment, impact identification, and mitigation measure proposal for Sections 2 and 3 of the Metrobus corridor: Formal businesses and families living in Sections 2 and 3. CAPYME
March	Second version of IRSP, Subsection 3.3. PEU social team
26 May	IRSP, Subsection 3.2. PEU social team
July	Start of works for Subsection 3.2
August	Report on the social management plan for occupants of public spaces in Section 1 of the first Metrobus corridor. GEAM

August	Socioeconomic diagnostic assessment and impact identification for Section 1 of the Metrobus corridor. Street-front businesses and families living in the area (draft). Fundación Emprender
2 August	IRSP, Subsection 3.1. PEU social team
Undated	Environmental impact assessment for urban revitalization-BRT program. Preliminary environmental impact assessment (pEIA) for BRT program (Subsection 1.1) and updated pEIA for Sections 2 and 3. IVICSA
Undated	Socioenvironmental management plan (PMSA) for the construction stage of Subsection 1.1 of the BRT system corridor

Source: Prepared by the authors based on various documents obtained during the investigation and information provided by Management.

#### **D. Findings of the Compliance Review**

2.12 This section presents the findings of the MICI's Compliance Review of the claims made in the Request, based on the terms of reference approved by the Board of Executive Directors, which focused on determining whether the Bank complied with Operational Policies OP-703, OP-710, and OP-102 (2006 and 2010 versions) in the framework of the Metrobus program. For each policy analyzed, the requirements of the policy, the applicable allegations, the findings of the MICI's investigation, and the compliance determination are presented below.

2.13 In those sections where it is relevant, the analysis is divided into stages in connection with the program cycle and its specific timeline.

##### **1. What does the Environment and Safeguards Compliance Policy (OP-703) establish?**

2.14 The Environment and Safeguards Compliance Policy (Operational Policy OP-703) establishes that safeguards apply throughout the project cycle, to ensure the environmental sustainability of Bank-financed operations. The Bank takes a precautionary approach to avoid negative environmental impacts.<sup>36</sup> When impacts are unavoidable, Bank-financed operations require mitigation measures. For impacts that cannot be fully mitigated, compensation or replacement mechanisms should be implemented. The Bank works with borrowers to manage environmental risks effectively and to help develop environmental management capacity, as agreed. Where in the opinion of the Bank the environmental risks are deemed to be too great, the Bank supports the proposed investment only once the plan for mitigation of the risks is agreed.

2.15 The subsections below (paragraphs 2.16-2.213) present the findings of the investigation and the determination of compliance with the directives of Operational Policy OP-703 that are relevant to the allegations made in the Request, which are Directives B.4, B.5, B.6, and B.9, for the following stages: (i) preparation and approval stage (2010); (ii) postapproval to ratification stage (2010-2014); and (iii) execution stage (2014 to date).

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<sup>36</sup> It is important to highlight that the word "environment" as used in Operational Policy OP-703 is defined in its broad sense, which includes physical/chemical factors (geophysical), biological factors (biotic), and associated social factors (anthropic). The policy therefore encompasses social, cultural, and economic aspects to the extent that these are derived from geophysical and/or biotic changes associated with a particular operation.

## **2. In relation to Directive B.5 of the Environment and Safeguards Compliance Policy on environmental assessment requirements**

### **a. Requesters' allegations<sup>37</sup>**

2.16 The Requesters claimed that the program did not have proper studies to determine the impacts (both during the construction and operation stages) that the Metrobus would have on the city, and specifically, on the businesses located along its route. Without these studies, they claimed that there is uncertainty about the existence of mitigation and/or compensation measures to address the impacts that the program could have on their businesses. The following are some of the specific negative impacts that they are concerned about:

- a. Substantial temporary economic harm as a result of limited access to their businesses due to road closures and detours during the construction stage (applicable to the following Requesters: the street-front businesses, the merchants in Mercado 4, and the merchant in the Microcenter);
- b. Permanent impact due to the elimination of parking areas in front of their businesses, which would entail a decrease in customers and therefore economic losses (applicable to the Requesters with street-front businesses), or due to the closure of access to parking spaces (applicable to the Requester that is a merchant in the Microcenter);
- c. Schedule restrictions for the transit of large vehicles, such as the trucks used by their suppliers. The Requesters believe this restriction will limit their ability to provision their businesses, which will have to happen during noncommercial hours when suppliers do not provide service. This will result in an additional burden for merchants to obtain supplies (applicable to the following Requesters: the street-front businesses and the merchant in the Microcenter); and
- d. Impact on businesses and decreased revenues during Metrobus operation due to changes in the vehicle flow pattern that could make it hard for their customers to reach their businesses (applicable to all business-owner Requesters).

### **b. What does Directive B.5 establish?**

2.17 Directive B.5 of Operational Policy OP-703 establishes that:

Preparation of Environmental Assessments (EA) and associated management plans and their implementation are the responsibility of the borrower. The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs) ... Environmental and Social Management Plans (ESMP), and environmental analyses, as defined in this Policy and detailed in the Guidelines. The operation's executing agency ... is required to submit all EA products to the Bank for review. The operation's approval by

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<sup>37</sup> Information in this section was taken from the Request and the video testimonials presented by the Requesters, from the Eligibility Memorandum of 5 August 2016, and from the interviews conducted as part of the compliance review process both during the mission to Asunción and in subsequent telephone conversations.

the Bank will consider the quality of the EA process and documentation, among other factors.

[...]

[For category B operations] an environmental analysis should be performed including an evaluation of the potential environmental, social, health, and safety impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts.

[...]

The ESMP must include: a presentation of the key direct and indirect impacts and risks of the proposed operation; the design of the proposed social/environmental measures to avoid, minimize, compensate, and/or mitigate the key direct and indirect impacts and risks; the institutional responsibilities to implement these measures, including, where necessary, institutional development, capacity building, and training; the schedule and budget allocated for the implementation and management of such measures; the consultation or participation program agreed for the operation; and the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities, and costs. The ESMP should be ready for, and reviewed during, the analysis/due diligence mission.

**c. The MICI's findings in relation to compliance with Directive B.5**

- 2.18 During the 2010-2017 period, there were numerous impact identification, assessment, and management studies conducted for the Metrobus program. The MICI reviewed 14 of these studies in detail: two covered the total scope of the program and were prepared during the preparation stage prior to the approval of operation PR-L1044; three were prepared before the legislative ratification and start of disbursements; and eight were prepared between July 2015 and August 2017, focusing on specific sections of the Metrobus route. Table 4 shows the studies and their dates, as well as the scope of the analysis. Temporary milestones relevant to the program are marked in orange.

(i) *Preparation and approval stage (2010)*

**Table 4.**  
**Socioeconomic impact analysis documents for the preparation and approval stage**

Date	Document name	Document scope
<b>2010</b>		
April	<b>The Board of Executive Directors approved operation PR-L1056 (PROPEF)</b>	N/A
July	Preliminary environmental assessment	Entire program
July	Environmental and social management report (ESMR), public version <sup>38</sup>	Entire program
September	<b>The Board of Executive Directors approved operation PR-L1044</b>	N/A
October	Environmental and social management report (ESMR) - updated version - undisclosed version	Entire program

Source: Prepared by the MICI with information from program documents.

2.19 During program preparation, the preliminary environmental assessment, prepared in order to request the strategic environmental license for the program,<sup>39</sup> and the Bank's ESMR identified the following negative impacts for the BRT component during the construction stage:

- a. Impact on merchants, mainly small businesses and street vendors due to the location of the infrastructure, which will require the relocation of stall-based vendors such as markets and of informal merchants in general that are located in the BRT's area of direct influence;
- b. Changes in the dynamics of local traffic and the quality of the streets used for detours, due to the considerable increase in all types of vehicles, including cargo trucks;
- c. Inconvenience for street-front businesses due to increased noise, and economic damage because of street closures during the construction stage;
- d. Interruption of the day-to-day routine in the areas of influence of the works due to the presence of construction workers, campsites, and construction of works for the system.<sup>40</sup>

2.20 A negative impact of the Metrobus operation that was identified was that it will affect several commercial areas that occupy public spaces along the road.<sup>41</sup>

<sup>38</sup> The MICI has determined that there are two versions of the environmental and social management report, a document that the Bank prepares as part of the preparation stage of an operation. One version, dated July 2016, is of a public nature; the second, dated October 2016, has additional content and has not been disclosed to date. For its analysis, the MICI used the public version. However, when information from the October version is included, this will be indicated in the applicable citation.

<sup>39</sup> SEAM, Resolution DGCCARN No. 1566/10 of 31 August 2010, attached to the ESMR, page 83.

<sup>40</sup> Teresa Ramírez de Mariño, Supervision of preparation of environmental and social documents, First progress report, pages 26-27. Annex 5.3: preliminary environmental report, pages 10 and 11; and ESMR, pages 31 and 32.

- 2.21 In addition, the program includes the preparation of environmental studies required under environmental legislation. Based on these studies, there will be environmental mitigation and/or compensation measures to be included in the socioenvironmental management plan, with their respective budgets, execution timeline, institutional arrangements, monitoring system, etc.<sup>42</sup>
- 2.22 Regarding social impacts, the ESMR indicated that “they are expected to benefit the entire population of the city of Asunción and the metropolitan area, but informal businesses that must be relocated have been identified.”<sup>43</sup> There was also an analysis of the impacts based on the aspects that were affected. These impacts only included informal businesses and premises and were anticipated during the construction stage:<sup>44</sup>
- a. **Impact on informal businesses and premises:** Impact or loss of means of subsistence for people whose businesses will be vacated, indemnified, or compensated financially, or resettled under better conditions. There are plans to relocate stall-based vendors such as markets and informal merchants that will be impacted during road construction and operation of the service.
  - b. **Impact on auxiliary roads:** Changes in the dynamics of local traffic and excess traffic on temporary detours will have a significant temporary effect, since blocked traffic is inevitable and a suspension of some services is likely.
- 2.23 For the operation stage, the ESMR mentioned that the negative impacts are only related to informal businesses that occupy public spaces and the job displacement of some transportation system drivers. These impacts can be mitigated and are reversible, and the solutions have already been planned and are described in the social management component of the structured management plan.
- 2.24 The ESMR includes the guidelines, structure, and scope of the environmental management plans *Planes de Manejo Ambiental* (PMAs),<sup>45</sup> which had not been prepared at that time and are expected to include the measures to be taken to prevent, mitigate, and or compensate for the potential direct and indirect environmental and social impacts. For the direct impacts, there are the environmental technical standards of the MOPC, known as Environmental General Technical Specifications, which include all the preventive and corrective measures that the contractor must implement to prevent or minimize the direct impacts of the works. For the indirect impacts, there will be the mitigation measures identified

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<sup>41</sup> Teresa Ramírez de Mariño, Supervision of preparation of environmental and social documents, page 27; and ESMR, page 33.

<sup>42</sup> Teresa Ramírez de Mariño, Supervision of preparation of environmental and social documents, Annex 5.3, page 14. Also, ESMR from July 2010, page 54. The ESMR indicated that an EIA will be prepared for each of the program’s components. These assessments will identify the potential impacts of the construction and operation, as well as the applicable mitigation measures, which will be part of the environmental management plan *Plan de Gestión Ambiental* (PGA) that will be included in the environmental management plans *Planes de Manejo Ambiental* (PMAs).

<sup>43</sup> ESMR, page 20.

<sup>44</sup> ESMR, pages 31 and 32.

<sup>45</sup> ESMR, paragraph 19. The ESMR indicated that: “It is important to clarify that the scope of the management plan was developed according to the progress of program preparation. Therefore, during the infrastructure design stage, a definitive plan will be formulated and designed based on the guidelines included here and the considerations that the designers recommend,” page 53.

when the EIA studies for each component are prepared.<sup>46</sup> The structure of the environmental management plan (PMA) outlined some programs to be implemented. These include asset restitution and compensation and relocation of stall-based merchants, including a business development plan, to involve them in activities that generate revenue.<sup>47</sup>

- 2.25 Likewise, the ESMR includes a monitoring plan to verify compliance, applicability, and efficiency of the PMAs, and to identify unforeseen circumstances. It also points out the importance of proper monitoring from the IDB to ensure the use of defined instruments for socioenvironmental management, and to ensure that operations financed with program resources comply with the Bank's environmental and social safeguards during execution.<sup>48</sup>
- 2.26 Regarding compliance with national legislation, the ESMR specified that it is necessary to follow the process to obtain an environmental license, and that in general that process begins upon completion of the ESMR, from which information for the technical report that SEAM requires is extracted. The report also mentioned that SEAM has a very complete environmental legal framework, which will serve as a basis for the program's socioenvironmental management actions.<sup>49</sup>

(ii) *Postapproval to ratification stage (2011-2014)*

**Table 5.**  
**Socioeconomic impact analysis documents for the postapproval to ratification stage**

Date	Document name	Document scope
<b>2011</b>		
	Environmental impact assessment. Owners of rights-of-way. BRT Bus consortium, 2011. (Annex 6.A.2 of ESA)	Entire program
November	Socioenvironmental study (ESA), LOGIT-CIA-GSD+ consortium	Entire program
<b>2013</b>		
<b>27 December</b>	<b>Congress ratified the program</b>	N/A
<b>2014</b>		
April	IDB approved the loan's eligibility	N/A

Source: Prepared by the MICI with information from program documents.

- 2.27 In 2011, after the program was approved, there was an environmental impact assessment that focused on "owners of rights-of-way." Its objectives were to study the existing environmental conditions in the program area, evaluate potential environmental impacts, recommend mitigation measures for adverse impacts, and formulate a monitoring plan. The document indicated that 79% of the land in the area is used for commercial purposes. The negative impacts of the program

<sup>46</sup> ESMR, page 35.

<sup>47</sup> ESMR, page 51.

<sup>48</sup> ESMR, page 57.

<sup>49</sup> ESMR, page 54.

- include the elimination of 304 secured parking spaces from the street and traffic congestion. The assessment estimated that of the 731 properties along the route, 157 will be relocated or impacted, 71% of them commercial properties. Therefore, it is extremely important to find alternatives to ensure the continuity of these businesses. The proposed mitigation measures include implementing public awareness programs and providing alternative parking locations to replace the ones being eliminated.<sup>50</sup>
- 2.28 That same year, a socioenvironmental study (ESA) was prepared as part of the environmental licensing process for the program.<sup>51</sup> As part of that ESA, there was a socioeconomic census<sup>52</sup> to “obtain information about the areas and people occupying public spaces that will have to be resettled due to the development of the main road for the BRT”; to determine the magnitude of the program’s social impacts; and to have baseline information as a basis to design a social management plan.<sup>53</sup>
- 2.29 Of the 1,098 surveys conducted,<sup>54</sup> there were 1,114 cases of commercial activity occupying public spaces; 65.8% were informal businesses and 34.2% were formal businesses. In addition, informal vendors have a legal relationship, supported by formal relationships or the principle of legitimate trust, that engenders a right for their occupancy situation not to be modified until they have an alternative for relocation or compensation that allows them to continue their economic activities under the same or better conditions.<sup>55</sup> The document indicates that the highest densities of occupations of public space are in the Asunción and San Lorenzo markets.<sup>56</sup> It also mentions that a significant percentage of occupants of public spaces are in an especially vulnerable situation because of their age or poverty.
- 2.30 The document contains an analysis of potential environmental impacts from the program, regarding which it includes a list of mitigation measures such as public awareness programs and the use of alternative locations for parking.<sup>57</sup> Regarding social impacts, it indicates that the displacement of people occupying public spaces is the “biggest challenge as far as social impact” for the construction of the BRT, and includes the preparation of preliminary and final resettlement plans.<sup>58</sup>
- 2.31 In addition, focus group meetings held in 2011 revealed that informal vendors in the three municipios were concerned about the program impacting their working conditions. Owners of formal businesses in Asunción emphasized the

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<sup>50</sup> Environmental impact assessment. Owners of rights-of-way, BRT Bus consortium, 2011, pages 2, 6, 14, 20, 23, and 24.

<sup>51</sup> On 18 July 2011, SEAM issued an environmental license for the Metrobus program, valid for two years. Declaration DGCCARN 186/2011, SEAM.

<sup>52</sup> In addition to that ESA, the MICI had access to the document “Consulting assignment for the diagnostic assessment of the situation of informal merchants to be affected by the construction of the first BRT corridor in Asunción and Greater Asunción,” draft final report, 14 November 2011.

<sup>53</sup> ESA, page 17.

<sup>54</sup> The document indicated that the surveys were conducted from 13 to 26 June 2011.

<sup>55</sup> ESA, pages 18 and 21-25.

<sup>56</sup> ESA, page 21.

<sup>57</sup> ESA, pages 35 and 36.

<sup>58</sup> ESA, pages 26, 27, 33, and 34.

consequences that the program would have for their businesses, believing that “it could cause many people to lose their income.”<sup>59</sup> There is also a diagnostic assessment of the situation of informal merchants to be affected by the Metrobus, from November 2011, which mentions the expectations about the program from employees of both informal and formal businesses.<sup>60</sup>

- 2.32 Despite that, the ESA mentions that the mitigation measures to be included in the program “should focus only on informal vendors, and therefore the scope of application excludes formal establishments, for which a regulatory and space study is required.”<sup>61</sup> The general measures proposed, aimed at minimizing impact on informal occupants of public spaces, include: (i) preparation of an individual resettlement plan based on an economic redevelopment program, in a private space and under the conditions of a formal economy; (ii) relocation to public spaces or expansions of currently existing markets; (iii) collective relocation to property intended for commercial use; and (iv) identification of work opportunities in the formal economy to facilitate a change of activity.<sup>62</sup>
- 2.33 In addition, the ESA, in line with the ESMR, mentions the need to establish monitoring mechanisms to oversee the implementation of safeguard measures for the program.<sup>63</sup>

(iii) *Program execution stage (2014 to date)*

**Table 6.**  
**Socioeconomic impact analysis documents for the program execution stage**

Date	Document name	Document scope
<b>2015</b>		
July	Preliminary environmental impact assessment (pEIA)	Sections 2 and 3
<b>2016</b>		
<b>27 April</b>	<b>MOPC recorded its contract with Mota-Engil Engenharia</b>	
May	Report on the social management plan for occupants of public spaces, Sections 2 and 3 of the first Metrobus corridor. GEAM	Sections 2 and 3
<b>26 August</b>	<b>MOPC issued order to begin the contract and start designs</b>	
September	Information gathering and mitigation measures for impacts of Metrobus works on formal businesses. CAPYME	Subsection 3.3
<b>26 November</b>	<b>MOPC issued order to begin works in Subsection 3.3 of the corridor</b>	

<sup>59</sup> 2015 pEIA, pages 50 and 51.

<sup>60</sup> Consulting assignment for the diagnostic assessment of the situation of informal merchants to be affected by the Metrobus, draft final report, 11 November 2011, pages 46 and 47.

<sup>61</sup> ESA, page 35.

<sup>62</sup> ESA, pages 35-38.

<sup>63</sup> ESA, page 41.

Date	Document name	Document scope
<b>November</b>	<b>Start of works for Subsection 3.3</b>	
<b>2017</b>		
May	Diagnostic assessment, impact identification, and mitigation measure proposal for Sections 2 and 3 of the Metrobus corridor: Formal businesses and families living in Sections 2 and 3. CAPYME	Sections 2 and 3
August	Report on the social management plan for occupants of public spaces in Section 1 of the first Metrobus corridor. GEAM	Section 1
August	Socioeconomic diagnostic assessment and impact identification for Section 1 of the Metrobus corridor. Street-front businesses and families living in the area (draft). Fundación Emprender	Section 1
Undated (submitted to SEAM in August)	Environmental impact assessment for urban revitalization-BRT program. Preliminary environmental impact assessment (pEIA) for BRT program (Subsection 1.1) and updated pEIA for Sections 2 and 3. IVICSA	Sections 1.1, 2, and 3
Undated (submitted to SEAM in August)	Socioenvironmental management plan (PMSA) for the construction stage of Subsection 1.1 of the BRT system corridor	Subsection 1.1

Note: The information in bold shows milestones in the process to retain a contracting firm and start the works.

Source: Prepared by the MICI with information from program documents and other information provided by the project team.

- 2.34 Once Congress ratified the loan and the IDB deemed the program eligible, starting in 2015 there were a number of specific consulting assignments for each section of the construction, beginning with Sections 2 and 3.
- 2.35 In addition, to renew the environmental license and start the tendering process for these sections, SEAM<sup>64</sup> required that a preliminary environmental impact assessment<sup>65</sup> be submitted, which was dated July 2015. That study is an update of the 2011 ESA; however, it only includes Sections 2 and 3. Its socioenvironmental diagnostic assessment used the census from the 2011 ESA, even though the study authors acknowledged that an update was required, given the changing dynamics of informal business owners, the main parties affected by the program.<sup>66</sup>
- 2.36 Also in 2015, contact with street-front business owners began again with site interviews along the entire central corridor. The objective was not to measure impacts, but to make it known that the tendering process for construction of works

<sup>64</sup> Through Note DGCCARN 3037/13 of 13 December 2013. 2017 pEIA, page 18.

<sup>65</sup> The document indicated that the IDB retained the services of the consulting firm to comply with Law 294/93 on environmental impact assessments and the applicable regulatory decrees, with an emphasis on the construction stage of the works. 2015 pEIA, page 5.

<sup>66</sup> 2015 pEIA, page 49.

- was underway. During these visits, printed materials containing the technical details of the works were shared.<sup>67</sup>
- 2.37 The pEIA identifies the relevant impacts that may result from the program. According to this document, the impact assessment was conducted through a “field exploration of the local area and the area of influence along the entire central route of the BRT, to identify environmental liabilities and potential impacts, in addition to recommending relevant mitigation measures.”<sup>68</sup>
- 2.38 The specific negative socioeconomic impacts identified in the pEIA included the following:<sup>69</sup>
- a. **Expectations and uncertainty among the population regarding program impacts.** This is a negative, temporary impact during the initial stage that will affect residents and people with economic activities in the area of direct influence. It is caused by the lack or insufficiency of specific information about the program and about potential expropriations or actions to minimize their effects.
  - b. **Impacts on traffic and means of transportation.** Temporarily, during construction, there may be traffic congestion because of changes in traffic flow, causing neighbors and regular corridor users to lose man-hours and incur higher expenses for fuel and lubricants.
  - c. **Temporary impact on lifestyle and comfort** for neighbors, due to delays in travel times and the inconveniences caused by the works.
- 2.39 Regarding potential mitigation measures, the pEIA proposes a structure for a possible ESMP, including plans and programs for mitigation, decrease, or compensation of impacts within the areas of direct and indirect influence. As part of the ESMP, the plans or programs will include:<sup>70</sup>
- Socioenvironmental management plan (PMSA) for the construction stage of the central section;
  - Social management plan for the BRT program;
  - Environmental impact assessment (EIA) of the modernization of metropolitan public transport program (BRT), Sections 1 and 4;
  - Communication plan for the program;
  - Property registry update program; expropriations and compensation.
- 2.40 The document specifies that the effectiveness of the majority of these plans or programs depends on their timely implementation — before execution of works, simultaneously, or immediately after their completion — in accordance with pre-

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<sup>67</sup> 2015 pEIA, page 52.

<sup>68</sup> 2015 pEIA, page 97.

<sup>69</sup> 2015 pEIA, pages 116-118.

<sup>70</sup> 2015 pEIA, pages 126-162.

- established timelines, therefore preventing in many cases the secondary impacts that could occur.<sup>71</sup>
- 2.41 The pEIA identifies aspects of concern to be taken into consideration during certain stages, which may negatively impact the development of the BRT, including: (i) the delays since the IDB's approval, because five years have elapsed and the studies from 2011 and 2012 need to be repeated or updated; (ii) the many modifications made to the program's design, its route, and the bus system; (iii) the negative image of the program because some of the media has opposed it since its implementation, criticizing aspects like the lack of a definitive project that includes all the execution details; and (iv) the unfavorable public opinion about the MOPC, evident during the latest hearings for other projects, mainly because of unmet deadlines, lack of signage for works, and lack of or little attention to the problems caused by contractors. The assessment recommends two essential actions: prepare and implement a social management plan, and prepare and implement a communication and public consultation plan, with a highly qualified team that has sufficient experience in operations with this degree of complexity.<sup>72</sup>
- 2.42 In addition to the pEIA, and also only for Sections 2 and 3, the consulting firm GEAM<sup>73</sup> was retained to conduct two studies: (i) a social baseline report and diagnostic assessment of public space occupants in Sections 2 and 3, in April 2016; and (ii) a social management plan report, in May 2016.
- 2.43 A baseline was established to identify potential affected parties that were permanent occupants of public spaces<sup>74</sup> and to gather quantitative and qualitative information about their conditions before program implementation. The census of affected parties took place from 30 October to 25 November 2015.<sup>75</sup> Results showed that there are six times more formal businesses occupying public spaces than informal businesses, and that the area occupied by formal businesses is almost 10 times larger.<sup>76</sup>
- 2.44 According to this diagnostic assessment, a total of 964 formal businesses occupy public spaces in Sections 2 and 3. Most of these merchants occupy these spaces for product displays, awnings, and signs. In addition, automobiles use sidewalks and streets for parking; this is the majority use of the space, in 73% of the cases (702 cases).<sup>77</sup>

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<sup>71</sup> 2015 pEIA, page 126.

<sup>72</sup> 2015 pEIA, pages 56 and 57.

<sup>73</sup> GEAM (Gestión Ambiental) is a Paraguayan nonprofit civil association with broad experience on issues related to sustainable management; development; and economic, social, and environmental analysis of public and private initiatives. <http://www.geam.org.py/v3/>. The MOPC retained GEAM on 28 December 2015 to prepare the social management plan for the implementation of the Metrobus. Contract S.G. Ministro 497/2015.

<sup>74</sup> The terms of reference for the report originally required a "baseline for the affected parties occupying public spaces in an informal manner." However, the data collection regarding affected parties and diagnostic assessment included both informal and formal occupants. GEAM plan on Sections 2 and 3, April 2016, page 10.

<sup>75</sup> GEAM plan on Sections 2 and 3, April 2016, pages 19 and 20.

<sup>76</sup> GEAM plan on Sections 2 and 3, April 2016, page 74.

<sup>77</sup> GEAM plan on Sections 2 and 3, April 2016, pages 54 and 61.

- 2.45 To prepare the report, there were meetings with informal merchants and street-front business owners to gather information on their principal expectations. These included fear and resistance to the program due to the possibility of displacement and not knowing what would happen to them, given their need to continue working to support their families; concerns about the duration of construction and impacts of the works, including a decrease in customers; and lack of awareness of the alternatives or proposals for resettlement and employment.<sup>78</sup>
- 2.46 The diagnostic assessment of occupants of public spaces (May 2016) identifies risks both for the informal and formal sectors, as well as courses of action for their mitigation. Regarding affected parties in the formal sector, the report found a high likelihood that during the works period, formal merchants could experience: (i) a decrease in customers due to street and sidewalk closures, traffic congestion, vehicle detours, and uncertain logistics for the works, with a subsequent drop in sales; (ii) product damages or losses and difficulties loading and unloading; and (iii) lack of safety. During Metrobus operation, the report identifies: (iv) a decrease in customers due to reduced parking areas, resulting in a drop in sales and a considerable increase in private parking expenses; and (v) difficulties loading and unloading merchandise, which will not always take place during the times allowed.<sup>79</sup>
- 2.47 The qualitative assessment of impacts for street-front businesses indicates that the “decrease in customers will be one of the most important risks, due not only to the impact but also to the high likelihood of its occurrence,” which will “result in a drop in sales and probably also some deterioration of the premises, products, and signs of formal businesses.” The report also mentions that “it is obvious that during the works there will not be parking in front of the businesses” and that this can cause a decrease in customers and make it difficult to load and unload merchandise. During operation, the report only identifies positive impacts, since there will be an increase in customers and higher visibility for merchants due to clear sidewalks.<sup>80</sup>
- 2.48 Among courses of action to mitigate impacts, the report proposes the following. **During construction:** (i) communication and security protocols; (ii) promotions and sales during the construction of works, with the report mentioning that it will probably be inconvenient to shop at businesses along the corridor, but that tempting promotions will seek to compensate for a decrease in customers; (iii) closure of locales during construction, which will be inevitable for approximately 10 days, and can be used to schedule reorganization, expansion, and renovation of buildings; to fulfill a mandatory paid vacation period; or to declare a loss of earnings; **During operation:** (iv) the parking shortage may be alleviated by establishing private parking businesses, with each street-front business owner responsible for mitigating the cost for their customers, or with a system set up for short-term parking or valet parking; (v) exclusive evening schedules to load and unload merchandise, which could entail more staff overtime expenses; and (vi) marketing initiatives and business renovations once the Metrobus starts operating and there is a passenger increase, which will depend on the

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<sup>78</sup> GEAM plan on Sections 2 and 3, April 2016, pages 79 and 80.

<sup>79</sup> GEAM plan on Sections 2 and 3, April 2016, pages 90 and 91.

<sup>80</sup> GEAM plan on Sections 2 and 3, April 2016, page 95.

“inventiveness and creativity of each street-front business owner,” with the expenses covered by an increase in customers.<sup>81</sup>

- 2.49 It is important to highlight that the social management plan report prepared by GEAM based on the diagnostic assessment and baseline mentioned only includes proposals to mitigate the impacts on informal vendors.<sup>82</sup> Therefore, the MICI will not analyze it, since the Requesters located in Sections 2 and 3 are only formal or street-front business owners.

Figure 3. Section 1

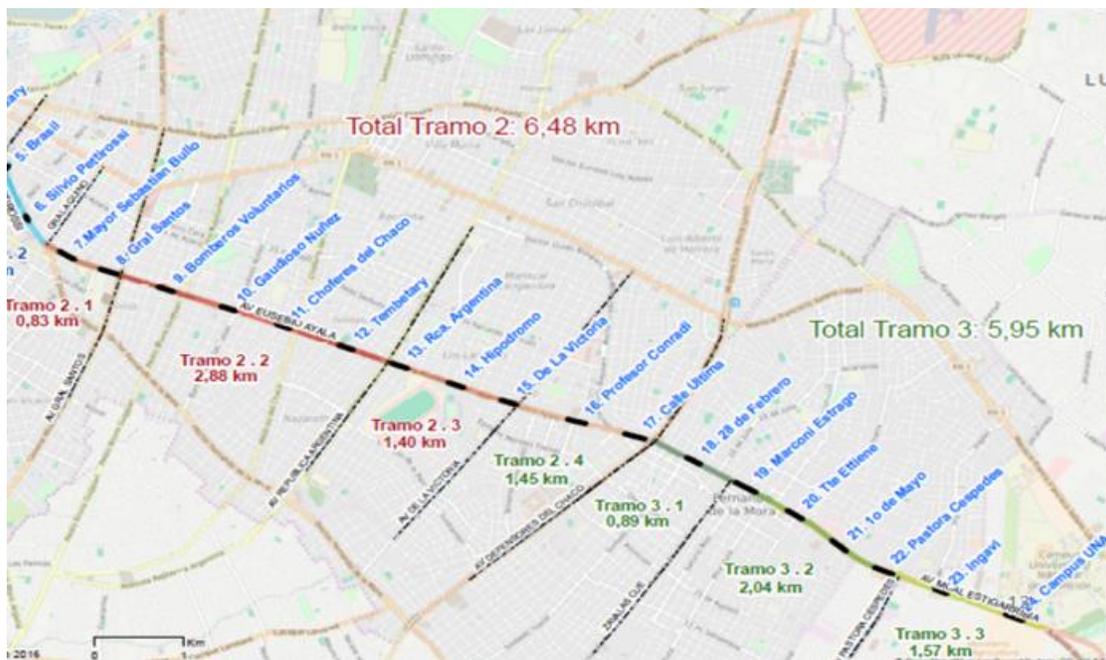


Source: “Metrobus program” presentation, MOPC, March 2017.

<sup>81</sup> GEAM plan on Sections 2 and 3, April 2016, page 105.

<sup>82</sup> GEAM plan on Sections 2 and 3, May 2016, page 7.

Figure 4. Sections 2 and 3



Source: “Metrobus program” presentation, MOPC, September 2016.

- 2.50 In addition, the information that the MICI reviewed showed that the contracts for Sections 2 and 3 were awarded in March 2016 and the works on Subsection 3.3 began in November 2016.<sup>83</sup> In parallel, consulting firm CAPYME<sup>84</sup> was retained to prepare a socioeconomic diagnostic assessment of street-front business owners in Sections 2 and 3, including an analysis and proposed mitigation actions for the impacts.<sup>85</sup> According to interviews that the Panel conducted, Subsection 3.3 was initially given priority because it was the location for the startup of works and had the smallest impacts. In September 2016, CAPYME completed the document “Information gathering and mitigation measures for impact of Metrobus works on formal businesses: Results of detailed surveys of formal businesses and families living in Subsection 3.3 of Section 3 of the Metrobus corridor.” In May 2017, the diagnostic assessment for Sections 2 and 3 was completed, using the same methodology as for Subsection 3.3.
- 2.51 The report (called “Diagnostic assessment, impact identification, and mitigation measure proposal for Sections 2 and 3 of the Metrobus corridor: Formal businesses and families living in Sections 2 and 3”) contains a “social,

<sup>83</sup> Work progress report, pages 1 and 7.

<sup>84</sup> CAPYME is a Paraguayan consulting firm known for its work on issues related to small and medium-sized enterprises, retained by the MOPC in June 2016.

<sup>85</sup> CAPYME report on Sections 2 and 3, May 2017, page 3. The MICI had access to two drafts of the report *Diagnostic assessment, impact identification, and mitigation measure proposal for Sections 2 and 3 of the Metrobus corridor: Formal businesses and families living in Sections 2 and 3*. The dates on these reports were January and May 2017, and they were used as sources for this document.

- demographic, and economic survey of micro, small, and medium-sized enterprises located in the two sections.” For the survey, which was completed by 79% of those contacted, two visits took place, the first from 24 June to 2 September and the second from 31 August to 22 December 2016. The report contains an analysis of the degree of vulnerability of street-front business owners and proposals for mitigation measures based on the involuntary resettlement master plan and other measures.<sup>86</sup> Regarding businesses that did not complete the survey (21%), the report indicates that “considering that these businesses do not show visible levels of vulnerability, ... they have been included in the Not Vulnerable category.”<sup>87</sup>
- 2.52 The report recognizes that “the area is essentially commercial” and found that the majority of economic activities are stores (82%), mainly microenterprises and small businesses (70%).<sup>88</sup> The diagnostic assessment created a vulnerability index for every affected party included in the census, with an analysis of (i) compatibility with the completed program; and (ii) degree of vulnerability during construction.<sup>89</sup>
- 2.53 The analysis of the first criterion, compatibility with the completed program, focused on identifying businesses that will no longer be able to operate the same way and proposing mitigation measures. The street-front businesses classified as having low or no compatibility and considered “highly vulnerable” could receive the benefits of a special attention program.<sup>90</sup> This includes business advice and training; and material and/or economic support or assistance, with the latter facilitating access to commerce or providing modifications to facilities and infrastructure. For Sections 2 and 3, the only measure included in the report is the implementation of physical improvements for two businesses.<sup>91</sup>
- 2.54 With respect to the second type of analysis, the **degree of vulnerability of the street-front business**, this evaluation focuses on the construction period and includes three criteria: (i) size of the business, where the smaller the business, the higher its degree of vulnerability;<sup>92</sup> (ii) impact on sales due to the lack of access to the business, since a drop in sales may “mean a very severe impact for companies

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<sup>86</sup> A detailed explanation of the involuntary resettlement master plan is included below, in the section on Operational Policy OP-710.

<sup>87</sup> CAPYME report on Sections 2 and 3, pages 5-7 and 14.

<sup>88</sup> CAPYME report on Sections 2 and 3, pages 9, 11, and 14.

<sup>89</sup> CAPYME report on Sections 2 and 3, pages 21 and 22.

<sup>90</sup> CAPYME report on Sections 2 and 3, page 22.

<sup>91</sup> CAPYME report on Sections 2 and 3, pages 35 and 36.

<sup>92</sup> The document classifies a microenterprise as a business with up to five employees; billing that just covers monthly fixed expenses or slightly more; and fixed assets consisting of its facilities and basic tools. A small enterprise has between 5 and 10 employees; billing higher than monthly fixed expenses; and fixed assets that “include some type of technology.” A medium-sized enterprise has the capacity to hire between 11 and 50 employees; a billing level very much above its monthly fixed expenses; and fixed assets that include technology or are expensive. A large enterprise is a business with a larger structure than the others and a more complex organizational chart. CAPYME report on Sections 2 and 3, pages 20 and 23.

because they may be unable to cover their fixed expenses”;<sup>93</sup> and (iii) degree of reliance of the business on that revenue, for which the level of vulnerability is determined based on whether the business has another type of revenue.<sup>94</sup> The impact on access to the business was calculated considering that the street or sidewalk would be partially closed for 45 days and completely closed for 15 days, without accounting for any other setbacks. If the timeline for the works were to increase, “the numbers assigned could vary in direct proportion to that increase.”<sup>95</sup> However, the document does not offer information on how to calculate this. For Sections 2 and 3, a total of 1,352 economic and social units were identified. Of these, 1,088 were subject to the compatibility and vulnerability analysis described above. Findings showed that 93 were classified as vulnerable and 26 as having low or no compatibility with the Metrobus operation.<sup>96</sup>

- 2.55 The document proposed 10 impact mitigation measures, within the framework of what the involuntary resettlement master plan (IRMP) establishes:<sup>97</sup>
- a. **Monetary compensation for loss of land and/or improvements.** In cases of complete or partial impact on a property (expropriation), the owner has the right to be compensated for that expropriation.
  - b. **Support program for vulnerable businesses.** Designed to mitigate the economic impacts of temporary street and/or sidewalk closures on vulnerable businesses, and the resulting impaired access for customers during the works. The measures to decrease these impacts are: (i) business advice and training; (ii) material and/or economic support or assistance; and (iii) relocation support.
  - c. **Program for special attention for businesses with low or no compatibility.** This program includes business advice. In addition to the activities planned for the support program for vulnerable businesses mentioned above, these businesses are eligible for a redesign of their business model.
  - d. **Alternative parking plan.** The plan is to set up parking spaces by subsection on cross streets that will not be used for vehicle traffic during the works and

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<sup>93</sup> The analysis anticipates: (i) high impact due to the reduction “in vehicle or pedestrian flow that prevents sales from materializing,” since the street-front business owner does not have alternative access roads or sales methods that do not rely on access to the premises; (ii) medium impact when sales could be impacted for the same reasons, but the street-front business owner has available one of the two elements mentioned before; (iii) low impact, when sales could be slightly impacted but the business has available both of the elements mentioned before; and (iv) no impact, when sales do not decrease because they do not rely on vehicle or pedestrian flow. CAPYME report on Sections 2 and 3, page 24.

<sup>94</sup> Reliance was considered to be high when the business was the only source of income for a street-front business owner to support their needs and those of their family, and they had no alternative source of income or branches; medium when revenue from the business was not the only source of income, because they had an alternative source of income or branches; low when they had alternative sources of income and branches; and none when revenue from the business was not the only source and they had other income, from branches or income diversification. CAPYME report on Sections 2 and 3, page 26.

<sup>95</sup> CAPYME report on Sections 2 and 3, page 25.

<sup>96</sup> CAPYME report on Sections 2 and 3, page 28.

<sup>97</sup> CAPYME report on Sections 2 and 3, page 30.

to create permanent parking areas for the operation stage wherever it is feasible, based on the works plan and land availability.

- e. **Technical and business training program.** Advisory and training activities of interest to the population in the area of influence will be implemented, to promote business and technical development.
  - f. **Logistics support for relocation.** While there are no plans to relocate street-front businesses in Sections 2 and 3, there may be situations where it is advisable to move a business temporarily or permanently to ensure that it generates revenue. Therefore, there are plans to support planning and logistics for relocation.
  - g. **Communication plan for the works.** The program execution unit (PEU) is implementing a mass communication campaign to inform the public in general and street-front business owners about several issues, including works progress, road closures, and alternative routes. This campaign will be developed in coordination with the communication plans of the PEU and the construction company.
  - h. **Legal support.** Street-front businesses that need to follow legal or administrative procedures to have access to the program's compensation or mitigation measures will receive legal support.
  - i. **Social support.** To ensure the implementation of mitigation and impact reduction measures, the PEU will provide as much social support as necessary to keep the population satisfied and effectively execute the plan.
  - j. **Replacement for damage during the construction stage.** When damage occurs during the works, the construction company will be responsible for compensating the affected party.
- 2.56 All Requesters that were street-front business owners were classified in the CAPYME study as highly compatible with the Metrobus operation. Two were classified as not vulnerable; one is a company that uses public space for parking. Separately, three of the businesses were identified as vulnerable economic units and eligible for the support program for vulnerable businesses and its subcomponent "business advice and training,"<sup>98</sup> as the sole impact mitigation measure.
- 2.57 In addition, consulting firm GEAM was retained to prepare for Section 1 a baseline survey of the affected parties occupying public spaces in an informal manner; a diagnostic assessment of the occupation of public space; and a report on the social management plan for occupants of public spaces for Section 1 of the first Metrobus corridor. The MICI only had access to the last one, which is intended to propose "actions to mitigate the impacts of the Metrobus on the affected parties that permanently occupy public spaces."<sup>99</sup>
- 2.58 This plan proposes measures to mitigate the impacts of the program on informal businesses "with the intention of including them in the formal economy and

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<sup>98</sup> [REDACTED]

<sup>99</sup> GEAM plan on Section 1, August 2017, page 8.

- improving the current working conditions,”<sup>100</sup> so that they continue conducting economic activities, but in a situation that “conforms to municipal urban regulations, to the requirements of the Metrobus program,” and matches the expectations of business owners.<sup>101</sup> An overall strategy is to prepare relocation sites for businesses with fixed locales before the startup of works.<sup>102</sup>
- 2.59 The plan identifies the types of affected parties through “census data, review of receipts, photographs, and visits.”<sup>103</sup> Taking into account the diversity of “work situations, age, income, vulnerability, and expectations,” there are proposed design options for (i) permanent relocation programs; (ii) formalization and training programs; and (iii) a job retraining program.<sup>104</sup>
- 2.60 The relocation program will seek to move vendors to specifically designated sites and therefore allow for fluid pedestrian flow on the sidewalks along the Metrobus corridor.<sup>105</sup> It proposes two types of relocations: voluntary and managed.<sup>106</sup> Voluntary relocation is for vendors who do not wish to continue working on the street and are interested in moving their business “to their neighborhood or their homes,” and would only apply to people over 65 years old. The objective of managed relocation is for vendors to move to attractive locations offered by the Metrobus program and continue selling.<sup>107</sup> Given the diversity, the plan proposed two alternatives: (i) public spaces, whether on sidewalks or the corners of streets with Metrobus stations, through modules near Metrobus stations (there are plans for 7 beneficiaries) and the creation of a “walk of medicinal beverages” (for a total of 66 medicinal herb sellers); and (ii) private spaces within program grounds, also for two groups, medicinal herb sellers and licensed vendors<sup>108</sup> (for the latter, the proposal is to relocate 153 stalls to buildings set up as “commercial galleries”).<sup>109</sup>
- 2.61 However, the plan clarifies that the public space proposal has not been approved by the municipality, which would rather not have public space used in that manner. It also describes the steps necessary for its implementation, from negotiations with street-front business owners to agreements with the municipality on permits and fees, construction of modules, and allocation by the Metrobus of specific spaces for the relocation.<sup>110</sup> The plan also describes a process to implement the measures proposed for the relocation to private spaces. That process includes: purchase selected parcels of land agreed upon with licensed vendors, on secondary, well-trafficked streets as close as possible to the Metrobus; ensure a connection to

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<sup>100</sup> GEAM plan on Section 1, August 2017, page 14.

<sup>101</sup> GEAM plan on Section 1, August 2017, page 17

<sup>102</sup> GEAM plan on Section 1, August 2017, page 12.

<sup>103</sup> GEAM plan on Section 1, August 2017, pages 16 and 20.

<sup>104</sup> For the formalization and training measure, 366 beneficiaries were identified. For job retraining, 130 people were identified. For voluntary relocation, 13 people expressed interest. For managed relocation, 226 people were identified. GEAM plan on Section 1, August 2017, pages 14, 15, and 19.

<sup>105</sup> GEAM plan on Section 1, August 2017, page 29.

<sup>106</sup> GEAM plan on Section 1, August 2017, page 17.

<sup>107</sup> GEAM plan on Section 1, August 2017, page 30

<sup>108</sup> GEAM plan on Section 1, August 2017, page 34

<sup>109</sup> GEAM plan on Section 1, August 2017, page 42.

<sup>110</sup> GEAM plan on Section 1, August 2017, pages 34-36.

- well-trafficked streets that allows vehicles to enter and exit; prepare draft projects; apply for municipal permits; construct market buildings; hold meetings to agree on locations and fees; set up buildings; and relocate vendors.<sup>111</sup> According to the plan, “the relocations must take place before the startup of works for the Metrobus in the area, to be able to free up the sidewalks of Pettirossi street for the applicable works.”<sup>112</sup>
- 2.62 The objective of the job retraining program for new jobs created by the Metrobus is to “develop and establish occupational counseling services to provide job retraining for 130 informal workers who occupy public spaces in Section 1.”<sup>113</sup> The plan identifies potential beneficiaries by age and gender, but acknowledges that it is still necessary to identify training needs, preferences, and skills, and to develop partnerships to provide the training.<sup>114</sup> A survey will be conducted later on to identify interest in this program.<sup>115</sup>
- 2.63 Regarding communication, the plan is intended to make the program’s proposals transparent in order to “mitigate fear and resistance” and “seek ways for public sector projects to regain credibility with the public.” Therefore, communication about the program is intended to begin “before the works start on the street” and to provide clear information about security protocols during the works and the advantages of the BRT system and a city with “pedestrian-friendly public spaces.”<sup>116</sup>
- 2.64 In terms of disseminating the plan, there were conversations with various groups of merchants. On 20 June and 13 October 2016, the measures were presented and discussed with vendors from Mercado 4 on Pettirossi street. However, the plan acknowledges that “both times, there was little participation from the licensed vendors.”<sup>117</sup> Meetings with medicinal herb sellers were held on 7 and 28 October 2016 and on 10 February 2017 to discuss the proposal to set up a “walk of medicinal beverages.” However, the plan indicates that “despite the proposal presented and many discussions, there was no agreement and the layouts for the proposal were given to the association for their analysis and consideration.”<sup>118</sup>
- 2.65 Separately, in August 2017, consulting firm Fundación Emprender prepared a draft report on the diagnostic assessment and analysis of potential negative and positive impacts on street-front businesses for Section 1.<sup>119</sup> That study followed the same methodology used by CAPYME to analyze the situation of street-front businesses in Sections 2 and 3 and determine their degree of vulnerability. According to the report, works were expected to begin in late 2017.<sup>120</sup> As of the date this report was

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<sup>111</sup> GEAM plan on Section 1, August 2017, page 43.

<sup>112</sup> GEAM plan on Section 1, August 2017, page 43.

<sup>113</sup> GEAM plan on Section 1, August 2017, page 27.

<sup>114</sup> GEAM plan on Section 1, August 2017, page 28.

<sup>115</sup> GEAM plan on Section 1, August 2017, pages 23 and 24.

<sup>116</sup> GEAM plan on Section 1, August 2017, pages 13 and 19.

<sup>117</sup> GEAM plan on Section 1, August 2017, page 20.

<sup>118</sup> GEAM plan on Section 1, August 2017, page 20.

<sup>119</sup> Emprender report on Section 1, page 3.

<sup>120</sup> Emprender report on Section 1, pages 4 and 6.

- prepared, works for Section 1 had not started and SEAM had not yet issued the environmental license for that section.
- 2.66 The analysis in the report is divided into Subsections 1.1, 1.2, and Mercado 4 (which is part of Subsection 1.2), identifying a total of 822 “economic and social units” in the Section: 510 in Subsection 1.1, 136 in Subsection 1.2, and 176 in Mercado 4. Of these, 397 are micro, small, and medium-sized enterprises and 44 are micro, small, and medium-sized enterprises within residences.<sup>121</sup> Of the 441 businesses to be surveyed, 342 (77.6%) completed the survey. The businesses that did not answer were considered as not vulnerable because they “do not show visible degrees of vulnerability.”<sup>122</sup>
- 2.67 The report used the same vulnerability criteria as the CAPYME diagnostic assessment. In addition, it mentions that it will pay special attention to: companies whose owners and/or families live in the same premises; companies whose owners and/or main employees are seniors or women heads of household, particularly pregnant women; companies and/or households with minors and/or people with disabilities,<sup>123</sup> without providing more information about this. Like CAPYME, Emprender excluded from its analysis mitigation measures for large companies, because it determined that they will probably not face significant impacts.<sup>124</sup>
- 2.68 In terms of duration of the works, the report mentions that there is potential to change the vulnerability classifications if “the timeline for the works increases.”<sup>125</sup>
- 2.69 With this methodology, the Emprender report identified 14 businesses in Subsection 1.1 and 5 businesses in Subsection 1.2 that may require mitigation measures and that will be “analyzed and proposed in the following report to be submitted.” Lastly, the report found that there are six businesses with low or no compatibility with the program’s operation.<sup>126</sup>
- 2.70 The census included a department store and its three parking areas and a hardware store that belongs to another of the Requesters.<sup>127</sup> The department store is identified as a large company, and its merchandise loading/unloading takes place on Herrera street. The hardware store is a medium-size business and a residence, which uses public space for products on the sidewalk and roof.
- 2.71 In addition to the studies mentioned above, the MOPC retained consulting firm IVICSA to conduct a preliminary environmental impact assessment (pEIA) for Section 1, which includes an update of the 2015 pEIA for Sections 2 and 3 (paragraphs 2.35-2.42 above), to comply with Paraguay’s environmental legislation.<sup>128</sup> Management reported that this was submitted to SEAM on 25 August 2017. A final decision from that department, which is a necessary condition for the

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<sup>121</sup> Emprender report on Section 1, page 12.

<sup>122</sup> Emprender report on Section 1, page 14.

<sup>123</sup> Emprender report on Section 1, page 18.

<sup>124</sup> Emprender report on Section 1, pages 8-10.

<sup>125</sup> Emprender report on Section 1, page 24.

<sup>126</sup> Emprender report on Section 1, page 25.

<sup>127</sup> Emprender report on Section 1, Annex 2, page 1.

<sup>128</sup> 2017 pEIA, pages 14 and 15.

- startup of works for Section 1, was still pending when this MICI investigation was completed.<sup>129</sup>
- 2.72 The objectives of the study were to identify the potential positive and negative impacts of the BRT and its implementation, and to establish the measures and programs necessary to reduce, mitigate, or compensate for the adverse impacts so that the construction and operation are environmentally sustainable as well as sustainable over time. It also sets forth the following specific objectives: (i) obtain the Environmental Impact Declaration or environmental license; (ii) describe the areas of direct and indirect influence for the socioenvironmental study; (iii) identify and connect the environmental and social impacts and aspects related to construction-stage activities for every technical-economic alternative analyzed; (iv) evaluate and rank significant socioenvironmental impacts, to analyze and recommend applicable mitigation measures for the various stages taken into account; and (v) prepare an environmental and social management plan (ESMP) to lessen the negative impacts identified and develop monitoring plans.<sup>130</sup>
- 2.73 The socioeconomic diagnostic assessment of the pEIA summarizes the data from the studies conducted by CAPYME, GEAM, and Fundación Emprender.<sup>131</sup>
- 2.74 The document identifies potential socioenvironmental impacts of the program for all of Section 1. For Sections 2 and 3, it only identifies those impacts that resulted in program modifications for those sections.<sup>132</sup> In general, it said that the “conceptual design for the corridor ... entails a commercial stimulus for its surroundings and serves as a driver of economic development ... .” Given these advantages, the intent is to minimize the drawbacks that will result from: changes in users’ habits; inconvenience during construction; businesses needing to adapt after initially losing their work location; and the impacts on economic activities that are based on the current transportation system.”<sup>133</sup> The works will also have potential “negative socioenvironmental impacts during the construction stage,” but will not endanger the social environment “as long as the programs and measures included in the Environmental General Technical Specifications and developed as part of the specific ESMP are implemented.”<sup>134</sup> Table 7 includes some of the impacts identified for both sections during the construction and operation stages.

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<sup>129</sup> Information provided by Management on 15 December 2017.

<sup>130</sup> 2017 pEIA, page 21.

<sup>131</sup> 2017 pEIA, pages 108-136.

<sup>132</sup> The modifications to the program for these sections are: (i) design and construction of a turnaround system for the BRT corridor; (ii) design and construction of a transfer station in San Lorenzo; (iii) modification of the planned path of the storm drainage system; and (iv) structuring of the single utility tunnel for Sections 2 and 3. 2017 pEIA, page 213.

<sup>133</sup> 2017 pEIA, page 219.

<sup>134</sup> 2017 pEIA, page 229.

**Table 7.**  
**List of some impacts anticipated in the pEIA**

Construction stage		
Impacts anticipated	Section 1 <sup>135</sup>	Sections 2 and 3 <sup>136</sup>
Impacts on street vendors, occupants, or street-front business owners, mainly in Mercado 4.	•	•
Impacts on businesses.	•	•
Conflicts due to misleading information that may be caused by the program, among street-front business owners and users of the section.	•	
False expectations and speculation regarding construction.	•	
Inconvenience due to temporary suspension of residential utilities.	•	•
Impacts on parking.	•	•
Inconvenience due to detours, particularly if implemented without prior notification.	•	•
Potential damage to property and premises, both public and private.	•	
Impact on the stability and appearance of structures, particularly for buildings considered historic landmarks.	•	
Inconvenience for street-front business owners, pedestrians, and users of streets due to the total and/or partial obstruction of the section or public space.	•	
Inconvenience due to the lack of information on the existence of areas to address complaints or offices for community guidance and citizen services, to receive concerns and suggestions about the works.	•	
General inconvenience because of the impacts of works execution.	•	•
Rejection of the program by communities in the area of direct influence, because their concerns are not taken into account, or in job creation.	•	
Conflicts in the community due to the lack of precise information.	•	
Situations or expressions of dissatisfaction from formal and informal businesses due to impact on economic activities, during and after the works.	•	•
Importance of private or individual interests over public or collective interests.	•	
Operation stage		
Impacts on traffic flow due to turning limitations and elimination of crossroads.	•	
Streets that cannot be used by private vehicles.	•	
Modification or elimination of travel routes for the current public transportation system.	•	
Decrease in the number of jobs in the mass transportation system.	•	

Source: MICI based on information from the pEIA.

2.75 For Subsection 1.1, the assessment indicates that measures should be implemented to manage these impacts. Therefore, as part of the

<sup>135</sup> 2017 pEIA, page 235.

<sup>136</sup> 2017 pEIA, page 246.

- socioenvironmental management plan (PMSA), which is a component of the ESMP, there is a social management plan for the startup and construction stages of the works.<sup>137</sup> For Sections 2 and 3, the assessment states that measures to manage these impacts should be implemented, under the PMSA developed as part of the 2015 pEIA.<sup>138</sup> In addition to the impacts mentioned, the assessment also refers to impacts of infrastructure changes due to detours and fences in Subsection 1.1, highlighting traffic interruptions that will alter the flow of vehicles; impacts on pedestrian flows; and inconvenience to the community and businesses. To minimize these, as part of the PMSA, a traffic signal and management program was developed.<sup>139</sup>
- 2.76 The pEIA includes a ranking of impacts identified as negative impacts of high significance for **Section 1** during the works stage, such as impacts on historic landmarks or archaeological remains; expropriations in station and turnaround areas; and displacement of “informal businesses mainly in Mercado 4.” In addition, impacts of medium significance were expectations and uncertainty among the population regarding program impacts; impacts on “formal businesses due to closures or the execution of the works”; impacts on traffic and modes of transportation; and impacts on lifestyle and comfort. During the operation stage, the only negative impact mentioned is the high potential of a “decrease in the number of jobs” in Subsection 1.1.<sup>140</sup>
- 2.77 Regarding **Sections 2 and 3**, negative impacts of high significance were the displacement of “informal businesses located on the corridor” and impacts on private parking lots located on the corridor. Of medium significance were expectations and uncertainty among the population regarding program impacts; impacts on “formal businesses due to closures or the execution of the works at the applicable street-front”; impacts on traffic and modes of transportation; and impacts on lifestyle and comfort.<sup>141</sup>
- 2.78 The pEIA lists as part of the ESMP more than 10 plans or programs to be implemented, including: a socioenvironmental management plan (PMSA) for the construction stage; a consulting assignment to update property tax and boundary studies; a social management plan; an expansion of the ESMP with the program modifications for Sections 2 and 3; a social management plan for Sections 2 and 3; a social, community, and environmental education plan; and monitoring plans that include a compliance auditing program for the ESMP for the BRT system and an implementation monitoring program for the ESMP for Subsection 1.1.
- 2.79 Regarding the social management plan for Subsection 1.1, the document indicates that the considerations included in existing plans should be taken into account when preparing this plan.<sup>142</sup> The scope of the consulting assignment for the social management plan for Subsection 1.1 includes in general the preparation of the following plans, some of which have already started: structuring mitigation plans for

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<sup>137</sup> 2017 pEIA, pages 234 and 235.

<sup>138</sup> 2017 pEIA, page 247.

<sup>139</sup> 2017 pEIA, page 241.

<sup>140</sup> 2017 pEIA, pages 259 and 260.

<sup>141</sup> 2017 pEIA, page 262.

<sup>142</sup> 2017 pEIA, page 280.

- impacts on formal businesses (social management plan for formal businesses and residences);<sup>143</sup> structuring mitigation plans for impacts on occupants of public spaces (social management plan for occupants of public spaces); and designing a solution for the relocation of fixed stalls on Pettirossi, República Francesa, and Mayor Fleitas streets.<sup>144</sup>
- 2.80 The pEIA also includes monitoring plans for the ESMP. It indicates that meeting the ESMP, according to the proposed programs and subprograms, will ensure that there are no social or environmental conflicts. This will also ensure the sustainability of environmental and social accomplishments during program construction and operation. The objectives of the monitoring program are: to supervise the implementation of the ESMP, ensuring that the proposed programs and subprograms are fulfilled; and to involve local actors in the process of monitoring the ESMP.<sup>145</sup>
- 2.81 The 2017 pEIA includes a socioenvironmental management plan (PMSA) to be implemented by the contractor when they conduct the activities defined in the program for Subsection 1.1.<sup>146</sup>
- 2.82 Measures aimed at the prevention, control, mitigation, protection, recovery, or compensation of impacts resulting from program activities are presented in a number of components and programs that make up the PMSA. In total, there is information on seven components, which cover at least 25 programs. For each of these programs, the PMSA included the following information: rationale, objectives, activities and impacts to be mitigated, management measures, supplementary measures, implementation period, responsibilities, and monitoring.<sup>147</sup>

**d. Determination of compliance with Directive B.5**

- 2.83 Based on the evidence collected during the investigation, below is an analysis of the environmental assessments and management plans in light of the requirements of Operational Policy OP-703, and of whether the Bank verified compliance with these standards for Directive B.5. The analysis focuses on the aspects connected to the assessment of socioeconomic impacts on the population of street-front businesses and vendors in public spaces, because that is a central theme of the Request submitted to the MICI.
- (i) *Environmental assessment when the program was approved*
- 2.84 Directive B.5 establishes the Bank's obligation to require that the borrower complies with specified standards to conduct studies that include environmental impact assessments, environmental analyses, and environmental and social management plans. Specifications for the type of environmental assessments required for each type of operation are set forth in Directive B.3. According to that directive, category B operations—"those likely to cause mostly local and short-term negative environmental and associated social impacts and for which effective

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<sup>143</sup> This consulting assignment was already awarded and is being executed by Fundación Emprender.

<sup>144</sup> 2017 pEIA, page 297.

<sup>145</sup> 2017 pEIA, page 324.

<sup>146</sup> PMSA, page 338.

<sup>147</sup> PMSA, pages 330-336.

- mitigation measures are readily available”—will “normally require an environmental and/or social analysis, according to and focusing on, the specific issues identified in the screening process, and an environmental and social management plan (ESMP).”
- 2.85 The environmental analyses should include “an evaluation of the potential environmental, social, health, and safety impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts. The ESMP must include: a presentation of the key impacts and risks of the proposed operation; the design of the proposed social/environmental measures to avoid, minimize, compensate and/or mitigate the key impacts and risks; the institutional responsibilities to implement these measures; the schedule and budget allocated for the implementation and management of such measures; the consultation or participation program agreed for the operation; and the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities and costs. The ESMP should be ready for, and reviewed during, the analysis/due diligence mission.” The results of the environmental assessment process, particularly the conclusions and recommendations of the ESMP, are presented by the project team in an environmental and social management report (ESMR).<sup>148</sup>
- 2.86 Pursuant to the requirements mentioned above, in this case, during the program identification stage, it was established that there would be a detailed assessment of the socioenvironmental impacts related to the works. This would include baseline assessments to quantify the people, premises, and buildings affected, as well as evaluations of the conditions of the existing social environment and the impacts of the works; and the definition of mitigation measures to be reflected in a socioenvironmental management plan for the works. If necessary, a resettlement plan would also be prepared.<sup>149</sup> This document also indicated that in 2010, a report with a socioenvironmental analysis for the program and its corresponding ESMP would be available.<sup>150</sup>
- 2.87 In this case, the program was approved based on an environmental assessment that asserted, broadly speaking, that the program would not cause significant environmental impacts, since its components corresponded to works to mitigate existing socioenvironmental liabilities. Regarding this evaluation, which was included in the preliminary environmental assessment document prepared to request the environmental license and in the ESMR, the MICI found, first, that the process was undertaken without having a prior baseline of the parties affected by the Metrobus program. In this regard, the environmental assessment conducted lacks data on the type of population existing in the area of influence of the BRT.
- 2.88 The characteristics of the affected population have an effect on the identification of both the types of potential impacts and the features of the appropriate control, mitigation, and/or compensation measures for every party affected. Based on the information analyzed, during this stage of the program there was only reference to

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<sup>148</sup> Operational Policy OP-703, guidelines for Directive B.5, environmental and social management report.

<sup>149</sup> Program profile, page 5, and Annex III, page 1.

<sup>150</sup> Program profile, Annex IV, page 1.

- street vendors or informal business owners, except for mentioning potential economic harm for street-front business owners due to street closures. However, there was no larger analysis or a preliminary description of the population to be potentially impacted by this program component.
- 2.89 Second, both the preliminary environmental assessment and the ESMR mention some types of socioeconomic impacts. They acknowledge that the construction stage will have several effects, including impacts on merchants, mainly small businesses and street vendors that would need to be relocated, and street-front businesses that might suffer economic harm due to street closures during the works. In addition, several businesses that occupy public spaces will be impacted by the program's operation. However, there are no plans for mitigation measures to address these impacts that were identified. There are plans to conduct environmental studies later on as part of national legal requirements. The documents only indicate the structure to follow for future impact management plans. Specifically, the ESMR indicates, for mitigation of indirect impacts, that an EIA would be prepared for each of the program's components. These assessments would identify the potential impacts of the construction and operation, as well as the applicable mitigation measures, which will be part of the environmental management plan *Plan de Gestión Ambiental* (PGA) that will be included in the environmental management plans *Planes de Manejo Ambiental* (PMAs). For direct impacts, the ESMR includes the implementation of Environmental General Technical Specifications.
- 2.90 Directive B.5 clearly requires, during the environmental assessment stage for category B operations, to have an evaluation of the potential impacts and risks associated with the operation and an indication of the mitigation measures foreseen to control these risks and impacts. Environmental analyses for category B operations, for which the results are presented in the ESMR, will be complemented by a set of provisions to prevent, reduce, or compensate for the specific socioenvironmental and other impacts that are reported in the ESMP. The MICI found that, in this case, that did not take place.
- 2.91 Regarding the inclusion of impact mitigation measures, the MICI deems it relevant to refer to the plan to mitigate direct impacts by implementing Environmental General Technical Specifications that is included in the ESMR. The MICI would like to point out that these technical specifications<sup>151</sup> are documents that establish general environmental management guidelines for these types of projects in Paraguay, applicable to the feasibility, design, construction, and maintenance stages of road works. These technical specifications give special priority to control measures and guidelines applicable to the construction stage of road infrastructure. These guidelines include a series of mitigation and control measures for environmental impacts, as well as guidelines related to industrial safety and occupational health applicable to these types of works. However, they do not include guidelines to manage specific socioeconomic impacts, and only refer to certain social effects associated with migration caused by the construction of works.

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<sup>151</sup> Information obtained during an interview that the MICI had with SEAM.

- 2.92 In this regard, as verified during the analysis of the ESMR, as far as impact evaluation, particularly those impacts related to the socioeconomic component, direct negative impacts related to the construction and the operation stages were identified. The Environmental General Technical Specifications do not address these impacts, since they do not include social management guidelines.
- 2.93 The MICI's opinion is that the plans to conduct future EIAs to identify indirect impacts; the lack of specific mitigation measures for the impacts that were initially identified; and the plans to mitigate direct socioeconomic impacts through the Environmental General Technical Specifications themselves, do not comply with the environmental assessment requirements of Directive B.5.
- 2.94 Third, the MICI found that an environmental management plan for the program did not exist, as required under Directive B.5. On the contrary, the ESMR clearly indicated that ESMPs (or environmental management plans/*Planes de Manejo Ambiental*/PMAs) would be prepared afterwards. It only establishes general guidelines to be followed in future environmental management plans to be prepared once the EIA for every component is prepared, without having a clear timetable for their preparation.
- 2.95 In this regard, on the content of the ESMP, the implementation guidelines for Directive B.5 state: "Under justified circumstances, and because of the nature of certain type of operations, these operations may not have detailed operational activities fully defined. In these cases, the borrower will commit to a specific and reasonable timetable to present an updated ESMP." Beyond making reference to compliance with domestic environmental licensing processes, the public version of the ESMR does not establish a specific and reasonable timetable to present an ESMP. Separately, a later version of the ESMR from October 2010 does feature a timetable to comply with environmental licensing requirements, which includes the preparation of an EIA. However, it does not specify the timeline to complete a program ESMP for the BRT component. In any case, the simple reference to the future preparation of an ESMP, indicating only the structure and some guidelines that this plan should include in the future, would not comply with the requirement of having an ESMP for the program. Therefore, the MICI believes that there was a failure to comply with Directive B.5, since there was no ESMP when the program was approved, and that plan was left to be prepared afterwards within the framework of future EIAs for program components.
- 2.96 In addition to the aspects mentioned above, the MICI found that when the program was approved, detailed engineering designs had not been completed. That might have an effect on identifying the specific details of the impacts associated with the construction and operation of the BRT. However, there was a definition of the program's scope, making it possible to determine the types of potential impacts.
- 2.97 Therefore, during the initial stages of the program, it was confirmed that the BRT would be built in the San Lorenzo-downtown Asunción corridor along Avenida Eusebio Ayala and Ruta Mariscal Estigarribia. This included the construction of 17 kilometers of dedicated corridors and 100 kilometers of feeder roads; a relocation study and the formalization of informal businesses in the Asunción and

San Lorenzo markets; and solutions in the markets and for informal vendors.<sup>152</sup> This corridor, as has been mentioned, is a commercial corridor with formal businesses, occupants of public spaces, and merchants conducting informal business activities, some of whom are socioeconomically vulnerable. Even though it was pending confirmation in the final designs, the possibility for the Metrobus to pass through the Mercado 4 and San Lorenzo markets was initially foreseen. While the program has undergone some modifications and updates over time, the BRT corridor and its route have remained very similar since 2010.

- 2.98 In its comments on the preliminary compliance review report, Management said that it “acknowledges that although the analyses produced during the preparation stage identified potential risks and impacts on various affected groups, they did not properly identify some impacts on the street-front businesses in the corridor, because some project elements had not been defined during that stage.” To that point, the MICI found, based on all of the above, that during the environmental assessment stage, prior to program approval, the analysis of the potential socioeconomic impacts on the business population in the area of influence of the BRT was limited, and only focused on the subject of possible relocations and aspects related to the employment situation of bus drivers, without having complete baseline information on the affected parties. The existing corridor is a commercial zone with various types of businesses, and the construction of the BRT on that corridor will involve a substantial change to the practices associated with utilization of public spaces. Therefore, it was to be expected that the Bank would recognize impacts on businesses and require an analysis of the likelihood that some of these businesses would be unable to continue with their activities, due to the incompatibility between the uses of the new corridor and the dynamics of business activities. It should be highlighted that this operation, as described in the program document, involves the expansion and rehabilitation of urban roads, the procurement of premises, and in general, the readjustment of public space in that corridor, which implicitly involves changing the current uses of public spaces.
- 2.99 **The MICI believes that there was a failure to comply with Directive B.5, because an environmental assessment with baseline information about the potential affected parties was not prepared, with the specific potential risks and impacts of the BRT on the population in the area of influence; as a result, proper mitigation measures were not established. In addition, an ESMP had not been prepared when the program was approved.**
- (ii) *Environmental assessments after program approval*
- 2.100 Notwithstanding the above conclusions, the MICI wants to point out that between the program’s approval date in 2010 and the preparation of this report, various activities were conducted and numerous documents prepared, which are consistent with an environmental and social analysis process for the program. Those are analyzed below. Specifically, starting on that date, the following took

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<sup>152</sup> ESMR. In addition, the MICI reviewed the basic environmental questionnaire or preliminary environmental assessment datasheet, draft version, prepared in 2010, which indicated that the BRT component “will be developed in the San Lorenzo-downtown Asunción corridor along Avenida Eusebio Ayala, over an existing route, with plans for timely corrections, particularly in the market zones (Mercado 4 of Asunción and San Lorenzo), alternatives to be defined with the program, during the start of execution stage.”

- place: preparation of environmental and social studies and receipt of the first environmental license; completion of ratification process for the operation in Congress (an inactivity period of three years); modifications and updates to the program, with second and third stages of studies on social and environmental issues updated (since 2015); renewal of the environmental license pursuant to national legislation; award of the tenders for applicable sections (2 and 3); startup of works for Section 3 (2016); completion of procedures to obtain an environmental license for Section 1; and start of the tendering process for that section (2017).
- 2.101 The first highlights after program approval occurred in 2011: preparing the first socioenvironmental study (ESA) in connection with the Metrobus and obtaining the environmental license for the entire program. Despite these, the program did not make further progress because of the approval required from Congress, which did not occur until 2013. It was not until 2015 when the activities were restarted<sup>153</sup> and the ESA was updated by preparing a pEIA for the renewal of the environmental license, which only included Sections 2 and 3.
- 2.102 Based on the analysis of the stage prior to program approval, particularly since the ESMR anticipated the preparation of an EIA for every program component, the MICI believes that the 2011 ESA should have been prepared as an environmental assessment to be able to define both the specific impacts that the Metrobus might cause and the effective mitigation measures that were not included in the ESMR, as well as the ESMP required under Directive B.5.
- 2.103 Regarding the ESA, the MICI would like to highlight that, as with the ESMR, it only identifies informal businesses and stall-based vendors that are occupants of public spaces as the affected parties. Therefore, the socioenvironmental impacts anticipated only focus on these parties and are of a general nature. The study indicates that the displacement of this population is the biggest challenge in terms of social impact for the construction of the Metrobus, and plans the design of a preliminary resettlement plan and subsequently of a definitive plan, once the socioeconomic census is conducted. Impacts on formal businesses were left for the land use plans of municipios, as far as using public spaces. Regarding the management of socioeconomic impacts, while the study includes a list of general measures to reduce these, it also indicates that a plan to minimize the effects on informal occupants of public spaces and to create new opportunities through resettlement plans will be designed. The study also mentions a program of mitigation measures, which should focus on informal vendors, and anticipates the implementation of monitoring mechanisms.
- 2.104 In addition, given the time elapsed between that first study prepared in 2011 (ESA) and the start of execution in 2013, the ESA was updated in July 2015 by preparing a pEIA. SEAM required that assessment to renew the environmental license. The pEIA includes a diagnostic assessment of the population using baseline data from 2011, and recognizes that the census needed to be updated. Likewise, and despite mentioning meetings with formal business owners, who expressed their concerns about the negative impacts on their finances due to the loss of income

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<sup>153</sup> It is worth mentioning that under the PROPEF, during the period after program approval, various studies were conducted to make some progress while waiting for approval from Congress. Therefore, strictly speaking, the program was not completely at a standstill during those years.

- that the program might cause, the document does not identify impacts on that population group beyond the mention of a negative impact on businesses and services during construction. On the contrary, just as the ESA, this document focuses on the displacement of informal businesses. It also does not set forth impact mitigation measures. Instead, it proposes a structure for future environmental and social management plans, as happened with the ESMR and the ESA.
- 2.105 The MICI believes that, while the ESA and its update, the 2015 pEIA, represent progress in terms of the environmental assessment process, they are incomplete as far as compliance with the requirements of Directive B.5 on environmental assessments. Like the ESMR, these documents focus exclusively on the population of informal business owners occupying public spaces and lack a socioeconomic baseline for the entire area of influence of the Metrobus.<sup>154</sup> The information available about informal business owners is from 2011 and was not updated for the 2015 study. In addition, while both documents do include some mitigation measures, unlike the ESMR, they are proposals of a general nature. Neither document includes an ESMP as required in Directive B.5, and both documents only establish guidelines for future plans.
- 2.106 In this regard, the MICI found that the 2015 pEIA identifies the risks of delays, the affected population being uninformed, and the negative image of both the program and the executing agency. Therefore, the assessment recommends to prepare a social management plan and a communication and public consultation plan. The document highlights that the effectiveness of these plans or programs depends on their timely implementation, in accordance with pre-established schedules, therefore avoiding secondary impacts. However, the pEIA only contains one proposal to prepare these types of plans in the future and lacks clear schedules for their preparation and implementation during the various stages of the program.
- 2.107 **Therefore, the MICI believes that the environmental assessments performed after the Bank approved the program, as part of the domestic environmental licensing process, do not comply with Directive B.5, since they do not identify the entire population that might be affected and only analyze the impact on one specific group of potential affected parties for which the baseline information was not updated. These assessments also do not include an ESMP with: “a presentation of the key direct and indirect impacts and risks of the proposed operation; the design of the measures to avoid, minimize, compensate and/or mitigate these impacts and risks; the institutional responsibilities to implement these measures, including ... the schedule and budget allocated for the implementation and management of such measures; the consultation or participation program agreed for the operation; and the framework for the monitoring of impacts and risks throughout the execution of the operation.”**

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<sup>154</sup> It is important to mention that several documents mention the existence of formal businesses in the area of influence of the program. The conceptual design for the corridor mentions that 34% of the people contacted were formal business owners occupying public spaces; the diagnostic assessment of the situation of informal merchants to be affected by the Metrobus included the concerns of formal business owners about the program.

- 2.108 The MICI believes it is important to mention that these documents, as was planned in the ESMR, were prepared as part of the domestic processes for environmental licensing. Therefore, they were intended to comply with national legislation and obtain the environmental license. In this regard, the ESMR anticipates studies and actions to be completed prior to the execution of the program's projects, to ensure the environmental and social sustainability of these projects and comply with national environmental legislation and with the Bank's Relevant Operational Policies. The Bank stated that the program's socioenvironmental management would be based on the current environmental legal framework of SEAM, which it described as "very complete."
- 2.109 Within this framework, Directive B.5, through its guidelines, specifies that when preparing an operation requiring environmental assessments, project teams should review the country environmental assessment requirements as they apply to the specific operations, compare them with IDB requirements, and address the gaps, if any, consistent with Operational Policy OP-703. In this regard, it is important to highlight that for compliance with OP-703, it is not enough for project teams to refer to full compliance with country environmental legislation (which is regulated by Directive B.2). They must ensure that those domestic systems are in accordance with the specific requirements of the Bank's Relevant Operational Policies, which in some cases may have additional requirements to those of the country's legislation. Therefore, Directive B.5 requires project teams to comply with the Bank's standards on environmental assessments, without reducing the specific obligation to also comply with the country's environmental legislation, which is what the MICI understands happened in this case.
- (iii) *Compliance analysis for specific sections*
- 2.110 After the ESA and the pEIA were prepared, since 2016, the MICI found that the various studies produced focused on the different sections into which the program was divided for execution. These documents were not just based on divisions by section (one set covered Sections 2 and 3 together; the other covered Section 1), but also by the type of affected population. Some studies only looked at informal businesses occupying public spaces; others focused on businesses occupying public spaces, both formal and informal; and still others only analyzed formal businesses/street-front business owners and families living in the areas. The MICI will not perform an exhaustive analysis of each study. It will focus its analysis on the three main aspects of Directive B.5 connected to this case. These include: evaluation of the key impacts and risks; indication of mitigation measures; and preparation of an ESMP. In addition, given the division into sections and type of affected parties, the MICI focused its analysis mainly on the issue of formal or street-front business owners in Sections 2 and 3 and of formal and informal business owners in Section 1, based on the type of Requesters who submitted a claim to the MICI.
- 2.111 Of the studies and analyses about the Metrobus component, there are a number of consulting assignments that feed into both the program's resettlement plans and the pEIA prepared for the environmental license renewal in 2017. These studies begin more detailed work than what had been accomplished until then as far as the program's socioenvironmental aspects. They focus on both analyzing the area of influence of the Metrobus and the population of the area, and take into

- consideration action proposals on this subject. Therefore, overall, the MICI found that the reports prepared by GEAM, CAPYME, and Emprender (paragraphs 2.42-2.70) are relevant documents with socioeconomic data, including classification and diagnostic assessment of specific groups of affected parties for each section and proposed options for mitigation measures, plans, and programs. Some include an analysis of certain types of socioeconomic impacts on groups of affected parties. While they describe options for mitigation measures, in some cases these are presented as simple proposals or suggestions, and in others as alternatives whose feasibility is subject to confirmation from external factors. In addition, the documents mentioned do not include environmental and social management plans to be implemented, but instead a plan or proposal of those that would be needed for the program.
- 2.112 Indeed, the information gathered for these consulting assignments served as input for resettlement plans and for the subsequent environmental assessment, the 2017 pEIA. The objective of that assessment was to identify the potential impacts of the Metrobus and establish measures and programs necessary to reduce, mitigate, or compensate for the harm caused by the program. This included the preparation of an ESMP. Therefore, it is the MICI's opinion that, while they represent important efforts in the socioenvironmental analysis of the Metrobus, these consulting assignments do not constitute socioenvironmental analyses or an ESMP pursuant to the requirements of Directive B.5. Although in its comments on the preliminary compliance review report, Management indicates that there is an ESMP for Sections 2 and 3, the MICI, based on its review of documents for these sections, did not identify any documents that would qualify as an ESMP in accordance with the requirements of Directive B.5.
- 2.113 The MICI believes it is important to highlight two aspects it identified in the documents mentioned. First, based on the documents about the various sections and the interviews conducted during the investigation, it was not until consulting firm GEAM established a baseline and prepared a diagnostic assessment in 2016 that it was determined that the majority of public space occupants in Sections 2 and 3 were formal businesses (numbering six times more than informal businesses), and that public spaces were mainly being occupied for parking for formal businesses (more than 70% of public space occupation). In other words, despite Management's assertion in its comments on the preliminary compliance review report that during the preparation stage, "[the analyses] did not properly identify some impacts on the street-front businesses in the corridor," the consulting firm GEAM reports that at that time, the only population affected by the construction and operation of the Metrobus was considered to be informal occupants of public spaces, not the street-front businesses. The MICI believes that the lack of a baseline study during the environmental assessment stage of the program had a bearing on this omission, and therefore that for six years after program approval, the evaluations of potential impacts only took into account the informal occupants of public spaces.
- 2.114 The document "Diagnostic assessment, impact identification, and mitigation measure proposal for Sections 2 and 3 of the Metrobus corridor," which evaluated formal businesses, was completed in May 2017. However, the tender was awarded in March 2016 and the works started during the last quarter of that year. Therefore, not only was the diagnostic assessment of the street-front businesses

- affected by the Metrobus in Sections 2 and 3 not prepared prior to the startup of works, but it began almost at the same time and was completed once the works in at least one of the subsections had started.<sup>155</sup> This is relevant mainly because it anticipates the future preparation of an implementation plan for mitigation measures when the works had already started.
- 2.115 The MICI would like to highlight that the requirement of Directive B.5 to have environmental assessments and applicable management plans at specific times is intended to allow for proper planning and implementation of mitigation measures. Preparing studies in parallel with construction, and for these studies not to include concrete plans on the measures to apply and their implementation, does not fulfill that objective.
- 2.116 In addition to the consulting assignments carried out in 2016 and 2017, in 2017 a pEIA was prepared, as an environmental and social assessment to request the environmental license for Section 1 and update the license for the modified aspects of Sections 2 and 3. Therefore, it contains a socioeconomic diagnostic of the program's area of direct influence based on the consulting assignments mentioned above, and identifies the program's socioenvironmental impacts during both the construction and operation stages.
- 2.117 For Subsection 1.1, the assessment mentions that measures should be implemented to manage socioeconomic impacts. For this, it includes a social management plan as part of the socioenvironmental management plan (PMSA).<sup>156</sup> In addition to identifying the impacts, the document ranks them. For Section 1, negative impacts of high significance are the displacements in Mercado 4, while those of medium significance are uncertainty among the population regarding program impacts and effects on formal businesses due to closures caused by the works. For Sections 2 and 3, negative impacts of high significance are the effects on parking along the corridor.
- 2.118 This pEIA, unlike the pEIA for Sections 2 and 3, also includes a proposed ESMP for the program, with plans and programs for impact mitigation, decrease, or compensation. Among these programs are a PMSA for the construction stage, a social management plan for Section 1, and monitoring plans. The document indicates that the ESMP—which includes a PMSA and a socioenvironmental action plan—and other contractual environmental specifications establish the various measures to be implemented and determine the responsibilities of the different entities.
- 2.119 In addition, the pEIA contains a PMSA document for Subsection 1.1 that includes more than 20 different plans and programs, with preventive and/or corrective actions for negative environmental impacts to be implemented by the contractor. Overall, for each plan, the PMSA includes objectives and rationale; subprograms and/or strategies; activities or impacts to be mitigated; management measures planned; implementation periods; execution responsibilities; and monitoring process, including indicators.

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<sup>155</sup> CAPYME report on Sections 2 and 3, page 4.

<sup>156</sup> 2017 pEIA, page 325.

- 2.120 The pEIA specifies that the party directly responsible for the structuring and implementation of the PMSA is the contractor through a socioenvironmental action plan.<sup>157</sup> Based on conversations that Panel members had with representatives of the contractor, the MICI determined that the contractor prepared the socioenvironmental action plan pursuant to the provisions of the Environmental General Technical Specifications and the environmental management plan included in the EIA. The MICI has not had access to the socioenvironmental action plan or any other document prepared by the contractor for any of the sections, and therefore will not refer to them.
- 2.121 **Based on the above, the MICI found that for Section 1, the program had an environmental assessment that identifies the impacts of the program during both the construction and operation stages. That assessment also contains a plan to manage those impacts, the PMSA, which includes a framework of plans and programs to be prepared and implemented by the contractor. Therefore, there was compliance with the requirements of Directive B.5.**
- 2.122 For Sections 2 and 3, the 2017 pEIA indicates that the impacts that will be generated in these sections continue to be those of the 2015 pEIA, except for the modifications included in the 2017 pEIA. Therefore, the prior conclusion of a failure to comply remains (paragraph 2.107 above), because of the lack of a complete environmental analysis and its respective ESMP. The existing environmental assessment was prepared for the renewal of the environmental license in 2015, only focuses on one group of affected parties, and does not contain specific mitigation measures. Subsequent consulting assignments did prepare socioeconomic diagnostic assessments of the area and propose certain mitigation measures. However, they do not analyze the specific socioeconomic impacts of the program on the population in these sections and the measures are only proposals and do not contain plans to manage them.

### **3. In relation to Directive B.6 of the Environment and Safeguards Compliance Policy on consultations with the affected parties**

#### **a. Requesters' allegations<sup>158</sup>**

- 2.123 The Requesters claimed that they were never consulted about the program and emphasized the uncertainty that this has caused them. They stated that they have not had access to timely, complete, or final information on the program.
- 2.124 Some of the Requesters claimed that they participated in meetings of a merely informative nature, pointing out that the meetings were "to find out about the project rather than to engage in consultation" and that "they did not let us ask anything, they did not answer our questions about what the project is going to be like." They also mentioned that the team conducted visits during which they "were given a trifold or brochure and made to sign a sheet verifying that they had been visited."

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<sup>157</sup> PMSA, page 341.

<sup>158</sup> Information in this section was taken from the Request and the video testimonials presented by the Requesters, from the Eligibility Memorandum of 5 August 2016, and from the interviews conducted as part of the compliance review process both during the mission to Asunción and in subsequent telephone conversations.

- 2.125 In addition, they mentioned that the information provided was incomplete and insufficient. Regarding this, one of the Requesters stated that the first meeting about the Metrobus was in November 2015, but that the information provided there was insufficient: "There was no information about where the project would be and what it would be like." She added: "They just showed a photograph of the bus but not of the sections." Likewise, while some Requesters acknowledged that they received a certain amount of information on the benefits of the program, they believed that they had not been informed of the negative impacts of Metrobus construction and operation or the planned mitigation measures.
- 2.126 Other Requesters mentioned that the information they received about the program was not definitive or timely. They reported that a census with leaflets only began on Monday, 11 July 2016, "a very inopportune time" in their opinion, since "the MOPC says that the construction work will begin at the end of the month, and they just now informed the business owners." In addition, they pointed out that in some cases, the social team did not have complete information about the program and that sometimes they made commitments they were unable to meet. In addition to this, there were specific allegations regarding not knowing about the existence of environmental and social impact studies.
- 2.127 Lastly, the licensed vendors located in the Mercado 4 area said that they were told that they will have to vacate the area to make room for the Metrobus, but did not receive information about relocation alternatives and/or compensation. They mentioned that they have no information about what is going to happen to them, and that the information they did receive is contradictory. One Requester stated that she initially found out about the program from the press in 2011, and that only after they submitted their Request to the MICI, were they contacted by program representatives to participate in meetings. The Requesters believe that the way things were done has created mistrust, and they perceive that the program is being carried out in an improvised manner and that they are being given incomplete or conflicting information. They believe that before the program was approved, someone should have worked with them.

**b. What does Directive B.6 establish?**

- 2.128 Directive B.6 of Operational Policy OP-703 establishes that:

As part of the environmental assessment process, category A and B operations will require consultations with affected parties and consideration of their views. Consultations with other interested parties may also be undertaken in order to consider a broader range of expertise and perspectives. ... For category B operations, affected parties must be consulted at least once, preferably during the preparation or review of the ESMP, as agreed with the borrower. For consultation purposes, appropriate information will be provided in location(s), format(s), and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion, and to comment on the proposed course of action. EIAs and/or other relevant environmental analyses will be made available to the public consistent with the Bank's Disclosure of Information Policy (OP-102). During execution, affected parties should be kept informed of those project-related

environmental and associated social mitigation measures affecting them, as defined in the ESMP.

**c. The MICI's findings in relation to compliance with Directive B.6**

*(i) Program preparation and approval stage (2009–2010)*

- 2.129 The MICI found that during the program's preparation stage, a consultation plan was expected to be prepared to identify the various groups interested in participating in consultations regarding program components, to conduct consultations with affected parties, and to consider their points of view.<sup>159</sup>
- 2.130 Regarding this, the ESMR indicates that an environmental management plan *Plan de Manejo Ambiental* (PMA) will be prepared with a social management component for the construction stage, including an outreach program (information and dissemination) and a citizen participation and consultation program.<sup>160</sup> The outreach program is intended to "establish an effective communication system between the community, the contractor for the works, and the MOPC, to disseminate information of general interest." The second program is intended to "enable the inclusion of various social actors to provide them knowledge and achieve social acceptance, in order to facilitate the receipt of timely information on aspects that are necessary to advance the process, as well as to bring about a sense of ownership of the works."<sup>161</sup>
- 2.131 During the Compliance Review mission, the project team explained to the MICI that the community was not approached during the program's preparation stage, since the final designs for the route were not available and it was impossible to define the target population for the consultation in 2009 and 2010.

*(ii) Postapproval and implementation stages (2011–2017)*

- 2.132 In reviewing program documents, the MICI found information indicating that there had been a number of meetings after its approval by the Board of Executive Directors, specifically from 2011 to date.
- 2.133 Regarding the meetings held in 2011, the socioenvironmental study (ESA) indicates that a public participation strategy was implemented in the municipios of Fernando de la Mora, San Lorenzo, and Asunción. This included meetings that were "informational and consultative, one in every municipio, with representative groups, people who might be affected by the program, and other people interested in the program, to hear the concerns of interest groups and include them, if possible, in the development of the program." The meetings took place on 18 and 24 October 2011.<sup>162</sup>
- 2.134 The ESA summarizes in general the subjects mentioned by the attendees of those meetings. There were questions regarding "the social aspect of the program, mainly with regards to relocation programs, employment alternatives, or compensation for those affected by the program," the selection of the route for the

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<sup>159</sup> [REDACTED] safeguard policy filter report, 3 February 2010, page 1.

<sup>160</sup> ESMR, pages 49 and 51.

<sup>161</sup> ESMR, page 51.

<sup>162</sup> ESA, page 28.

- BRT system, and the “system from the technical point of view, its operation, [and] the services that would be offered, price of fares, and infrastructure.”<sup>163</sup> Attendees also asked questions about the vendors located on Silvio Pettrossi street and in Mercado 4. Regarding this, the ESA indicates that at that time, the programs for vendor relocation were explained to the participants. Also, that “there would not be a single solution for everyone, but that at the appropriate time, every person affected and included in the census would receive a visit, so that they could select one of the options proposed in the program, which could be relocation, job opportunity, compensation.” With respect to the program route, attendees were told that it is “the most technically feasible and that ... leads to the flow of pedestrians on the sidewalks where the BRT system travels attracting a larger crowd of people and benefiting businesses.” In addition, the document mentions that during those meetings, the financial model of the program was explained.
- 2.135 Likewise, Annex 6.C of the ESA includes the PowerPoint presentations that were shown to the general public to explain the program’s technical, environmental, and social aspects.<sup>164</sup> The three presentations include general information and aspects such as the regulations and the process to obtain an environmental license; the positive impacts from the implementation of the BRT system;<sup>165</sup> an example of the detour plan for the construction stage and the members of the monitoring committee;<sup>166</sup> an overview of the characteristics of BRT systems and their advantages,<sup>167</sup> as well as the operational system of the Pya’e porã system<sup>168</sup> and its physical components;<sup>169</sup> the types of occupation of public spaces and a summary of some relevant rules and regulations for the program’s social aspect; and general guidelines for a future resettlement plan and what would be considered as mitigation measures.<sup>170</sup>
- 2.136 The ESA includes photographs of these meetings but does not provide more information about the people who attended. It also mentions the need to have future consultations with the affected parties for various stages of the program, because when the ESA was prepared the affected parties had not been accurately identified.<sup>171</sup>
- 2.137 The 2015 pEIA added that in 2011, the social department of the MOPC held the following meetings and workshops: (i) meetings with informal business owners in San Lorenzo; (ii) meeting with the San Lorenzo Municipal Council; (iii) meeting with the mayor of San Lorenzo and the association for informal vendors; (iv) outreach meetings and handing out flyers at the campus of the Universidad Nacional de Asunción and at private universities; (v) meetings in Mercado 4; and (vi) handing

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<sup>163</sup> ESA, pages 29 and 30.

<sup>164</sup> ESA, Annex 6.C.

<sup>165</sup> Specifically, they mention the reduction of emissions and improvements in traffic. ESA, Annex 6.C.

<sup>166</sup> ESA, Annex 6.C.

<sup>167</sup> These advantages include fast entry and exit, optimization of urban spaces, and dedicated lanes that allow for high speeds, benefitting passengers.

<sup>168</sup> Bus rapid transit system, meaning “Very fast system.”

<sup>169</sup> ESA, Annex 6.C, page 19.

<sup>170</sup> ESA, Annex 6.C, page 10.

<sup>171</sup> ESA, page 26.

- out flyers to the general public in front of the main points along the corridor.<sup>172</sup> The assessment did not include more details about these activities.
- 2.138 The MICI also had access to the document “Consulting assignment for the diagnostic assessment of the situation of informal merchants to be affected by the construction of the first BRT corridor in Asunción and Greater Asunción” from 2011. It mentions that 12 focus groups were created with community members, to obtain a profile for informal employees who work throughout the first corridor. The MICI would like to highlight that, while these sessions themselves were not intended as public consultations, as part of the discussions recorded in the document, meeting attendees expressed dissatisfaction due to the lack of information about the program and mistrust of the MOPC.<sup>173</sup>
- 2.139 The MICI did not have access to records showing that, from 2012 to 2014 there were meetings or consultations with the affected parties. On the contrary, in 2015, “new contacts were restarted with street-front business owners for the central corridor ... through site interviews, to inform them about the launch of the tendering process for the construction of the works, including all the infrastructure for the corridor, which includes necessary basic services to be upgraded, construction of new sidewalks and landscaped urban spaces, at no cost to the business owners.” The pEIA from that year states that the interviews were supplemented by handing out trifold brochures that include “all the information regarding the technical details of the works” (see Figures 4, 5, and 6). It also indicates that there were 1,028 visits to street-front business owners in the central corridor; 604 in Asunción, and 424 in Fernando de la Mora and San Lorenzo.<sup>174</sup>

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<sup>172</sup> 2015 pEIA, page 51.

<sup>173</sup> MCS Grupo Consultor, Consulting assignment for the diagnostic assessment of the situation of informal merchants to be affected by the construction of the first BRT corridor in Asunción and Greater Asunción, 14 November 2011, pages 3 and 37.

<sup>174</sup> 2015 pEIA, page 52.

Figures 5, 6, and 7. Trifold

**Beneficios del Sistema Metrobús para los frentistas:**

- Renovación de la red de distribución de agua, alcantarillado sanitario (cloacas), tendido eléctrico y de comunicación y alumbrado público.
- Carriles exclusivos para la utilización de los automóviles particulares, que mejoran la accesibilidad.
- Mejor ordenamiento del tránsito vehicular y peatonal.
- Redes pluviales a lo largo de todo el corredor.
- Mayor seguridad.
- Un moderno sistema de transporte para la satisfacción del pasajero.
- Un nuevo diseño paisajístico, con corredores verdes y obras de mejoramiento urbanístico, logrando mejoras en la calidad de vida de los usuarios de la vía pública y la valorización de las propiedades en el corredor y su área de influencia.



**GOBIERNO NACIONAL**  
CONSTITUCIÓN JUSTA DE NUEVA LEY

**Sistema de Buses de Tránsito Rápido (BTR) Metrobús Paraguay**

**MINISTERIO DE OBRAS PÚBLICAS Y COMUNICACIONES**

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Asunción, Paraguay -2015



**MINISTERIO DE OBRAS PÚBLICAS Y COMUNICACIONES**

# Sistema de Buses de Tránsito Rápido (BTR) Metrobús Paraguay

» Porque la movilidad en las ciudades es un derecho social, te invitamos a conocer el inicio de la transformación del Sistema de Transporte Público de Pasajeros, que comienza con el Metrobús o Sistema de Buses de Tránsito Rápido (BTR).

» Esperamos que te sientas informado/o respecto al proyecto y que participes junto a tus familiares, vecinos y compañeros de trabajo del proceso que inicia su marcha, para una mejor calidad de vida en las ciudades.

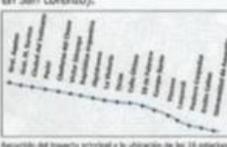
» En noviembre de este año comenzarán las primeras obras del Sistema de Buses de Tránsito Rápido (BTR) o Metrobús Paraguay. Entrará en funcionamiento en diciembre del 2017 y unirá los municipios de San Lorenzo, Fernando de la Mora y Asunción.

» El Metrobús es un sistema de transporte con capacidad de servir a una gran cantidad de pasajeros basado en buses



que circulan en un carril exclusivo, con estaciones establecidas y dos terminales, al inicio y final del recorrido. Los pasajeros son pagados antes de entrar al bus por medio de tarjetas electrónicas.

» El primer sistema paraguayo funcionará con 180 buses articulados y la vía tendrá una extensión de 18 km. El tramo principal recorre la Av. Essequio Ayala (desde la calle Gral. Aquino de Asunción) y su continuación que es la Ruta 2 o Mcal. Estigarribia (hasta la Universidad Nacional en San Lorenzo).



Recorrido del tramo principal y la ubicación de las 22 estaciones donde los pasajeros podrán hacer sus transbordos.

Esta vía contará también con carriles exclusivos para otros vehículos, lo que permitirá el reordenamiento del tránsito. Está previsto habilitar veredas peatonales en todo el corredor y sin costo para los frentistas.

Durante la construcción de la obra no está previsto el cierre de la vía principal, pero sí el desvío provisorio de parte del tránsito hacia calles alternativas acondicionadas previamente, observando un estricto control sobre la circulación vehicular y peatonal. Asimismo, se garantizará el acceso a las viviendas, comercios e instituciones.





Source: 2015 pEIA.

- 2.140 In addition to these meetings, the MICI found that the pEIA mentions a meeting held on 1 July 2015, during which MOPC representatives gave a presentation about the program and the route alternatives in San Lorenzo to members of its Municipal Council and neighbors of 10 de Agosto street. The document adds that “other participation channels that the MOPC used include presentations and publications about the program via mass media, such as radio, print, and television, to publicize all the details of the program and gather existing concerns or questions, both among the population that directly benefits from the BRT program and the authorities of institutions involved.”<sup>175</sup>
- 2.141 Regarding the contents of the meetings, the MICI has not had access to minutes that describe the discussions held. However, it had access to two PowerPoint presentations from March 2016 and March 2017, called “Metrobus to serve the people, second round of meetings with street-front business owners of Avenida Eusebio Ayala – Ruta Mariscal Estigarribia” and “Program: Urban Redevelopment and Metrobus.” These contain general information about the program’s characteristics; procedures for expropriations and compensation; work procedures for construction by section and subsection, and planned detours; information on measures related to parking and the development of two social plans for formal business owners and occupants of public spaces; data from the census of various types of occupants; actions to be implemented for “beneficiaries in street

<sup>175</sup> 2015 pEIA, page 56.

- situations”;<sup>176</sup> planned schedule for the works at that time; use of public spaces and status of surveying work to post signs and appraise properties.<sup>177</sup>
- 2.142 With respect to activities for Subsection 1.1, the 2017 pEIA indicates that the first round of visits to street-front business owners located in that subsection was conducted to provide information about the program and prepare a census. There was also a second round of visits to micro, small, and medium-sized enterprises to obtain qualitative information.<sup>178</sup> About Mercado 4, it specifies that there were meetings for “informational purposes and joint development” with medicinal herb sellers and licensed vendors. During these meetings, participants discussed steps to follow to implement measures related to the “presentation and participatory design for relocation, delivery of information regarding the purchase of premises, and aspects to be considered for the move.”<sup>179</sup>
- 2.143 Separately, the MICI received and analyzed a large amount of information provided by Management about a number of additional activities conducted between 2011 and 2017. Management organized that information in two documents called “Timeline of environmental and social events” and “Document 2. Information for the population.”<sup>180</sup> It also provided photographs and attendance rosters for some of these activities.<sup>181</sup>
- 2.144 Broadly speaking, Management refers to the meetings that are mentioned in the ESA and both pEIAs, which were described above. It also went into greater detail about other types of activities conducted starting in 2012. In the documents provided, Management lists a number of “informational and consultation meetings” with various groups of affected parties located along the corridor. These were in the format of participatory workshops, hearings and/or meetings, site visits, and roundtables with street-front business owners. Regarding this, Management indicates that starting in 2015, visits were conducted throughout the central corridor, specifically in Sections 2 and 3, “with the objective of handing out informational trifold brochures on the Metrobus program to owners, responsible staff, renters of each of the street-front properties and/or premises in the corridor, in addition to the verbal information provided to every person.”<sup>182</sup> In addition, Management reports about “informational and consultation meetings” with owners and employees of fixed stalls, including vendors in the three municipios, as well as

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<sup>176</sup> PowerPoint presentation, Metrobus to serve the people, second round of meetings with street-front business owners of Avenida Eusebio Ayala – Ruta Mariscal Estigarribia, March 2016.

<sup>177</sup> PowerPoint presentation, Program: Urban Redevelopment and Metrobus, March 2017.

<sup>178</sup> It indicates that in addition to gathering information on the economic and social units in the area, the people who visited the businesses “answered questions and handed out two informational materials: one for the urban redevelopment program and Metrobus, and the other with the objectives of the data collection commissioned from the consulting firm.” 2017 pEIA, page 163.

<sup>179</sup> 2017 pEIA, page 164.

<sup>180</sup> Documents available in the links section of this document.

<sup>181</sup> Management provided a number of receipt forms, attendance rosters, and photographs as annexes to the main documents that include information on activities with the population.

<sup>182</sup> Document 2. Information for the population (document prepared by Management, undated), page 3.

licensed vendors, street-front business owners, and medicinal herb sellers in Mercado 4.<sup>183</sup>

- 2.145 Separately, under the heading “other actions undertaken,” Management indicates that the social team of the PEU disseminated program information among professors and students of educational institutions located in Subsection 3.3. On 7 November 2016, this team held a “handout of flyers in the Universidad Nacional de Asunción.”<sup>184</sup> In addition, Management provides information about visits conducted by CAPYME to street-front businesses in June, July, August, and September 2016. However, the MICI would like to point out that these visits were conducted to prepare censuses and collect qualitative information that included demographic data and specific vulnerabilities. There were also visits to identify impacts for preconstruction agreements, property-registry purposes, and more.<sup>185</sup>
- 2.146 The MICI also found other relevant information on activities related to disseminating information about the program. It is worth mentioning the launch of the Information and Consultation Center (CIC) in October 2016. The center was established to receive questions, complaints, or claims from the affected parties. It operates in the area where works are taking place in the corridor and relocates to areas under construction as the work progresses.<sup>186</sup> The Panel visited the CIC in May 2017, during the Compliance Review mission.<sup>187</sup>
- 2.147 The CIC “has a mechanism to address complaints and claims, whose objective is to handle and respond quickly and appropriately to the consultations that may emerge during program construction.”<sup>188</sup> The center has a “Manual to address questions and claims,” which sets forth the parameters of the process to address the questions that emerge during the program.<sup>189</sup> Likewise, on 13 January 2017, the public was informed about the launch of an Information and Consultation Center in Mercado 4, so that “people who live or work in Mercado 4 can access in a timely manner all the information they need.”<sup>190</sup>
- 2.148 [REDACTED]

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<sup>183</sup> Document 2. Information for the population (document prepared by Management, undated); and Timeline of environmental and social events (document prepared by Management, undated).

<sup>184</sup> Document 2. Information for the population (document prepared by Management, undated), page 10.

<sup>185</sup> Document 2. Information for the population (document prepared by Management, undated), pages 8 and 9. See also CAPYME report on Sections 2 and 3, pages 6 and 7.

<sup>186</sup> <http://www.metrobus.gov.py/centro-de-informacion-y-consulta-1334/>.

<sup>187</sup> PowerPoint presentation: Social management of Metrobus component, May 2017. <http://www.metrobus.gov.py/habilitaron-un-centro-de-informacion-y-consulta-en-el-mercado-4-1369/>.

<sup>188</sup> <http://www.metrobus.gov.py/habilitaron-un-centro-de-informacion-y-consulta-en-el-mercado-4-1369/>.

<sup>189</sup> <http://www.metrobus.gov.py/uploads/Manual%20de%20Atencio%CC%81n%20a%20Consultas%20y%20Reclamos.pdf>.

<sup>190</sup> <http://www.metrobus.gov.py/habilitaron-un-centro-de-informacion-y-consulta-en-el-mercado-4-1369/> and 2017 pEIA, page 163.



- 2.149 Lastly, the MICI found mentions of the need to strengthen consultation and information activities in various program documents. These include the “Social management plan for occupants of public spaces from 2015.” It recommends to prepare a communication strategy, since “a majority of the fears expressed by the population studied are due to disinformation about the program, and therefore it is urgent and necessary to have a communication strategy that brings the program closer to the affected sector specifically.”<sup>192</sup> In addition, the 2015 pEIA mentions that due to several challenges that the program has faced, including its negative image among some social groups, it is recommended that a highly qualified team with sufficient experience in operations as complex as this prepare and implement a social management plan and a communication and public consultation plan.<sup>193</sup>
- 2.150 The CAPYME report of January 2017 reiterates these points. It indicates that “one of the reasons for concern expressed by the people in businesses surveyed on the implementation of the Metrobus was a sense of a lack of information,” particularly regarding the dates of startup and completion of the works, the manner in which street and sidewalk closures will take place, and the alternative streets for detours. The report mentions that, to address the complaints about general information, the PEU is implementing a mass communication campaign through the media and social networks, to reach a larger number of people. It also refers to the implementation of the CIC.<sup>194</sup>
- 2.151 As of the date it completed this report, the MICI had not had access to a consultation and participation plan for the program.

**d. Determination of compliance with Directive B.6**

- 2.152 The MICI reviewed the documentation and findings described and found that, even though a considerable amount of activities were conducted, these do not comply with the standards of Directive B.6 of Operational Policy OP-703, as will be shown below.
- (i) *On the meetings and/or hearings held with the community*
- 2.153 The policy establishes that the purpose of a consultation process is to inform about the environmental and social risks of the program, to allow for affected parties “to form an opinion and to comment on the proposed course of action.”<sup>195</sup> The timing refers to the impact assessment stage, preferably during the preparation or review

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<sup>191</sup> Communication plan 2016–2018, May 2016.

<sup>192</sup> GEAM plan on Sections 2 and 3, May 2016, page 10.

<sup>193</sup> 2015 pEIA, page 57.

<sup>194</sup> CAPYME report on Sections 2 and 3, page 36.

<sup>195</sup> Directive B.6 of Operational Policy OP-703.

- of the ESMP,<sup>196</sup> so that the consultation is useful to provide information to affected parties, gather their comments, and if necessary, adjust the assessment and the corresponding ESMP.<sup>197</sup> In this case, both program documents and the information Management provided during the MICI process show that a number of meetings were held with the community in the municipios of San Lorenzo, Asunción, and Fernando de la Mora starting in 2011,<sup>198</sup> meaning after the Board approved the program. Management highlighted that it was difficult to begin consultation activities during the program preparation stage, since the affected parties had not been identified because detailed designs for the Metrobus route were not yet available.
- 2.154 The MICI found that the meetings began in 2011 and continued in 2012,<sup>199</sup> and that it was not until 2015 that contacts with the community in the various sections resumed.<sup>200</sup> When the meetings were held, between 2011 and 2016, the ESA and the 2015 pEIA were the main documents that included the results of the program's environmental assessment process. They were the basis for the information on socioenvironmental impacts and mitigation measures to be provided during the meetings reported.
- 2.155 As mentioned in the section on Directive B.5, those studies did not identify the totality of the key impacts and risks of the Metrobus in all its sections, or on the entire population that would be potentially affected. They also did not include an ESMP that specified the planned management and mitigation measures.<sup>201</sup> **Therefore, the MICI believes that at the time the meetings described in the findings section were held, the information available was not “appropriate, meaning relevant, understandable to the recipient, precise, and timely,”<sup>202</sup> in order to comply with the standards for consultation pursuant to Directive B.6, so that affected parties could “form an opinion and ... comment on the proposed course of action.”<sup>203</sup>**
- 2.156 Along the same lines, for the meetings held between 2011 and 2016 for Section 1.1, the MICI found that it was not until 2017 that a specific EIA for this

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<sup>196</sup> Directive B.6 establishes that, for category B operations, affected parties must be consulted at least once, preferably during the preparation or review of the ESMP. Regarding this, the Note on Meaningful Stakeholder Consultation highlights that the consultation process should start as early as possible in the project cycle, page 6.

<sup>197</sup> Implementation Guidelines for Operational Policy OP-703, Consultations for Category B Operations.

<sup>198</sup> See findings section and Annex 3 in the links section of this document.

<sup>199</sup> Program documents mention three main meetings held in 2011 and Management reported on another series of meetings in 2012.

<sup>200</sup> Document 2. Information for the population (document prepared by Management, undated); and Metrobus program. Timeline of environmental and social events (document prepared by Management, undated). Available in the links section.

<sup>201</sup> Specifically, these documents only refer to one group of affected parties, informal occupants of public spaces. The 2015 pEIA, which only includes Sections 2 and 3, did not update the socioeconomic survey from 2011, even though four years had passed since the ESA was prepared. The document only acknowledges that it is necessary to update the data on the population affected by the Metrobus. And while it indicates that there were site visits to street-front business owners, these were to inform them about the tendering process for the works.

<sup>202</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6, definition of “information.”

<sup>203</sup> Directive B.6 of Operational Policy OP-703.

- section was prepared. Therefore, during the meetings held before 2017 with people located in this section, there was not sufficient data to be able to provide “information to affected parties and [facilitate] a dialogue regarding the project scope and proposed mitigation measures,”<sup>204</sup> particularly in terms of the impacts on business owners. The MICI would like to point out that holding appropriate consultations, understood as those that comply with the standards of Directive B.6,<sup>205</sup> is only viable if quality information is provided, and if it is given to previously identified affected parties. This entails having socioenvironmental impact analyses in advance. Therefore, an appropriate environmental assessment process is a necessary condition to (i) identify the affected parties in advance,<sup>206</sup> so that they can be consulted; and (ii) provide them relevant information within the framework of the consultation.<sup>207</sup>
- 2.157 In addition, based on the documents available about the information shared in the meetings described in the findings section (paragraphs 2.137-2.139 and 2.144 above, and Figures 6, 7, and 8), that information was mostly of a general nature; focused substantially on the program’s operational characteristics and benefits; and did not specify the program’s risks, adverse impacts, and mitigation measures designed for the affected parties.<sup>208</sup>
- 2.158 **Based on the above considerations, the MICI believes that the information provided in the meetings analyzed was not detailed and specific enough so that the affected parties could develop an informed opinion about the potential impacts that might affect them and the proposals to address them.<sup>209</sup> Consequently, these meetings did not contain the elements for the affected parties to express their concerns in an informed manner and to have these be considered within the program framework, pursuant to Directive B.6.**
- 2.159 Separately, it is important to highlight that a number of the site visits were meant to collect socioeconomic or baseline data for consulting assignments that began in 2016, and/or were intended to identify impacts, complete preconstruction

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<sup>204</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6. Consultations for Category B Operations.

<sup>205</sup> According to the policy, the consultation must provide appropriate information “in location(s), format(s), and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion, and to comment on the proposed course of action.”

<sup>206</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6, definition of “affected parties.”

<sup>207</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6, definition of “information.”

<sup>208</sup> See description of meetings in the findings section. The MICI also had access to a number of documents about the site visits provided by Management. An analysis of these documents showed that the information is mostly quantitative and that trifold brochures were handed out during the site visits. Some of the visits reported were held to inform people that there would be participatory visits later on. See Site visits document, March 2015, visit to street-front business owners, page 3 (document provided by Management on 5 December 2017). The 2017 pEIA indicates that in addition to collecting information on the economic and social units in the area, the people who visited the businesses “answered questions and handed out two informational materials: one for the urban redevelopment program and Metrobus, and the other with the objectives of the data survey commissioned from the consulting firm.” 2017 pEIA, page 163.

<sup>209</sup> Guidelines on Consultation and Stakeholder Engagement in IDB Projects, pages 3 and 7; and Note on Meaningful Stakeholder Consultation, pages 24 and following.

agreements, fulfill property-registry purposes, or provide information on the program.<sup>210</sup> Therefore, the MICI believes that these meetings were not intended as consultations for the affected parties pursuant to Directive B.6, and that they fail to comply with the standards of the policy.

2.160 Lastly, the MICI did not find evidence that concrete actions or plans based on the concerns expressed during these visits or meetings<sup>211</sup> were considered. It is also not known how the opinions of the affected parties were evaluated or whether they influenced program design, implementation, or decisions.<sup>212</sup> Regarding this, it is essential to highlight that “[m]eaningful consultations and consideration of each other’s views imply that the parties involved are willing to be influenced in their opinions, activities and plans.”<sup>213</sup> The MICI found that the Requesters feel that their points of view were not considered and that their situation remains uncertain because they have no answers about how the program will manage its socioeconomic impacts.<sup>214</sup> Other affected parties have similar perceptions, as identified in program documents. These emphasize the need to establish a communication and consultation strategy to bring the program closer to the affected sector and manage its social and reputational risks.<sup>215</sup> Even though the ESMR identifies that it was necessary to have an outreach program (information and dissemination) and a consultation and public participation program,<sup>216</sup> it was not until 2016 that a communication plan was prepared. There are no records of whether a plan for a consultation and public participation program was prepared.<sup>217</sup>

(ii) *Other information dissemination activities for the program*

2.161 After analyzing the program documents and the information that Management provided, the MICI found that in addition to meetings with the community, there were many activities to disseminate information about the program, using other formats and methods. The MICI noticed that these activities have intensified since 2015.

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<sup>210</sup> Management indicates that starting in 2015, visits were conducted throughout the central corridor, specifically in Sections 2 and 3, “with the objective of handing out informational trifold brochures on the Metrobus program to owners, responsible staff, renters of each of the street-front properties and/or premises in the corridor, in addition to the verbal information provided to every person.” Document 2. Information for the population. (document prepared by Management, undated), page 3. See also CAPYME report on Sections 2 and 3, pages 6 and 7.

<sup>211</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6, definition of “consultation.”

<sup>212</sup> Note on Meaningful Stakeholder Consultation, page 36.

<sup>213</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.6, definition of “consultation.”

<sup>214</sup> Documents from 2017 provided by Management on site visits indicate that the community is still requesting more information about the program. See Site visits document, March 2015, visits to street-front business owners (document provided by Management on 5 December 2017).

<sup>215</sup> 2015 pEIA, page 57; and CAPYME report on Sections 2 and 3, page 36.

<sup>216</sup> See environmental and social review, 11 February 2010, page 2; safeguard policy filter report, 3 February 2010, page 1; 2015 pEIA, page 57; and others.

<sup>217</sup> A consultation plan should document the relevant stakeholder groups consulted according to the impacts identified for the program in the stakeholder analysis and consultation plan. Note on Meaningful Stakeholder Consultation, page 23.

- 2.162 The MICI acknowledges the information that Management provided about this.<sup>218</sup> The reported activities can be classified into two types of formats, as follows: (i) activities to disseminate information about the program via printed materials delivered directly to the community and through mass media;<sup>219</sup> and (ii) establishment of an Information and Consultation Center (CIC).
- 2.163 Regarding this, the MICI believes that, in principle, these are ideal media to maintain the affected parties informed about the program and respond to the specific concerns of the public. However, they are not strictly a consultation, since in general this is a one-way process<sup>220</sup> and these activities do not promote the establishment of a dialogue with affected parties<sup>221</sup> in which their views are captured, documented, and considered.<sup>222</sup>
- 2.164 Lastly, regarding the requirement of Directive B.6 that during program execution, affected parties should be kept informed of those environmental and social mitigation measures affecting them,<sup>223</sup> the MICI found that to date there is no ESMP available with the planned mitigation measures for Section 3, which is currently in execution (see analysis in the section on Directive B.5). Therefore, the Bank has not complied with this policy requirement.
- 2.165 To summarize, the MICI concludes that the Bank did not comply with Directive B.6, since the activities conducted do not comply with the standards for consultations pursuant to Operational Policy OP-703. These activities did not provide appropriate information to affected parties so that they could form an opinion about the program and comment on the proposed course of action and/or did not facilitate a dialogue according to the terms set forth in the policy.<sup>224</sup>

#### **4. In relation to Directive B.4 of the Environment and Safeguards Compliance Policy (OP-703) on other risk factors**

##### **a. Requesters' allegations<sup>225</sup>**

- 2.166 The Requesters believe that the executing agency lacks the institutional capacity to carry out a program like the Metrobus and comply with the program's

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<sup>218</sup> Document 2. Information for the population (document prepared by Management, undated); and Metrobus program. Timeline of environmental and social events (document prepared by Management, undated). Available in the links section.

<sup>219</sup> For example, handing out trifold brochures and flyers, handing out flyers at universities, and disseminating information online and via radio.

<sup>220</sup> The Note on *Meaningful Stakeholder Consultation* defines "information sharing" as a one-way communication style, which "may be appropriate as the main form of engagement with the public in low risk circumstances, where the project does not seek to actively engage communities or other stakeholders in a dialogue," page 8.

<sup>221</sup> Implementation Guidelines for Operational Policy OP-703, definitions of "information" and "consultation"; and Note on *Meaningful Stakeholder Consultation*, pages 4 and 8.

<sup>222</sup> Note on *Meaningful Stakeholder Consultation*, page 12. See Public Consultations with Civil Society: Guidelines for Public and Private Executing Agencies, IDB, 2016, page 22; and Guidelines on Consultation and Stakeholder Engagement in IDB Projects, page 15.

<sup>223</sup> Directive B.6 of Operational Policy OP-703.

<sup>224</sup> Implementation Guidelines for Operational Policy OP-703.

<sup>225</sup> Information in this section was taken from the Request submitted and the video testimonials sent to the MICI as part of that Request, and from the Eligibility Memorandum of 5 August 2016. Available in the links section of this document.

environmental and social terms. They stated that they mistrust the MOPC for a variety of reasons, including: general lack of information about the program; delivery of different information to groups of affected parties; lack of dialogue and responses to the questions of affected parties; changes in program design; changes in program execution times; lack of detailed designs for the program even though the works already started; insufficient environmental and social assessments prior to the program; inadequate study on the feasibility of the Metrobus in Paraguay and the Microcenter of Asunción; multiple actors in charge of program execution, without a responsible party who can answer questions; prior expropriations from businesses without compensation payments; and overall, improvisation and lack of professionalism from the MOPC to undertake the works.

**b. What does Directive B.4 establish?**

2.167 Directive B.4 establishes that:

In addition to risks posed by environmental impacts, the Bank will identify and manage other risk factors that may affect the environmental sustainability of its operations. These risk factors may include elements such as the governance capacity of executing agencies/borrower and of third parties, sector-related risks, risks associated with highly sensitive environmental and social concerns, and vulnerability to disasters. Depending on the nature and the severity of the risks, the Bank will engage with the executing agency/borrower and relevant third parties to develop appropriate measures for managing such risks.

**c. The MICI's findings in relation to compliance with Directive B.4**

2.168 Prior to program approval, various Bank documents make reference to the institutional capacity of the MOPC as the executing agency for the program. The ESMR states that the MOPC will be responsible for program execution through a program execution unit (PEU) that reports to the Office of the Deputy Minister for Transportation and the Office of Public Works. In addition, agreements will be signed with the municipios affected by the program, "taking into account that all the components will be executed in urban areas with municipal jurisdiction."<sup>226</sup> The PEU was created on 11 February 2010, through Resolution 249.<sup>227</sup>

2.169 In terms of institutional capacity, when the Bank was conducting program preparation, the safeguard policy filter (SPF) of February 2010 states that the executing agency has low institutional capacity to manage environmental and social issues, in relation to Directive B.4 of Operational Policy OP-703.<sup>228</sup> Therefore, an assessment of the MOPC's institutional capacity for program execution was prepared, and its findings were summarized in a June 2010 report. The institutional capacities of the various divisions of the MOPC that are directly involved in program execution were evaluated to prepare this diagnostic assessment. This evaluation concluded that the MOPC's overall institutional

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<sup>226</sup> ESMR, page 18.

<sup>227</sup> Institutional Capacity Assessment System (ICAS) evaluation, page 26.

<sup>228</sup> SPF, page 1.

- capacity is 67.24%, indicating a medium development “of its institutional capacity and a medium level of risk” for the operation.<sup>229</sup>
- 2.170 Based on the results obtained, the report proposes two strengthening plans: the first involving actions directly connected to the operation and the second involving actions that “go beyond the objectives of the operation” and are proposed for consideration by the “executing agency and the Bank as a result of the comprehensive diagnostic assessment conducted.” The plan for institutional strengthening for the program proposes three measures prior to program execution: (i) having program Operating Regulations approved prior to program execution; (ii) having execution procedure manuals that include procedures for “planning ..., execution, and control of execution” of the operation, approved during the first six-month period of program execution; and (iii) establishing a performance incentive system to be implemented as a “pilot experience with decentralized management, overseen by the execution unit.” For the execution stage, it proposes to “form the units planned for the administrative and technical execution of the program,” recommending that the program “retain external consultants and designate internal staff to work on the program who strictly meet the requirements for every position.”<sup>230</sup> Separately, the general strengthening plan proposes nine actions to improve the institutional capacity of the MOPC.<sup>231</sup>
- 2.171 Some of these measures are included in the loan proposal, requiring special contractual conditions precedent to the first disbursement that are connected to the institutional capacity of the PEU: “(i) the program will have procedures and rules governing execution established in the Operating Regulations, which will be approved and enter into effect prior to the start of program execution; (ii) the program will have a manual of procedures, which will be approved and enter into effect prior to the start of execution; and (iii) the program coordination unit (PCU) and the technical execution units (TEUs) will be established,” as well as their core areas.<sup>232</sup>
- 2.172 In terms of risk, the loan proposal analyzed the environmental, social, fiduciary, and other program risks.<sup>233</sup> Regarding fiduciary risk, using the ICAS assessment, the proposal identifies that the MOPC has “medium development and risk” as far as institutional capacity. The principal risk is related to delays in execution due to a failure to delegate authority and a lack of timely communication. As a mitigation measure, it proposes to implement “a process of delegation of authorization.” On operational results, it indicates that the MOPC has medium development and risk. The principal risk is related to “delays in the bidding and procurement processes and in shortcomings in the management of program execution.” As a mitigating factor, it proposes the creation of a coordination unit.<sup>234</sup>
- 2.173 The loan contract includes the special contractual conditions precedent to the first disbursement anticipated in the loan proposal. As special conditions for execution,

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<sup>229</sup> ICAS evaluation, page 39.

<sup>230</sup> ICAS evaluation, pages 53-55.

<sup>231</sup> ICAS evaluation, pages 57-72 and 74-78.

<sup>232</sup> Loan proposal, page 1.

<sup>233</sup> Loan proposal, pages 9-12.

<sup>234</sup> Loan proposal, page 11.

the contract adds that, prior to the startup of works for the Metrobus, “the managing entity must be operating and its general manager appointed” and that, prior to issuing requests for proposals, “agreements between the executing agency and the municipalities must have been signed ... , which make that component viable in its entirety.”<sup>235</sup> It also stipulates that for execution, the MOPC will establish a technical execution unit for the Metrobus, which will report directly to the Office of the Deputy Minister for Transportation, and a program coordination unit to “monitor program execution,” which will report to the highest authority of the MOPC. The contract also includes “the creation and strengthening of a managing entity that will be responsible for operating the new system” as conditions precedent to the startup of works for construction of the trunk corridor and feeder roads.<sup>236</sup>

- 2.174 With respect to compliance with these conditions, the PEU was created on 11 February 2010 (paragraph 1.9 above). However, its entry into operations was impacted by the waiting period required for the legislative ratification that took place in December 2013. Therefore, during the interviews for the Compliance Review mission, it was explained to the MICI that during that period, the PEU did not operate and only restarted its activities in 2015, once it had a budget and a manager to rebuild the team. According to Management, the major initial challenges for the PEU were not having a manager and staff appointed to the unit in a timely manner, given the lengthy procurement processes required. To enable the program to move forward, the Bank supported the temporary hiring of staff while the PEU was conducting the necessary administrative procedures.
- 2.175 In addition, the PEU has faced the challenge of ongoing changes in manager. Five different people held this position during the 2014-2018 period,<sup>237</sup> including a period when the position was vacant.

**Managers of Metrobus program 2014–2017**

Official	Time period
Juan Manuel Cano	August 2014 - April 2015
--	April 2015 - June 2015
Ángel Recalde	June 2015 - January 2016
Santiago de Filippis	February 2016 - June 2017
Hugo Miranda (acting)	June 2017 - October 2017
Guillermo Alcaraz	October 2017 – present

Source: MOPC and information provided by Management.

- 2.176 The Operating Regulations and manual of procedures were approved on 7 April 2014, once the Paraguayan Congress had approved the program.<sup>238</sup> As far as

<sup>235</sup> Loan contract, pages 4 and 5.

<sup>236</sup> Loan contract, Sole Annex, pages 5 and 6.

<sup>237</sup> Annex I. Timeline of Preparation and Execution Actions Related to the Case, Management’s Response to the Request, pages 10-12.

having agreements signed with the municipalities, the MICI already referred to this in paragraph 2.10.

2.177 Regarding strengthening the MOPC's institutional capacity to conduct environmental and social studies, the Bank retained various consultants during the program's preparation and execution. First, the Project Preparation and Execution Facility (PROPEF) that was used to conduct environmental and social studies for the program also included the financing of activities to strengthen the institutional mechanisms and execution capacity of the MOPC.<sup>239</sup>

2.178 Also, in 2009 and 2010, the Bank managed the contracting of various consulting services to support the preparation of environmental and social analysis documents and to propose institutional arrangements to enable the management of the social component.<sup>240</sup>

2.179 [REDACTED]

2.180 After approval by Congress, the Bank continued to support the PEU through the contracting of consulting services for environmental and social issues. On 29 May 2015, consulting services were retained to provide "Advice to the Country Office of the Inter-American Development Bank on monitoring of environmental and social commitments." The tasks included evaluating the "fulfillment of environmental and social commitments pursuant to the provisions of national environmental legislation and the Bank's environmental and social policies in all the stages of the project cycle" for various projects overseen by the MOPC. The objectives of this consulting assignment included advising technical staff working on this program about social impacts and preparing the terms of reference for the consulting assignments to study the social impacts and resettlement plans of the program.<sup>242</sup> On 17 March

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<sup>238</sup> Ministry of Public Works and Communications, Resolution 374, approving the Operating Regulations and execution manual for the program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices, Asunción, 7 April 2014.

<sup>239</sup> Annex I of PROPEF agreement 2316/OC-PR, February 2010, paragraphs 3.10-3.13.

<sup>240</sup> First progress report on the Supervision of preparation of environmental and social documents, June 2010, pages 1 and 7. Consultant Teresa Ramírez de Mariño. June 2010, page 1.

<sup>241</sup> [REDACTED]

<sup>242</sup> First bimonthly report, August-September 2015, Consulting assignment to provide advice to the Country Office of the Inter-American Development Bank on monitoring of environmental and social commitments. Report from 22 September 2015.

2016, the Bank renewed the contract for this consulting assignment under the same terms.<sup>243</sup>

- 2.181 Also in 2015, a consultant was retained to “support social management” of the program.<sup>244</sup> This involved analyzing the studies conducted and making recommendations to correct and strengthen actions, which included contracting, on a priority basis, “a coordinator” and a team for social management of the program. The consultant’s report indicates that at that time, studies were being commissioned to evaluate socioeconomic impacts. However, no one was available to coordinate social management and prepare the terms of reference for these studies, and therefore avoid duplicating efforts and having information gaps. In addition, the contracts of several professionals assigned to the program ended and had not been renewed, which made it impossible to meet the program’s schedule.<sup>245</sup>
- 2.182 In 2016, consulting services were retained to provide “Specialized advice for the strategic management of the BRT transportation program for the city of Asunción.”<sup>246</sup> Based on interviews conducted during the Compliance Review process, in 2016 a consultant was also retained to strengthen the capacities of the PEU on social issues. This consulting assignment supported the preparation of terms of reference for program staff and the search for a person to be responsible for the program’s social management.
- 2.183 The information gathered during interviews shows that in 2016, a person was retained to coordinate studies and social work within the PEU. Starting in March 2016, a weekly coordination meeting was held with representatives from the various teams involved in the program, to improve coordination.

#### **d. Determination of compliance with Directive B.4**

- 2.184 Directive B.4 requires the Bank to identify and develop appropriate measures to manage “other risk factors” that may affect “the environmental sustainability of its operations.” One of the risk factors explicitly identified in B.4 is the “governance capacity of executing agencies.” Once one of these risks has been identified, B.4 stipulates that the Bank must develop, along “with the executing agency ... appropriate measures for managing such risks.”
- 2.185 Below, the MICI will determine whether the Bank identified and developed measures to manage the risks that might arise from the institutional capacity of the executing agency for this program, pursuant to Directive B.4.
- 2.186 In its Response to the Request, Management indicates that, since the program was granted eligibility, the Bank has supported the execution unit by hiring various consultants, which has made it possible to move forward with a number of activities. The activities supported include “comprehensive advising of the execution unit’s social team; review of agreements and renewal of agreements

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<sup>243</sup> Advice to the Country Office of the Inter-American Development Bank on monitoring of environmental and social commitments. First bimonthly report, April-May 2016, page 2.

<sup>244</sup> Management’s Response to the Request, 29 June 2016, page 11.

<sup>245</sup> Consulting assignment report, 4 November 2015, page 2.

<sup>246</sup> Specialized advice for the strategic management of the BRT transportation program for the city of Asunción. Mission report, 1 March 2016, page 1.

- with the municipalities; and review of the institutional structure of the MOPC in order to identify options for the establishment of a managing entity in charge of public transportation.”<sup>247</sup> During the investigation process, the MICI verified that there are various program documents related to identifying and addressing the institutional capacity of the MOPC as a risk.
- 2.187 Among the program preparation documents, the SPF identifies the low institutional capacity of the MOPC to manage environmental and social issues as a program risk. The ESMR describes measures to strengthen the capacity of the MOPC for program execution, including a training program and the signing of agreements between the MOPC and the municipios where the program will be implemented. In addition, the Bank conducted an institutional capacity assessment for program execution for the MOPC. This assessment identified a medium risk level and proposed two institutional strengthening plans.
- 2.188 Moreover, the recommendations from this assessment were taken into account both in the loan proposal and the loan contract, requiring the implementation of specific measures as conditions precedent to the first disbursement, and their maintenance during program execution. The MICI was able to verify the implementation of the measures regarding signing agreements with the municipalities, publishing an operations manual, and establishing an execution unit. Regarding the measures related to the managing entity responsible for operating the BRT system during the program’s operation stage, the MICI has no information about their status.
- 2.189 Also, the MICI found that the Bank closely supported the PEU by hiring various consultants to strengthen the capacity of the MOPC to design and prepare documents to evaluate the program’s environmental and social impacts. Prior to loan approval, the MICI found that at least two consulting assignments were carried out, which included technical support as well as evaluation and preparation of proposals to strengthen the PEU.
- 2.190 Once the loan was approved, at least six consulting assignments were conducted to support the design, preparation, and/or implementation of documents to evaluate and mitigate the program’s social impacts. The MICI found that several of these consulting assignments continued to observe and evaluate the institutional capacity of the PEU and its effects on program progress.
- 2.191 Once the program was in execution, the consulting assignments focused on reviewing the preparation of social impact assessment documents and aspects related to the PEU team and the strengthening of its governance capacity. These efforts are in line with what the project team expressed during the mission to Paraguay. Once the Bank granted eligibility to the program, initiatives to support the establishment of a social team in the PEU began again. While waiting for legislative ratification, strengthening activities were suspended; they were restarted in 2014.
- 2.192 In addition, there have been several challenges in establishing a social team in the PEU. These include identifying subject matter experts and dealing with administrative difficulties in the PEU’s hiring efforts. Regarding this, during the

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<sup>247</sup> Management’s Response to the Request, paragraph 6.

second half of 2015, a consulting assignment called attention to the need to hire one person to coordinate the various actors on social issues and monitor different plans and studies. As a result, in 2016 that person was hired, and this is expected to increase the program's execution capacity for social issues.

2.193 **Based on the above, the MICI found that during both program preparation and execution, the Bank identified and knew the program risks caused by the institutional capacity of the executing agency. Moreover, while there have been challenges in implementing measures to manage these risks, particularly related to social management, the MICI found that the Bank designed measures to manage them and strengthen the executing agency's institutional capacity. Therefore, the MICI believes that the Bank complied with its obligation to identify "other risk factors" that may affect the sustainability of the program and to develop measures to manage them, pursuant to Directive B.4 of Operational Policy OP-703.**

**5. In relation to Directive B.9 of the Environment and Safeguards Compliance Policy on natural habitats and cultural sites**

**a. Requesters' allegations<sup>248</sup>**

2.194 One of the Requesters claimed that the program will affect buildings considered historic landmarks, including her property. She said that the municipality declared her property a historic landmark,<sup>249</sup> and therefore the facade cannot be renovated. Also, that her three parking areas are historic landmarks because they are part of the city's downtown area. She also stated that "the entire Microcenter area has buildings that are considered historic, and with the Metrobus program, they will be demolished." She stated that other sites of cultural value will be impacted, including the San Roque chapel and the churches María Auxiliadora, La Encarnación, Nuestra Señora de la Asunción, and San Francisco.

**b. What does Directive B.9 establish?**

2.195 Directive B.9 establishes that:

The Bank will not support operations ... that damage critical cultural sites.<sup>250</sup> Whenever feasible, Bank-financed operations and activities will be sited on lands already converted. ...

The EA process will identify and assess impacts on critical cultural sites. For other non-critical cultural sites or artifacts, appropriate measures will be taken to protect their integrity and function. For operations where archaeological or historical artifacts can be expected to be found either during construction or operations, the

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<sup>248</sup> Information in this section was taken from the Request and the video testimonials presented by the Requesters, from the Eligibility Memorandum of 5 August 2016, and from the interviews conducted as part of the compliance review process both during the mission to Asunción and in subsequent telephone conversations.

<sup>249</sup> She indicated that part of this property belongs to the Paraguay Rural Association. She is waiting to receive the applicable certification from competent authorities.

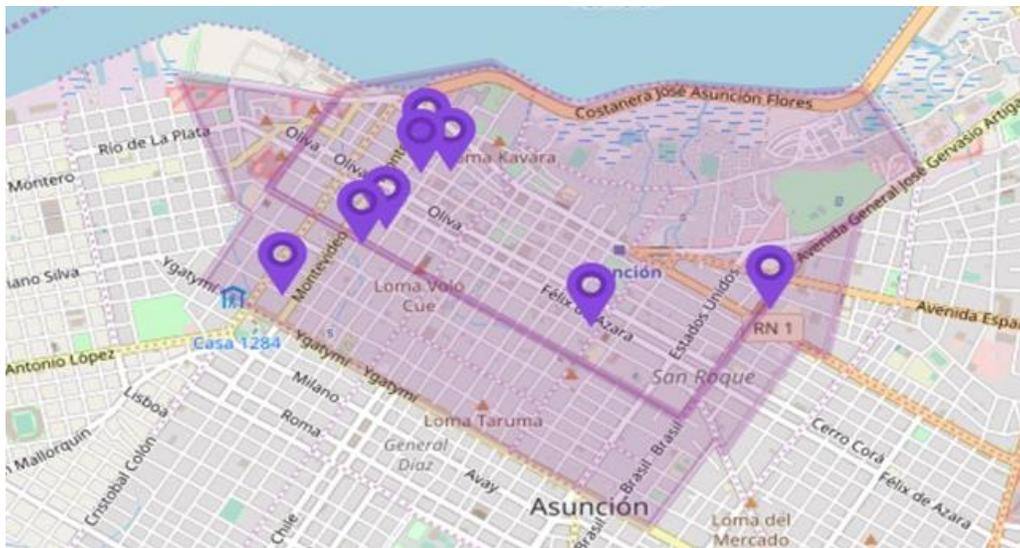
<sup>250</sup> See definitions for significant conversion, degradation, critical cultural site, and critical natural habitat in Section VI.

borrower will prepare and implement chance find<sup>251</sup> procedures based on internationally accepted practices.

**c. The MICI's findings in relation to compliance with Directive B.9**

2.196 As mentioned above, operation PR-L1044 includes two main components. The first focuses on renewal and improvement of downtown Asunción, to reverse the current process of urban deterioration, promote a rise in property values in the zone, and create a hub of urban development for the city. The second is the design, structuring, and implementation of BRT in the San Lorenzo-downtown Asunción corridor.

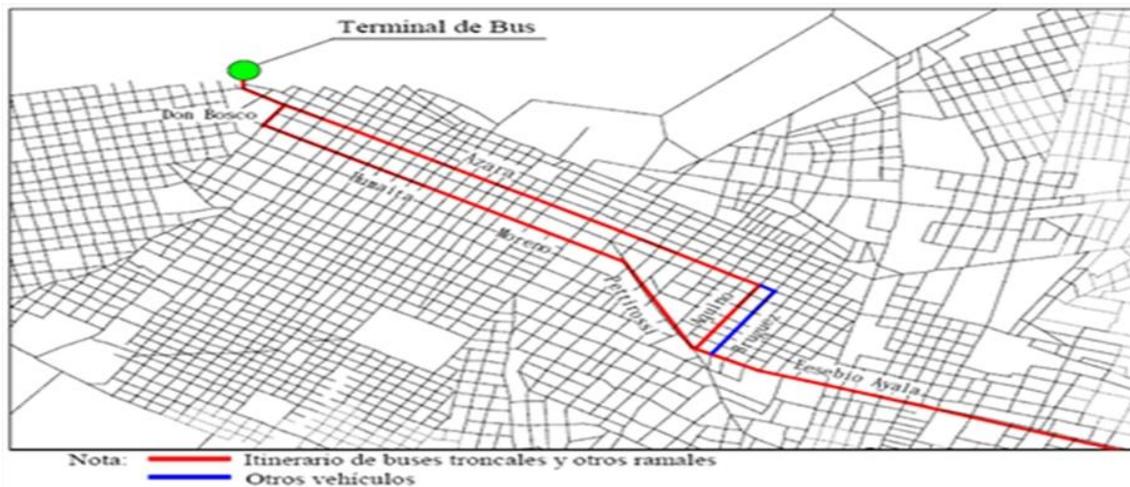
**Figure 8. Map of the historic center of Asunción**



Source: Historic center of Asunción master plan.

<sup>251</sup> See definition for *chance find* in Section VI.

Figure 9. Planned Metrobus route in the Microcenter



Source: General presentation of the urban transportation program, MOPC, July 2010.

- 2.197 According to the National Registry of Cultural Assets, the perimeter of the historic center of Asunción and its buffer zone hold the country's richest concentration of architecture, monuments, and urban development. The perimeter of the historic center is built on a total surface of 300 hectares, of which 147 hectares are occupied by buildings. Of this building area, 22 hectares include buildings in poor condition; 12 hectares represent empty lots; and 7% corresponds to unused buildings. There are 491,000 square meters of historic buildings, of which 2% are designated as monumental heritage (9,820 square meters); 15% architectural heritage (73,650 square meters); 21% environmental heritage (103,110 square meters); and 62% heritage of interest under the proposal for the historic center of Asunción plan (304,420 square meters). Of the 334 properties registered to date in the National Registry of Cultural Assets, created by Law 946/1982 to protect these assets, 182 (51%) are located within the perimeter of the historic center and its buffer zone.<sup>252</sup>
- 2.198 The program framework, program profile, and loan proposal do not mention the architectural heritage of the historic center of Asunción. In terms of potential impacts, the environmental and social strategy indicates the potential for historic buildings to be affected due to excavations and the effects of vibrations.<sup>253</sup> The environmental and social review and the SPF do not refer to impacts on the historic heritage. Based on what was found in these documents, Directive B.9 was not triggered for the program<sup>254</sup> during the screening process.
- 2.199 The ESMR does contain references to potential impacts on historic, cultural, and archaeological heritage, exclusively within the framework of Component 1, the

<sup>252</sup> <https://www.ip.gov.py/ip/el-centro-historico-de-asuncion-cuenta-con-el-52-del-patrimonio-del-paraguay/>.

<sup>253</sup> Program profile, paragraph 4.2; and environmental and social review, paragraph 1.2.

<sup>254</sup> [REDACTED] Safeguard policy filter report, page 1.

- urban renewal program.<sup>255</sup> However, the MICI did not find a description of impacts on the historic heritage arising from Component 2, the BRT. This was not taken into account either for the ESA of 2011.
- 2.200 The 2015 pEIA summarizes the provisions of Paraguayan law that are relevant to the conservation of cultural heritage, defined as “the entire cultural and natural legacy of a historic nature.” It explains that buildings not included in the National Ministry of Culture’s register, but that were built up until the 1950s, are also protected by the law.<sup>256</sup> The document indicates that the “Register of buildings, architectural complexes, areas, and sites of interest” is the basic instrument of the heritage protection system,<sup>257</sup> which regulates all planned or executed interventions in the city, and is continuously updated. Therefore, the pEIA mentions that before interventions for the program begin, it will be necessary to request this register from the municipality or the Ministry of Education and Science, to have the most up-to-date information available.<sup>258</sup>
- 2.201 The 2017 pEIA, which focuses its analysis on Section 1, includes a number of more detailed considerations regarding potential impacts on historic heritage. It mentions that the historic center of Asunción and its surroundings are areas that need special attention, and that Subsection 1.1 is located in the historic core and buffer zone of that area, because it includes “buildings that are considered landmarks under current laws and regulations.” The document also indicates that, overall, the area of indirect influence for Subsection 1.1 should be subject to a historic and cultural heritage management program, which is part of the ESMP. Therefore, prior to the works, the contractor must prepare a detailed diagnostic assessment jointly with the municipality and the National Ministry of Culture, based on the updated register.<sup>259</sup>
- 2.202 Regarding a diagnostic assessment of the cultural heritage in the area of direct influence, it indicates that there are 133 buildings of historic value, 9 missing, and 91 registered by the Heritage Office of the Municipality of Asunción or by the National Ministry of Culture.<sup>260</sup> The study includes tables with buildings that are considered landmarks.<sup>261</sup> However, the MICI was unable to find in these tables the building owned by one of the Requesters. During a conversation, she clarified that she asked the Municipality of Asunción for a historic landmark designation for her

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<sup>255</sup> ESMR, pages 21 and 25.

<sup>256</sup> 2015 pEIA, pages 46, 60, and 61. See also 2017 pEIA, page 105.

<sup>257</sup> The instrument is based on the enactment of Municipal Ordinance 28/96, “Protection of the urban, architectural, historic, and artistic heritage of Asunción” and its amendment 151/2000.

<sup>258</sup> 2015 pEIA, page 46.

<sup>259</sup> 2017 pEIA, pages 47, 48, 104, 105, and 107. In addition, the pEIA for Subsection 1.1 mentions that two buildings that are considered historic landmarks were found in Section 2: the Wall of Villa Iduna and Cine Teatro España. The document mentions that the contractor for Sections 2 and 3 should verify this information. 2017 pEIA, page 137.

<sup>260</sup> The following significant buildings were found: 2 buildings of a monumental scale or monumental heritage; La Encarnación church and the former Cervecería Paraguaya (beer factory); 8 buildings of an intermediate scale; María Auxiliadora Educational Center, Ministry of Public Health and Social Wellness, Tax Office, San Francisco de Asís church, Social Welfare Institute; 3 villas, like Villa de Serafina Dávalos; and 75 buildings of smaller scale or modest heritage. 2017 pEIA, page 137.

<sup>261</sup> 2017 pEIA, Tables 43 and 44, pages 138-140.

- building, but was still waiting for official recognition. Therefore, the MICI has not had access to these documents.<sup>262</sup>
- 2.203 This pEIA mentions that alternative locations for Subsection 1.1 had been analyzed, and the existence of historic landmarks was taken into account to eliminate two of the options where emblematic monumental buildings were located.<sup>263</sup> The document also analyzes the impacts on the cultural environment from the historic heritage perspective, including that criterion in its impact analysis matrixes for the implementation of BRT works for Subsection 1.1 (Puerto Asunción – General Aquino), during the installation, construction, and completion of activities, as well as the operation and maintenance stages.<sup>264</sup>
- 2.204 An analysis of the matrixes showed that impacts were identified in terms of effects on the stability and appearance of constructions, particularly for buildings considered historic landmarks, due to the location of works in urban areas and soil movement. Therefore, the pEIA establishes that “in addition to specific programs related to social and historic and cultural heritage management components, measures to be applied are those set forth in the Environmental General Technical Specifications and in the socioenvironmental management plan (PMSA), a component of the ESMP, which are included in the management program for excavations and filling.”<sup>265</sup> The PMSA develops a program that “includes the basic guidelines for the protection and/or mitigation of impacts on archaeological, historic, and cultural heritage, if there are archeological findings in Subsection 1.1 or if the program has effects on the integrity of the historic heritage that exists in the area of direct influence.”<sup>266</sup>
- 2.205 The 2017 PMSA mentions, as a mitigation measure to protect archaeological, paleontological, and historic sites, that the contract documents for the works hold the contractor responsible for conducting an archeological study prior to making modifications to the detailed engineering designs. Moreover, it establishes that a month before starting construction activities, a detailed inventory of visible heritage assets located in the area of direct influence must be prepared. This inventory will determine the critical locations or sites that need to be monitored during construction of the works. Also, the inventory must include a photographic record of critical sites. If there are national heritage assets located in the area of direct influence, with structures that appear deteriorated, in ruins, or threatened, a specialist with knowledge of the historic area and an engineer experienced in structural pathology must prepare a structural study. The document contains other measures, such as staff training.<sup>267</sup>
- 2.206 Lastly, the PMSA defines the types of measures and protocol that the contractor must follow during excavation activities to manage archaeological elements throughout the area of intervention for Subsection 1.1. It also defines responsibilities for obtaining and reviewing updated information from building

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<sup>262</sup> The Requester provided this information during a phone conversation on 18 December 2017.

<sup>263</sup> 2017 pEIA, pages 191 and 192.

<sup>264</sup> 2017 pEIA, page 228.

<sup>265</sup> 2017 pEIA, pages 234 and 237.

<sup>266</sup> PMSA, page 444.

<sup>267</sup> 2017 pEIA, page 445.

registers and performing applicable procedures on this issue.<sup>268</sup> The project team informed the MICI that, as of December 2017, there is no contractor for Section 1.

**d. Determination of compliance with Directive B.9**

- 2.207 First, the MICI found that the 2015 and 2017 pEIAs established that the construction and operation of the Metrobus has the potential to generate impacts in areas of historic value and to assets considered as historic heritage of Asunción. These are protected under Law 946/82,<sup>269</sup> which along with the “Register of buildings, architectural complexes, areas, and sites of interest,” are legal foundations and instruments of the city’s cultural heritage protection system, to be taken into account during program implementation. In this regard, the MICI is aware that some of the assets that might potentially be affected by the Metrobus match the concepts of *critical cultural sites* and *cultural sites* included in Directive B.9. They are protected by the government or are National Monuments,<sup>270</sup> or otherwise, they are “any natural or manmade areas, structures, natural features, and/or objects valued by a people or associated people to be of ... historical, and/or archaeological significance.”<sup>271</sup>
- 2.208 Implementation Guidelines for Directive B.9 establish that “the project team must verify, in consultation with a specialist if necessary, that the project *does not damage a critical cultural site*.” During the pre-screening phase, “[t]he project team should, together with the borrower, identify, early in the project preparation phase, whether or not *critical cultural sites* might be affected by the operation. This may be done with the support of qualified professionals ... .” It also establishes that: “If the actions proposed *are not likely to damage the critical cultural site*, but might still impact it, the borrower shall take, acceptable to the project team, measures to mitigate such impacts.” Regarding the process undertaken to identify and evaluate the impacts on critical and noncritical cultural sites during the program preparation and environmental and social assessment stages, the MICI found that critical and noncritical cultural sites or assets that might be affected by the program were not identified. Also, it was not determined whether the Metrobus component of the program might potentially damage these sites.<sup>272</sup> There was also no evidence found that during this stage, there were plans for mitigation measures to reduce potential impacts on critical cultural sites, or to protect, mitigate, or compensate for impacts on cultural sites potentially affected by the program.<sup>273</sup> In its comments on the preliminary version of the compliance review report, Management said that during the project preparation stage, “no elements were available to be able to determine the need to trigger Directive B.9,” since the “route in general is not classified as a critical site for historic and archaeological heritage” and the “only area with some buildings of historic value is the Microcenter of Asunción” and “the final route of the corridor in that area was only recently determined (in early 2017).”

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<sup>268</sup> PMSA, pages 446, 447, and following.

<sup>269</sup> 2015 pEIA, page 46. See also 2017 pEIA, page 105.

<sup>270</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.9. Definition of “critical cultural sites.”

<sup>271</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.9. Definition of “cultural sites.”

<sup>272</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.9. Definition of “cultural sites.”

<sup>273</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.9. Definition of “cultural sites.”

To this point, the MICI notes that the Metrobus route has included the historic center of Asunción since the project preparation stage.

- 2.209 Specifically, no mentions were found of potential impacts on critical cultural sites in the safeguard screening form, or that an additional analysis was required or prepared to determine whether the operation might affect critical cultural sites.<sup>274</sup> There are also no indications that Directive B.9 was triggered for the program. Regarding the impact evaluation conducted after the Board approved the program, the MICI found that the 2011 ESA also does not address impacts on critical and noncritical cultural sites.
- 2.210 However, the MICI verified that the environmental assessments conducted after 2015 include aspects related to potential impacts on historic heritage arising from the construction and subsequent operation of the Metrobus.<sup>275</sup> Specifically, given the cultural value of the historic center of Asunción, the 2017 pEIA, which focuses on Section 1, lists sites of historic relevance in the area of indirect influence and identifies for the area of direct influence a number of buildings classified as protected, as well as those of historic value. It also includes in its impact analysis matrix those impacts on the cultural environment from the historic heritage perspective, for all stages of the program. The document identifies impacts related to the stability and appearance of the buildings.
- 2.211 With respect to impact management, the socioenvironmental management plan (PMSA) identifies the types of impacts on historic heritage that need to be mitigated during every stage of the program, and includes the basic guidelines to protect from or mitigate these impacts. The MICI found that, even though this plan does not contain specific mitigation measures of a prescriptive nature, it does describe a number of activities or measures to be implemented by the contractor, including: conduct an archaeological study; prepare an inventory of the visible assets in the area of influence; prepare structural studies when there are buildings with structures that appear deteriorated; and offer training to construction site employees.<sup>276</sup> It also emphasizes that the contractor must consult the most updated version of the lists and registers of protected assets before the startup of works. The PMSA also establishes a protocol that the contractor must follow during excavation activities to manage archaeological elements throughout the area of intervention for Section 1.<sup>277</sup>
- 2.212 Therefore, the MICI believes that the 2017 pEIA and the PMSA identify impacts on cultural sites. While they do not offer prescriptive mitigation measures, they do provide guidance to the contractor to make plans to address the historic heritage

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<sup>274</sup> The Implementation Guidelines for Operational Policy OP-703, Directive B.9 establish: “*Screening*. The project team must fill out a Safeguard Screening Form (SSF) (see Directive B.3) in which it indicates whether or not the operation might affect *critical cultural sites* or if further analysis is required to determine this.” It also establishes: “If the initial assessment indicates that the project is likely to affect *critical cultural sites*, analytical work, such as a sociocultural assessment integrated into an EIA if applicable, or in a stand-alone sociocultural analysis (see Directive B.5) should be carried out to confirm if the areas affected qualify as such and to determine whether or not the project will damage these areas.”

<sup>275</sup> Specifically, the 2015 and 2017 pEIAs.

<sup>276</sup> 2017 pEIA, page 445.

<sup>277</sup> PMSA, pages 446, 447, and following.

impacts arising from the program in the area of influence for Section 1. Regarding this, the MICI recognizes that, in this specific case, the final determination of the assets impacted will depend on both the program's detailed engineering designs and the review of updates to official registers, to establish which buildings need to be protected before the startup of works. The time that passes between the preparation of studies and the startup of works may affect the list of buildings and even their structural or physical conditions. Therefore, the MICI believes that the PMSA's guidelines are intended to reduce impacts on critical cultural sites<sup>278</sup> and to protect the integrity and features of noncritical cultural sites for Section 1, and that they comply with the provisions of Directive B.9.<sup>279</sup> It is worth mentioning that, since the works for this section have not started, there is an opportunity for the Bank to review the proposed measures and ensure that the impacts on the historic heritage of downtown Asunción are mitigated.<sup>280</sup>

**2.213 To summarize, the MICI found that, while the Bank complied by identifying the potential impacts on critical and noncritical cultural sites during the environmental assessment for Section 1, establishing guidance on a mitigation path for the contractor to follow once the works for this section have been awarded, that this was done in an untimely manner in relation to the policy. Therefore, there was a failure to comply with Directive B.9.**

**6. What does the Operational Policy on Involuntary Resettlement (OP-710) establish?**

**a. Requesters' allegations<sup>281</sup>**

2.214 Some of the Requesters located in the Mercado 4 area claimed that they did not receive information about the involuntary resettlement to which they will be subjected to clear the sidewalks for the construction and operation of the Metrobus. They stated that they did not receive information about relocation alternatives or whether they would receive any type of compensation. They are concerned about the possibility of being relocated outside the market area, because that will cause them serious financial losses since other areas do not have as much pedestrian traffic. They claimed that the potential for reduced revenues will have a severe impact on their lives, since they depend on daily revenues for their livelihoods. The Requesters with low income stated that they are more vulnerable to the negative impacts that these actions may have on their family finances, making their situation even more fragile.

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<sup>278</sup> Implementation Guidelines for Operational Policy OP-703, Directive B.9. "*Mitigation measures.* If the actions proposed are not likely to damage the critical cultural site, but might still impact it, the borrower shall take, acceptable to the project team, measures to mitigate such impacts."

<sup>279</sup> The Implementation Guidelines for Operational Policy OP-703, Directive B.9 establish, for noncritical cultural sites: "If significantly impacted, appropriate measures to protect, mitigate, or compensate noncritical cultural sites need to be integrated into the ESMP."

<sup>280</sup> Regarding this, the MICI wishes to highlight that the guidelines for Directive B.9 specify that the borrower needs to take impact mitigation measures that are acceptable to the project team.

<sup>281</sup> Information in this section was taken from the Request and the video testimonials presented by the Requesters, from the Eligibility Memorandum of 5 August 2016, and from the interviews conducted as part of the compliance review process both during the mission to Asunción and in subsequent telephone conversations.

- 2.215 Some street-front business owners in Sections 1 and 3 also claimed that they do not know whether they will need to relocate due to the financial impact on their businesses. They believe that the Metrobus construction is already impacting their revenues and fear not being able to continue their activities during the construction in their area and operation of the program. They stated that the construction activities for the Metrobus in San Lorenzo (Section 3) have caused a decrease in their customers, because of reduced pedestrian and commercial flows in the area, and the distance from the alternative routes that were implemented. In addition, they claimed that this situation has resulted in a severe financial impact and fear that this may force them to relocate due to their businesses' lack of sustainability.
- 2.216 Two Requesters who own a street-front business in Section 3.1 fear they may be unable to continue their business activities during construction of the works due to the movement of materials in the area. They indicated that to date, they did not know about compensation measures to be able to subsist during the works, especially taking into account potential delays. They also explained that leaving the streets open during construction, as they were told, is not sufficient to prevent impacts to their businesses and allow their customers to reach them. Once customers notice that there is construction in that area, they will simply avoid it, even if there is pedestrian access and the sidewalks are open. They believe that access to the location will be complicated for both cars and buses, and that people will go elsewhere for their shopping. All the Requesters mentioned that the financial impacts and pressure they feel about possibly having to relocate are worsened because they "live day to day."

**b. What does the Operational Policy on Involuntary Resettlement (OP-710) establish?**

- 2.217 The objective of Operational Policy OP-710 is "to minimize the disruption of the livelihood of people living in the project's area of influence, by avoiding or minimizing the need for physical displacement, ensuring that when people must be displaced they are treated equitably."<sup>282</sup> Therefore, OP-710 has two main principles. The first is that, before planning for resettlement for a program, "[e]very effort will be made to avoid or minimize the need for involuntary resettlement." The second is that, once "displacement is unavoidable, a resettlement plan must be prepared to ensure that the affected people receive fair and adequate compensation and rehabilitation."
- 2.218 Operational Policy OP-710 contains several criteria on preparing the design, content, and appraisal of the resettlement plan. To summarize, a resettlement plan must include: (i) accurate baseline information, compiled as early as possible; (ii) results of consultations carried out in a timely and socioculturally appropriate manner with the affected population; (iii) appropriate compensation and rehabilitation measures; (iv) identification of the legal and institutional context within which the resettlement will be implemented; (v) environmental considerations; (vi) timeliness; and (vii) provisions for monitoring and evaluation.<sup>283</sup> In addition, criterion 6 (timeliness) establishes requirements such as a list of

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<sup>282</sup> Operational Policy OP-710, Section II. Objective.

<sup>283</sup> Operational Policy OP-710, Section V. Criteria for Design and Appraisal of the Resettlement Plan, points 1, 2, and 3.

minimum content for both preliminary and final plans, including some of the aspects mentioned above. Lastly, OP-710 includes special considerations for specific situations that may arise during the involuntary resettlement process (Section IV).

**c. The MICI's findings in relation to compliance with the Operational Policy on Involuntary Resettlement (OP-710)**

2.219 Since the preliminary stages of the program, the potential for the construction and operation of the Metrobus to require resettlement was recognized. Therefore, both general assessments of environmental and social impacts and specific documents on resettlement addressed the issue of resettlement. Specifically, the program profile indicates that the program might affect premises that would require relocation of some people, proposing the preparation of an involuntary resettlement plan, if necessary.<sup>284</sup> The safeguard screening form (SSF) identifies impacts from "minor to moderate" on involuntary resettlement or "economic disruption" issues, recommending the preparation of a "simple" resettlement plan that meets certain requirements. It also recommends that the loan's legal agreements make reference to the resettlement plan and require periodic reports and independent verifications of its implementation.<sup>285</sup> As will be described below, the loan contract includes references to the resettlement plan (paragraph 2.225 below).

2.220 [REDACTED]

2.221 Likewise, the ESMR indicates that for the social feasibility of the BRT, a study on relocation and formalization of informal businesses for the affected markets is needed, as well as solutions for the markets and informal vendors.<sup>288</sup> Potential impacts during construction include effects on businesses due to the relocation of merchants from the markets and of informal vendors from the area of direct influence. During Metrobus operation, the report describes impacts on the socioeconomic environment, including "impacts on several commercial areas that

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<sup>284</sup> Program profile, paragraph 4.2.

<sup>285</sup> SSF, page 2.

<sup>286</sup> [REDACTED].

<sup>287</sup> [REDACTED]

<sup>288</sup> ESMR, pages 11 and 12.

- occupy public spaces along the road.”<sup>289</sup> The ESMR sets some parameters to manage negative impacts, including a “program for restitution of affected assets and job retraining,” which would be defined through a “compensation and relocation program.”<sup>290</sup> After loan approval, the ESMR update from October 2010 added a resettlement plan framework as an annex. The document points out that this was included “considering that Operational Policy OP-710 (IV.5) foresees the possibility of preparing a resettlement framework for operations for which ‘infrastructure investments [are] not specifically identified prior to project approval.’”<sup>291</sup> This updated ESMR includes a preliminary quantitative matrix of potential socioenvironmental impacts, which concluded that clearing lands and public spaces occupied all along the corridor, particularly in the Mercado 4 and San Lorenzo markets, “is one of the main impacts.”<sup>292</sup>
- 2.222 On 10 September 2010, the “Resettlement plan framework for urban revitalization of San Jerónimo neighborhood and relocation of informal businesses in the BRT section” (Resettlement plan framework) was completed. Based on interviews with the project team, this was envisaged as a preliminary document with general guidelines for the future preparation of resettlement plans for the program. At that time, since the final designs for the Metrobus were not available, a resettlement plan could not be prepared.<sup>293</sup> The document indicates that it was prepared to “define a framework for relocation” of people to be resettled which could “start including actions based on previous outcomes to be presented by the consulting services” that were planned to prepare larger studies on resettlement.<sup>294</sup>
- 2.223 The resettlement plan framework identifies as a program impact the relocation of informal businesses, and contains some information about this.<sup>295</sup> While it includes plans to retain a consultant for larger studies, it mentions that, according to a “quick count” from 2010, a total of approximately 250 informal businesses would be impacted from Pettrossi street to the Mercado 4 area; 631 in the San Lorenzo market; and 150 in Fernando de la Mora.<sup>296</sup> It also indicates that: (i) the consulting assignment will prepare a census of informal businesses; (ii) there will be “two likely solutions” for the affected parties, the first to be part of a production business opportunity, and the second to be relocated to another area; (iii) the consulting assignment will quantify and qualify the degree of impact, define the mitigation measures or solution alternatives for the affected parties, and prepare a budget and an execution schedule; and (iv) a single channel of communication with the affected parties will be established, according to a communication plan

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<sup>289</sup> ESMR, pages 30 and 31.

<sup>290</sup> ESMR, pages 50 and 51.

<sup>291</sup> ESMR, October, Annex 5, page 86.

<sup>292</sup> ESMR, October, page 33.

<sup>293</sup> The document proposes guidelines for the two program components: revitalization of downtown San Jerónimo and construction of the Metrobus. This report only analyzes the guidelines proposed for the Metrobus component.

<sup>294</sup> Resettlement plan framework, Section 1, Presentation, page 24.

<sup>295</sup> Resettlement plan framework, Section 5.1, General Data, page 28.

<sup>296</sup> Resettlement plan framework, page 26.

- to be implemented, and information will be disseminated to get these parties involved.<sup>297</sup>
- 2.224 The loan proposal identifies that the most relevant expected impacts for the Metrobus will be in the social area and therefore more work had to be done on: “(i) [the] physical expropriation of properties and businesses, including inventories, and where necessary, preparation of resettlement plans in accordance with policy OP-710;” and “(ii) [a] plan to relocate businesses in the [Mercado 4] and San Lorenzo markets.”<sup>298</sup>
- 2.225 The loan proposal and the loan contract included as a special contractual condition that “prior to the start of the Bus Rapid Transit (BRT) works on the section between the [Mercado 4] and San Lorenzo markets, evidence will be provided of the agreement for the renovation and relocation of the stalls occupying public spaces in those areas.”<sup>299</sup> In addition, for the “social feasibility” of the program, the loan contract required the preparation of a “study on relocation and formalization of informal businesses in the markets in Asunción and San Lorenzo.”<sup>300</sup>
- 2.226 After the program was approved, the ESA identifies as the biggest challenge in terms of social impact the displacement of informal occupants of public spaces. It also mentions that a preliminary resettlement plan for the Metrobus was being designed and that the final plan will be prepared once a full census of affected parties is available.<sup>301</sup> Despite this, the document contains some considerations about resettlement. It describes four mitigation measures for impacts on informal vendors: an “individual resettlement plan based on an economic redevelopment program,” the “relocation to public spaces or expansions of currently existing markets, the “collective relocation to property intended for commercial use,” and the “identification of work opportunities in the formal economy.” The ESA acknowledges that, given the diverse characteristics of the types of informal occupation of public spaces, a variety of alternatives that responds to this diversity needs to be designed.<sup>302</sup>
- 2.227 The ESA describes how each mitigation measure will be designed, and for some, includes information about potential beneficiaries.<sup>303</sup> It also includes proposals for eligibility criteria to be verified later on and contains an estimated budget for mitigation measure costs, without specifying the cost of resettlement and acknowledging that it will be necessary to “design an institutional mechanism” for aspects that include “implementing the resettlement plan.”<sup>304</sup>

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<sup>297</sup> Resettlement plan framework, pages 31, 32, and 34-36.

<sup>298</sup> Loan proposal, paragraph 2.5.

<sup>299</sup> Loan proposal, project summary section. Also loan contract, clause 3.03(c).

<sup>300</sup> Loan contract, single annex on “The program,” paragraph 2.12 and clause 1.24.

<sup>301</sup> ESA, pages 33 and 34.

<sup>302</sup> ESA, pages 35-38.

<sup>303</sup> ESA, pages 35-38.

<sup>304</sup> ESA, pages 31 and 39. In addition to the ESA, the EIA for the Metrobus that focused on “owners of rights-of-way” indicates that 157 properties will be relocated due to the widening of Avenida Eusebio Ayala, highlighting that it is important to “ensure their economic activities by finding alternative locations for them.” Environmental impact assessment. Owners of rights-of-way. BRT Bus consortium. 2011, page 19.

- 2.228 Annex 6.B of the ESA identifies an impact on public spaces in Mercado 4, where formal businesses extend the front section of their stalls into these spaces. It also mentions that Mercado 4 requires “special treatment.”<sup>305</sup> The annex also covers the diversity of informal businesses in Mercado 4, their infrastructure, and hours of operation, as well as the rights and services they have because they pay a fee.<sup>306</sup> It describes how merchants occupy public spaces, indicating that this group is not willing to relocate and that this situation should be considered during the “detailed designs stage” of the program. The annex also warned about the importance of finding economic alternatives for the people whose commercial activities will be affected.<sup>307</sup>
- 2.229 Later, once program activities began again after the legislative approval, the 2015 pEIA identifies as one of the main program impacts the “displacement of informal businesses.”<sup>308</sup> Therefore, it contains a plan to retain a consulting firm to establish a social baseline; evaluate the program’s social impacts, including from resettlement; and design mitigation measures to address these impacts.<sup>309</sup>
- 2.230 GEAM completed this consulting assignment, and in its baseline report for sections 2 and 3 describes the concerns and questions of informal business owners regarding their potential resettlement<sup>310</sup> and includes two alternatives for them: resettlement or voluntary relocation (paragraphs 2.259-2.261 below).<sup>311</sup> Since none of the Requesters are informal business owners located in Sections 2 and 3, this report does not include much information regarding that consulting assignment.
- 2.231 In July 2016, the first specific document on resettlement was prepared, after program approval: the involuntary resettlement master plan (IRMP). That document states that it is “an update of the resettlement plans prepared in 2010, as part of the socioenvironmental management report for the program, and of the preliminary resettlement plan” prepared as part of the ESA. Therefore, the IRMP sets forth general measures to mitigate, minimize, or compensate for the socioeconomic impacts caused by both displacement and effects on land, buildings, assets, and income for people in the program area. It addresses both physical displacement and economic disruption.
- 2.232 The IRMP mentions that there would not be a resettlement plan for the entire program. Instead, specific resettlement plans by subsections would be prepared, which are known as specific involuntary resettlement plans (IRSPs). The IRMP establishes the “guidelines and criteria to guide the preparation and implementation” of those plans.<sup>312</sup> This plan also states that Paraguay does not have a law to regulate resettlements, and therefore, in practice, specific laws are

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<sup>305</sup> ESA, page 95.

<sup>306</sup> ESA, page 96.

<sup>307</sup> ESA, pages 96-98 and 274-275.

<sup>308</sup> 2015 pEIA, pages 104,112 and 116.

<sup>309</sup> 2015 pEIA, pages 131-133.

<sup>310</sup> GEAM plan on Sections 2 and 3, May 2016, page 80. GEAM social management plan on Sections 2 and 3, page 1.

<sup>311</sup> GEAM plan on Sections 2 and 3, May 2016, pages 88 and 89.

<sup>312</sup> IRMP, pages 6 and 7.

established for every operation. For this operation, Law 5389/15 sets forth the procedure for expropriation or compensation for premises for infrastructure works overseen by the MOPC. The document also makes reference to Operational Policy OP-710, which applies when there is “physical displacement and/or impacts or disruption of the livelihood of people living in the program’s area of influence.”<sup>313</sup>

2.233 The document includes categories of potentially affected parties, even though it explains that a property-registry evaluation and a census for all of the affected parties had not been conducted.<sup>314</sup> It states that the IRSPs will define the applicable compensation measures for each category.<sup>315</sup> Regarding Mercado 4, it indicates that a specific diagnostic assessment will be conducted to design mitigation measures for each case, which will be established in the IRSPs.<sup>316</sup> The impacts identified for these categories<sup>317</sup> include:

**Table 8. Program impacts identified in the IRMP**

Type of affected party	Temporary impact	Permanent impact
<b>Owner or renter of street-front business</b>	Temporary decrease of revenue due to complete or partial street closures Damage or loss of products Temporary deterioration of premises, products, and signs Impaired vehicle access to the business Difficulties loading and unloading merchandise	Complete or partial loss of property Complete or partial impact on improvements Inability to use sidewalk parking Loss of parking
<b>Employee dependent on street-front business owner</b>	Temporary decrease in income Loss of employment	
<b>Owner of fixed stall in public space</b>		Inability to occupy public space
<b>Employee of fixed stall</b>	Temporary decrease in income Loss of employment	

Source: MICI based on information from the IRMP.

2.234 Based on these impacts, the IRMP identifies general measures to compensate for the effects of resettlement, as well as general eligibility criteria for every measure, which will be defined in the IRSPs.<sup>318</sup> It indicates that people or families who are affected in a disproportionate manner will be considered “vulnerable.” They are those living below the poverty line and those living in a household in similar or

<sup>313</sup> IRMP, page 11.

<sup>314</sup> IRMP, pages 14 and 15.

<sup>315</sup> IRMP, pages 19-21.

<sup>316</sup> IRMP, pages 14 and 15.

<sup>317</sup> IRMP, pages 17 and 18.

<sup>318</sup> IRMP, pages 20-30.

- worse conditions as people living in social housing, and who must be resettled. Specifically, within vulnerable groups, the following need support: “low-income women heads of household with minor dependents and responsible for the family’s livelihood,” children and adolescents, the elderly, people with disabilities, and low-income people with critical health issues. Regarding informal businesses, the plan indicates that owners and employees of fixed stalls are considered vulnerable, without establishing additional criteria. For street-front businesses, the plan sets forth as vulnerability criteria that they are microenterprises that rely heavily on revenues generated through sales, lack alternative incomes, and the program will permanently impact the continuity of their economic activities.<sup>319</sup>
- 2.235 The IRMP proposes these 11 general compensation measures: monetary compensation for loss of land or for improvements; relocation of fixed stall; replacement of housing; support program for vulnerable businesses; alternative parking plan; technical and business training program; logistics support for relocation; legal support; social support; communication plan for the works; replacement for damages during the construction. Their objective is to develop alternative impacts or at least counteract the negative impact caused by the program and restore the situation of affected parties to the same or better conditions. Regarding the relocation of fixed stalls, it indicates that the objective is to ensure the restitution of means of support under the same or better conditions, as well as the availability of relocation spaces before clearing the public spaces required for the program. The plan also mentions the types of relocation that will be available, specifying that IRSPs will establish the particular relocation method for every section.<sup>320</sup>
- 2.236 With respect to the support program for vulnerable businesses, it includes “compensatory alternatives for social units that might be affected by the interruption or temporary decrease in revenue during the works stage, or an inability to continue their economic activities as a result of the program.” In addition, the IRSPs will establish their implementation on a case-by-case basis.<sup>321</sup> The eligibility matrix limits this measure to street-front businesses; CAPYME developed the elements that make up this matrix. The alternative parking measure consists of preparing a parking plan to mitigate the impact on this issue. The social support measure involves providing social support and information to affected parties, particularly vulnerable people, but the plan does not define the scope. The document mentions that for people living in conditions of extreme vulnerability, the operation will seek to coordinate actions with the government’s social assistance programs.<sup>322</sup>
- 2.237 The IRMP also indicates that there were “various consultation processes, focused workshops, meetings, and visits aimed at the population in general and at the people living in the area of direct influence,” without including more information about this. It establishes some guidelines for the PEU to follow to provide information and keep the people who will be affected by resettlement informed,

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<sup>319</sup> IRMP, pages 19 and 20.

<sup>320</sup> IRMP, pages 21, 23, and 24.

<sup>321</sup> IRMP, page 25.

<sup>322</sup> IRMP, pages 25-28.

- and requires the implementation of a mechanism to address questions, complaints, and concerns about the program.<sup>323</sup> The document does not include a budget and contains a “tentative timeline,” specifying that the IRSPs will establish specific schedules depending on the works.<sup>324</sup>
- 2.238 In addition to the IRMP, the studies conducted by consulting firms GEAM, CAPYME, and Empreder, described in the section on Operational Policy OP-703, contain information and measures related to displacement. The CAPYME consulting assignment for Sections 2 and 3 determines which street-front businesses are incompatible with the program, identifying 26 businesses with low or no compatibility, 18 in Section 2 and 8 in Section 3.<sup>325</sup> None of the street-front Requesters for Section 3 are among the 8 businesses that were classified as having “low or no compatibility.”<sup>326</sup>
- 2.239 Regarding vulnerable businesses, CAPYME details the mitigation measures and the street-front businesses that are eligible for these. The business advice and training measure consists of designing various courses for 119 street-front businesses that are considered vulnerable or as having low or no compatibility. The material and/or economic support or assistance measure involves providing support such as equipment to facilitate access to the business; changing the location of the merchant’s facilities to the same premises; modifying infrastructure to adapt it to a new business model; providing basic equipment for the new business model; and providing other support to be determined by specialists during the diagnostic assessment.<sup>327</sup> CAPYME indicates that only five vulnerable street-front businesses that will require this support have been identified, all located in Subsection 3.3.<sup>328</sup>
- 2.240 The relocation support measure involves providing this type of support to vulnerable businesses. However, the report indicates that for Sections 2 and 3, no street-front businesses need to be relocated.<sup>329</sup> It mentions that there might be “situations in which, due to the nature of the business or its way of operating, a temporary or permanent relocation is advisable to ensure revenue generation,” and that this will be studied on a “case-by-case basis” and decided in concert with the street-front business.<sup>330</sup> The MICI does not know whether this type of situation arose later on.
- 2.241 The consulting assignment completed by Empreder describes the number and type of businesses located in Section 1 and their employees,<sup>331</sup> following the same methodology used by CAPYME to determine the vulnerability of street-front businesses. This report indicates that none of the street-front Requesters located

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<sup>323</sup> IRMP, pages 35-38.

<sup>324</sup> IRMP, pages 38 and 39.

<sup>325</sup> CAPYME report on Sections 2 and 3, page 35.

<sup>326</sup> [REDACTED]

<sup>327</sup> CAPYME report on Sections 2 and 3, pages 30-33.

<sup>328</sup> CAPYME report on Sections 2 and 3, page 33.

<sup>329</sup> CAPYME report on Sections 2 and 3, pages 33 and 37.

<sup>330</sup> CAPYME report on Sections 2 and 3, pages 37 and 38.

<sup>331</sup> Empreder report on Section 1, page 3.

- in Section 1 will need to be resettled. The consulting assignment completed by GEAM for Section 1 proposes several measures related to resettling informal businesses in that section, specifically the design of programs for permanent relocation; formalization and training; and job retraining (paragraphs 2.59-2.62).
- 2.242 Subsequent to these consulting assignments, the 2017 pEIA mentions that based on the GEAM report on Section 1, “the MOPC ... is preparing the corresponding IRSPs and will be responsible for the implementation of a specific social management plan” for occupants of public spaces to be resettled.<sup>332</sup> For Sections 2 and 3, the pEIA describes the implementation of the IRSP for Subsection 3.3,<sup>333</sup> without mentioning the remaining subsections. While the pEIA indicates that IRSPs are being designed to address resettlement, it also includes a potential solution for the relocation of the informal businesses of Mercado 4 on Pettirossi street. However, it mentions that a consultant still needs to be retained to design that solution, that the proposal has not been shared, and that the purchase of premises is “being analyzed.”<sup>334</sup>
- 2.243 Subsequently, as indicated in the IRMP, an IRSP will be prepared for every subsection. When the investigation was completed in February 2018, IRSPs were available for Subsections 3.1, 3.2, and 3.3. Following the sequence of the works, the IRSP for Subsection 3.3 was the first one to be prepared, with a first version available in December 2016 and a final version in March 2017.<sup>335</sup> The versions of the IRSPs for Subsections 3.1 and 3.2 are from August and May 2017, respectively.<sup>336</sup> The MICI does not know whether these are the final versions of these IRSPs.<sup>337</sup> As the IRMP indicates, the IRSPs analyze the impacts of both resettlement and economic effects on street-front businesses and informal businesses. Since the Requesters for Subsections 3.1 and 3.2 are street-front business owners, only information about impacts on these types of businesses is included.
- 2.244 The IRSPs for Subsection 3.2 and 3.1 indicate that they use the guidelines and criteria of the IRMP to establish the measures to prevent, mitigate, minimize, or compensate for the socioeconomic impacts caused by displacement or other types of impacts. They include actions to support the “economic and social units” affected by program execution in their section and the implementation of mitigation measures and programs.<sup>338</sup> The IRSPs refer to periods of restricted access. Therefore, the plan for Subsection 3.2 describes that there will be difficulties due to street closures or full obstruction, lasting 20 days for pedestrian access and

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<sup>332</sup> 2017 pEIA, page 292.

<sup>333</sup> 2017 pEIA, pages 308-310.

<sup>334</sup> 2017 pEIA, pages 291-293.

<sup>335</sup> The MICI had access to a second version in October 2017. Earlier, it had access to a draft of the document.

<sup>336</sup> The MICI had access to the IRSPs for these subsections in October 2017.

<sup>337</sup> The MICI had access to a version of both IRSPs in October 2017. Later, in February 2018, it received once again the same version of the IRSP for Subsection 3.2, with additional information and annexes, to which it had not had access before. In March 2018, it received the annexes for the IRSP for Subsection 3.1.

<sup>338</sup> IRSP for Subsection 3.2, page 8; IRSP for Subsection 3.1, page 8.

between 45 and 60 days for vehicle access. It states that the startup of works will be in May 2017 and their completion will take between four and six months. The plan for Subsection 3.1 only indicates that the works are planned for a period between four and six months.<sup>339</sup>

- 2.245 According to information received on the progress of the works from Management, the works for Subsection 3.3 began in November 2016; for Subsection 3.2, in July 2017; and for Subsection 3.1 had not started as of March 2018.<sup>340</sup>
- 2.246 The IRSPs describe mitigation measures for two types of impacts: direct and indirect. The direct impacts are physical effects on properties, such as partial or complete expropriations, or on improvements, such as changes to signs or fences caused by the program.<sup>341</sup> The indirect impacts refer to the customary economic activities of the affected parties, which are impacted by the program during its construction and operation.<sup>342</sup> The Requesters' allegations are based on this latter type of impact; therefore, only information about this will be included.<sup>343</sup>
- 2.247 The socioeconomic description of street-front businesses for both IRSPs is based on the CAPYME consulting assignment for Sections 2 and 3.<sup>344</sup> To determine eligibility for their mitigation measures, the IRSPs only take into account micro, small, and medium-sized enterprises, estimating that other types of businesses "probably will not have impacts (except for noise, dust, and other similar effects inherent in the works)" and therefore do not require mitigation measures.<sup>345</sup> The eligibility criteria and compensation measures for both IRSPs are those established in the IRMP.<sup>346</sup>
- 2.248 With respect to specific measures, the IRSPs contain three measures and six compensation programs. For the support program for vulnerable businesses, Subsection 3.2 has 16 street-front businesses eligible for this measure.<sup>347</sup> For Subsection 3.1, 10 street-front businesses are considered vulnerable and 6 have low or no compatibility.<sup>348</sup> None of the IRSPs explains the special attention measure for street-front businesses with low or no compatibility. The IRSP for Subsection 3.2 excludes this because there are no businesses with that classification in the area.<sup>349</sup> The IRSP for Subsection 3.1 indicates that street-front businesses with low or no compatibility will receive "special treatment for the

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<sup>339</sup> IRSP for Subsection 3.1, pages 12 and 13.

<sup>340</sup> [REDACTED].

<sup>341</sup> IRSP for Subsection 3.2, pages 14, 15, 17, and 24; IRSP for Subsection 3.1, pages 14 and 15.

<sup>342</sup> IRSP for Subsection 3.2, page 24; IRSP for Subsection 3.1, page 19.

<sup>343</sup> IRSP for Subsection 3.2, page 14; IRSP for Subsection 3.1, page 13. For more information on the direct impacts, see pages 14-22 of the IRSP for Subsection 3.2, and 12-18 of the IRSP for Subsection 3.1.

<sup>344</sup> IRSP for Subsection 3.2, page 23; IRSP for Subsection 3.1, page 18.

<sup>345</sup> IRSP for Subsection 3.2, page 27; IRSP for Subsection 3.1, page 19.

<sup>346</sup> IRSP for Subsection 3.2, pages 31 and 32; IRSP for Subsection 3.1, pages 23 and 24.

<sup>347</sup> IRSP for Subsection 3.2, page 34.

<sup>348</sup> IRSP for Subsection 3.1, page 26.

<sup>349</sup> IRSP for Subsection 3.2, page 35.

- effective resolution of the drawbacks that the program might cause,” and simply refers to the CAPYME report on Sections 2 and 3.<sup>350</sup>
- 2.249 Regarding the alternative parking plan measure, the IRSPs indicate that there will be joint work on this issue with the authorities in the municipalities and that permanent parking areas will be “created as is feasible based on the works plan and the availability of land in the area.”<sup>351</sup>
- 2.250 The technical and business training program consists of courses and workshops on general business subjects and some on specific areas by type of business. Both IRSPs include the same courses, indicating that their start and end dates will be defined in coordination with the population prior to the start of each course. They also include training courses for vulnerable street-front business owners, indicating that if people with other classifications are interested in participating, that “the roster can be expanded.” These plans indicate that currently, CAPYME, the PEU, and government institutions are developing trainings.<sup>352</sup>
- 2.251 With respect to logistics support for relocation, none of the street-front businesses for Subsection 3.2 will need this support.<sup>353</sup> The IRSP for Subsection 3.1 indicates that contracting firm Mota-Engil, in coordination with the PEU, will set a calendar “of tentative dates to provide logistics support for the relocation of people affected.”<sup>354</sup> In terms of social support and legal support, both IRSPs indicate that “the social assistance necessary to keep the population satisfied and ensure the effective implementation of compensatory measures” will be provided, as well as legal support on a case-by-case basis.<sup>355</sup> Regarding communication, the plans include general measures to be implemented through mass communication and social networks. For street-front businesses, “there are plans to deliver newsletters and flyers with relevant information for those who can continue offering their products and services during the works (including their location).”<sup>356</sup>
- 2.252 With respect to communication and relations with affected parties, the IRSPs describe the availability and operation of a mechanism to provide customer service for questions and complaints.<sup>357</sup> Both plans include the same institutional mechanism for its implementation, which involves the PEU, teams of consultants, the municipal government for each section, and the contractor.<sup>358</sup> Regarding consultations with the population, the IRSPs for Subsections 3.2 and 3.1 include an annex on “Disseminating the plan.” These were shared with the MICI in February and March 2018, respectively. Both annexes indicate that the “dissemination will take place on a case-by-case basis with lead time, in order to

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<sup>350</sup> IRSP for Subsection 3.1, page 27.

<sup>351</sup> IRSP for Subsection 3.2, page 36; IRSP for Subsection 3.1, pages 27 and 28.

<sup>352</sup> IRSP for Subsection 3.2, pages 37 and 38; IRSP for Subsection 3.1, pages 28-30.

<sup>353</sup> IRSP for Subsection 3.2, pages 38 and 39.

<sup>354</sup> IRSP for Subsection 3.1, page 30.

<sup>355</sup> IRSP for Subsection 3.2, page 39; IRSP for Subsection 3.1, page 30.

<sup>356</sup> IRSP for Subsection 3.2, page 39; IRSP for Subsection 3.1, page 31.

<sup>357</sup> IRSP for Subsection 3.2, page 41; IRSP for Subsection 3.1, pages 33 and 34.

<sup>358</sup> IRSP for Subsection 3.2, page 43; IRSP for Subsection 3.1, pages 34 and 35.

- go on the field with the necessary information as required,” without adding more information.<sup>359</sup>
- 2.253 With regard to budget and schedule, the MICI did not have access to the final version of the IRSPs for Subsections 3.2 and 3.1 until February 2018, when Management sent versions containing additional information to what had been analyzed up until then.<sup>360</sup> The IRSP for Subsection 3.2 that was available in October 2017 includes a budget “under development” that identifies categories without specifying their budget and a schedule of activities from March to September.<sup>361</sup> The version received in February includes a budget and schedule from March to August.<sup>362</sup> The IRSP for Subsection 3.1, shared in October 2017, includes an overall budget without itemizing,<sup>363</sup> and a schedule with activities from month 1 to month 6, without specifying the starting month.<sup>364</sup> The version of this IRSP received in February 2018 includes an itemized budget.<sup>365</sup>
- 2.254 Regarding monitoring and evaluation, the IRSPs indicate that the PEU will hold meetings with the consulting firms and the builder to ensure proper execution, and include monitoring indicators.<sup>366</sup> In terms of evaluation, the plans indicate that they are in effect until the completion of works in their subsection and the “reestablishment of mitigation measures.”<sup>367</sup>
- 2.255 While this report was being finalized, the MICI was informed that the IRSP for Section 1 was being prepared. During the Compliance Review mission, the Panel visited some of the options for resettlement of the businesses from Mercado 4. Management recently reported that a location was selected and that the land purchase was underway. During the Compliance Review mission, it was also found that the MOPC and the Itaipú Binational Entity are communicating to coordinate possible interactions between the project to improve Mercado 4 financed by Itaipú and the resettlement of businesses from Mercado 4 related to this operation.<sup>368</sup>

**d. Determination of compliance with the Operational Policy on Involuntary Resettlement (OP-710)**

- 2.256 Based on the findings presented, the MICI found that the program has four important characteristics for the analysis of compliance with Operational Policy OP-710. First, the preparation of resettlement plans stopped for several years, between the approval of the program by the Bank and the approval of the loan by the Paraguayan Congress. Therefore, the first documents that contain information on resettlement are from 2010 and 2011, and the most recent from

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<sup>359</sup> IRSPs for Subsections 3.2 and 3.1, Annex 2.

<sup>360</sup> The documents have the same date.

<sup>361</sup> IRSP for Subsection 3.2, pages 45 and 46.

<sup>362</sup> IRSP for Subsection 3.2, pages 45-47.

<sup>363</sup> IRSP for Subsection 3.1, page 38.

<sup>364</sup> IRSP for Subsection 3.1, pages 36 and 37.

<sup>365</sup> IRSP annexes for Subsection 3.1, Annex IX, no page number.

<sup>366</sup> IRSP for Subsection 3.2, page 48; IRSP for Subsection 3.1, pages 38 and 39.

<sup>367</sup> IRSP for Subsection 3.2, page 48; IRSP for Subsection 3.1, page 39.

<sup>368</sup> 2017 pEIA, pages 149-150 and 163; 2015 pEIA, pages 53-54 and 131.

2016 and 2017. Second, there is no single resettlement plan for the program. There are several general documents that address the issue, as well as specific resettlement plans for every subsection. Third, resettlement plans do not only analyze physical displacement, but also economic disruption resulting from the program. Fourth, given that the program is in execution and the execution is being carried out in sections, when this report was prepared, the IRSPs for Sections 1 and 2 were still pending preparation.

2.257 Because of this situation, the MICI believes it is relevant to begin the analysis of Operational Policy OP-710 with the fulfillment of the time frames required by this policy for the preparation stage. Then, determine compliance with OP-710 by analyzing the documents prepared after program approval, specifically the IRSPs for Subsections 3.1 and 3.2 and the resettlement to take place in Section 1.

(i) *Analysis of the development of resettlement plans during the preparation stage, pursuant to the time frames required by Operational Policy OP-710*

2.258 For every operation that involves resettlement, Operational Policy OP-710 requires, prior to the analysis mission, that a preliminary resettlement plan be prepared as part of the Environmental and Social Impact Assessment (EIA). In addition, prior to distribution of the documents to the Board of Executive Directors for loan approval, that a final resettlement plan be presented. The program's special/analysis mission took place from 30 August to 3 September 2010; the Board approved the program on 29 September of that year. Based on these dates, the program should have had a preliminary resettlement plan before 30 August 2010 and a final resettlement plan before 29 September 2010.

2.259 For the preliminary resettlement plan, the MICI found that prior to 30 August 2010, the ESMR only identified as a program impact the displacement of informal businesses. It mentions that it will be necessary to relocate them from the markets and the area of direct influence, as well as to prepare a "compensation and relocation plan for stall-based merchants." Similarly, the schedule of next steps in the ESMR includes the preparation of a resettlement plan to address the relocation of informal businesses.<sup>369</sup> Therefore, the MICI concludes that the ESMR required the preparation of a plan but one had not been prepared at that time, and that prior to the analysis mission, there was no preliminary resettlement plan as required by Operational Policy OP-710.

2.260 For the final resettlement plan, which pursuant to the provisions of Operational Policy OP-710 should have been ready before 29 September 2010, the MICI verified that at that time there was just one document regarding resettlement, the resettlement plan framework.<sup>370</sup> That document includes the resettlement of informal businesses as a program impact and has some data on the approximate number of affected parties throughout the corridor. However, it anticipates a consulting assignment to determine the situation of informal businesses, acknowledging that the program's technical structure and its environmental and social sustainability had not been defined. An analysis of this document showed

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<sup>369</sup> ESMR, page 56.

<sup>370</sup> That resettlement plan framework was attached to the new version of the ESMR, which was prepared after program approval, in October 2010.

that its objective is to guide the preparation of resettlement plans for the program, and that it describes the scopes and activities for the consulting assignment to be carried out.<sup>371</sup> Therefore, the document itself was not envisaged as a resettlement plan. Management seems to share this position, since it indicated that when the program was approved, there was no information available to prepare a resettlement plan, only a resettlement plan framework,<sup>372</sup> and that the program's resettlement plan was prepared along with the 2011 ESA.<sup>373</sup>

- 2.261 Based on the above, the MICI concludes that when the Board approved the program, there was no final resettlement plan available as required by Operational Policy OP-710.
- 2.262 With respect to this, the MICI would like to highlight that, during the Compliance Review process, the project team explained that it was difficult to comply with the time frames required by OP-710, since the final designs for the operation were not available prior to the loan approval. In broader terms, they mentioned that for infrastructure projects like this, it is difficult to comply with the time frames required by OP-710 for the preparation of resettlement plans, and that therefore this policy does not match the reality of some types of projects. The ESMR prepared after program approval and the environmental and social review of August 2010 indicate that a resettlement plan framework is being presented, considering that OP-710 allows for preparing a resettlement framework when infrastructure investments have not been identified prior to the operation's approval.
- 2.263 The MICI found that this policy does include express exceptions to the requirement to prepare resettlement plans prior to loan approval, specifically considering that some types of projects have characteristics that prevent compliance with these Bank standards. However, these exceptions do not apply to operations such as this, only to global and sector loans<sup>374</sup> for which infrastructure investments are not specifically identified prior to program approval and it is not possible to include the preparation of resettlement plans in the preparation of the program itself.

(ii) *Compliance with Operational Policy OP-710 after program approval*

- 2.264 As indicated above, once it has been determined that a program will result in involuntary resettlement, Operational Policy OP-710 establishes that a resettlement plan be prepared pursuant to certain requirements. Preparing this plan is an additional requirement to the environmental and social assessments to be prepared pursuant to other Relevant Operational Policies, and is justified by the particular impacts and challenges resulting from involuntary resettlement. In this case, even though the time frames required by OP-710 for the preparation of resettlement plans were not met, several analyses of resettlement were prepared after the program was approved. Some are specific to resettlement, while others are environmental and social analyses that include the issue of resettlement; some include all program sections, while others only cover some of these sections. Based on the different assessments and documents that exist for the two sections

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<sup>371</sup> Resettlement plan framework, Sections 5.2 to 5.4.

<sup>372</sup> Management's Comments on the Recommendation, paragraph 3.1.

<sup>373</sup> Management's Response, paragraph 5.

<sup>374</sup> Operational Policy OP-710, Special considerations, Global and Sector Loans, IV.5.

where the Requesters are located, the following is an analysis of compliance with these requirements for Sections 1 and 3.

(iii) *Compliance with Operational Policy OP-710 for Section 1*

- 2.265 After loan approval, the only document on resettlement that includes Section 1 is the involuntary resettlement master plan (IRMP), which means that an involuntary resettlement specific plan (IRSP) for Section 1 does not exist. However, the IRMP indicates that it is an update of the preliminary resettlement plan prepared as part of the ESA. Additionally, during the investigation, Management stated that the ESA contains a resettlement plan for the entire program,<sup>375</sup> including Section 1. Management acknowledges that Section 1, where Mercado 4 is located, was left for the second stage, “which is being analyzed in great detail.” In addition, regarding compliance with Operational Policy OP-710, Management specifically mentions the IRSPs for Section 3 as the instruments used to comply with this policy’s standards.
- 2.266 Based on the above, the MICI found that the IRMP and the IRSPs for every section were meant to comply with Operational Policy OP-710. However, given the information found, which considers the ESA as the resettlement plan for the entire program, including Section 1, the MICI decided to analyze it. While the ESA does contain some information on resettlement, the MICI believes that this document does not comply with the requirements of OP-710 for resettlement plans, for the following reasons:
- a. It does not contain complete baseline information on the people to be resettled, only some general data on potential affected parties without including their socioeconomic characteristics, and acknowledges the exclusion of a significant group of potential affected parties, street-front business owners;
  - b. While it does contain eligibility criteria, it acknowledges that these are not final and does not include an estimate of the people eligible for every option proposed;
  - c. The design and alternatives of the four model mitigation measures it included were not ready;
  - d. The affected parties were not consulted about the mitigation measures;
  - e. An institutional structure to implement the measures did not exist; and
  - f. A detailed schedule and complete budget were not available.
- 2.267 **Therefore, the ESA lacked the essential elements required by Operational Policy OP-710 for resettlement plans, and the MICI believes that this study did not comply with this policy.**

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<sup>375</sup> In its Response to the Request and during the Compliance Review process, Management reported that the ESA contains the resettlement plan for the program. Response to the Request, paragraph 5. However, in its Comments on the Recommendation, Management does not identify the ESA as a resettlement and compensation plan, but as a “detailed resettlement plan framework.” Comments on the Recommendation, paragraphs 3.2, 3.6, and 3.7.

- 2.268 With respect to the IRMP, as indicated by Management and the document itself, it establishes general guidelines for resettlement and economic impacts. The document describes guidelines to prepare and implement IRSPs for every section. It acknowledges that program impacts will be defined through consulting assignments and that every IRSP will design applicable compensation and/or mitigation measures based on the results of these assignments and according to the general categories of affected parties and the general compensation measures of the IRMP.<sup>376</sup>
- 2.269 Based on this information, it can be stated that the IRMP, similarly to the resettlement plan framework, is a guidance document that identifies the next steps and processes to obtain necessary information to prepare specific resettlement plans for every section. It also provides guidelines on designing mitigation measures for program impacts for people who will not be resettled. **The MICI acknowledges that the IRMP is a complete, valuable document to guide the preparation of program resettlement plans. However, it is not in itself a resettlement plan. Therefore, the MICI concludes that the Bank did not comply with Operational Policy OP-710 by not having a resettlement plan for Section 1 that follows the criteria of this policy.**
- 2.270 In general, the MICI found that while there is a long list of documents and consulting assignments that include the issue of resettlement, as of the date this report was completed and with works soon to begin on this section, there was no resettlement plan for Section 1 that complied with the requirements of Operational Policy OP-710. The MICI believes that while it may have been difficult to prepare a resettlement plan with the time frames required by OP-710 due to the program's characteristics, particularly regarding the final technical designs and the definitive route of the Metrobus, it is worrisome that to date there is still no resettlement plan for the section that poses the biggest social challenges. This is especially the case, given that various program documents identify as one of its most important challenges the resettlement of informal businesses from Mercado 4, and that a large percentage of these business owners are in vulnerable situations.<sup>377</sup>
- (iv) *Compliance with Operational Policy OP-710 for Section 3*
- 2.271 The Requesters' allegations for Subsections 3.1 and 3.2 are connected to socioeconomic impacts on street-front businesses. For every subsection of Section 3 (Subsections 3.1, 3.2, and 3.3), the program has an IRSP, which includes mitigation measures for people who will be relocated and for people who will suffer other socioeconomic impacts, pursuant to the standards of Operational Policy OP-710. This represents great progress in complying with this policy. Although Management indicates in its comments on the preliminary version of the compliance review report that all environmental and social impact studies and the IRSPs were completed prior to the startup of works on the respective section and subsection, the MICI believes that it is important to highlight that these IRSPs were prepared almost simultaneously, and in the case of the one for Subsection 3.3, after the startup of works for their respective subsections. This might impact the effective implementation of their mitigation measures. Moreover,

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<sup>376</sup> Management's Comments on the Recommendation, paragraphs 3.4 and 5.1.

<sup>377</sup> ESA, page 18.

these resettlement plans were based on the diagnostic assessment and mitigation proposals from CAPYME, which were completed in May 2017.

- 2.272 Operational Policy OP-710 requires that resettlement plans fulfill seven criteria: baseline information; community participation; compensation and rehabilitation package; legal and institutional framework; environment; timeliness; and monitoring and evaluation (Sections V.1 to V.7). In addition, Section V.6.f of this policy establishes a list of minimum content for resettlement plans. These plans must include a final budget; a calendar for execution; provisions for monitoring and evaluation; and participatory supervisory arrangements, which combined with monitoring, can be used as a warning system to identify and correct problems during execution. The following is an analysis of whether the IRSPs for Subsections 3.1 and 3.2, where the Requesters are located, comply with these requirements.
- 2.273 The first requirement is having accurate baseline information as early as possible, including the number of people to be resettled and their socioeconomic and cultural characteristics, broken down by gender (criterion V.1). With respect to this requirement, the Principles and Guidelines on Involuntary Resettlement indicate that these studies should “identify the potential risks facing the affected population; quantify the numbers of people affected by the [operation] as accurately as possible; and identify the different ... populations involved, and analyze the particular ways they are likely to be affected.”<sup>378</sup> Therefore, the importance of this requirement is to define the people who will be affected by the program.
- 2.274 The definitions of affected parties in the IRSPs for Subsections 3.1 and 3.2 are based on the categories established in the IRMP and the census and socioeconomic description prepared by CAPYME for Sections 2 and 3. The IRMP fully identifies the various categories of groups that might be affected by the program, as well as the main risks and impacts they will face during construction and operation of the Metrobus. It includes street-front business owners and their employees as part of the affected parties. CAPYME prepared a census of street-front businesses throughout the Metrobus route, identifying their vulnerability to program impacts.
- 2.275 Based on the above, the MICI found that the IRMP contains a complete identification of the categories of affected parties and the impacts they will face from the program, and that CAPYME prepared a complete report of street-front businesses located in Section 3, in compliance with this requirement. However, the MICI deems it relevant to make some remarks about certain aspects of the identification of affected parties. While the MICI found that the IRMP includes the employees of street-front businesses among the categories of affected parties, the CAPYME census and analysis does not include that group, only street-front businesses. Therefore, the IRSPs do not include a description of this group of affected parties, or mitigation and/or compensation measures for them, even though this is included in the IRMP.
- 2.276 Separately, the IRSPs identify the number of street-front businesses, dividing them into vulnerable, not vulnerable, and with low or no compatibility. The “vulnerable”

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<sup>378</sup> Involuntary Resettlement in IDB Projects. Principles and Guidelines, November 1999, page 9.

classification is important, since it defines whether mitigation measures are suggested, and if applicable, which measures the street-front business is eligible for, specifically in terms of support to vulnerable businesses. Regarding this classification, three aspects stand out. First, 21% of street-front businesses did not respond to the survey conducted by the consulting firm. However, they were classified as “not vulnerable” in a discretionary manner, without their situation being evaluated, and were left without potential access to mitigation measures.

- 2.277 Second, the definition of the number of employees that a business must have to be considered a micro, small, or medium-sized enterprise that was used was different from the one established in Paraguayan legislation. The IRMP indicates that to be considered a vulnerable street-front business, that business should be a microenterprise pursuant to Law 4457/12, according to which a microenterprise has no fewer than 10 employees. However, in its vulnerability analysis, CAPYME determined that a microenterprise has five employees or fewer, among other requirements, without explaining the reasons it did not follow the definition of Law 4457/12.
- 2.278 Third, one of the aspects analyzed to determine vulnerability and mitigation measures was the duration of the works and its impact on the sales of street-front businesses due to street and sidewalk closures. Therefore, the mitigation and compensation measures that CAPYME designed considered that the works would result in 20 days of difficult access for pedestrians and 45 for vehicle access (paragraph 2.244). Separately, the IRSP for Subsection 3.2 includes the same period of difficulties for pedestrian access and between 45 and 60 days for vehicle access; the IRSP for Subsection 3.1 lacks information on this. During the investigation process, the consulting firm responsible for designing these measures explained to the MICI that the builder reported that the works in front of the businesses will be completed in two months. However, both IRSPs indicate that the total duration of the works in the section will be between four and six months.
- 2.279 Based on the information provided on work progress, these timelines have been exceeded significantly. For example, works for Subsections 3.3 and 3.2 started in November 2016 and July 2017, respectively; however, as of the completion of this report in March 2018, they had not been finished. Therefore, the program’s mitigation and compensation measures for the construction stage were designed based on different time periods than the actual time periods for that stage. Regarding this, the MICI found that the program includes a mechanism to modify the classifications assigned if the periods for the works increase. However, it is not known whether this mechanism is being applied.
- 2.280 **With respect to including the results of consultations carried out in a timely and socioculturally appropriate manner with a representative cross-section of the community, to ensure that the interests of vulnerable subgroups are adequately represented (criterion V.2), the IRSPs for Subsections 3.1 and 3.2 only contain a single annex indicating that the dissemination will take place on a case-by-case basis with lead time, “in order to go on the field with the necessary information” as required. Therefore, the MICI considers that the IRSPs fail to comply with this requirement by not containing the information**

**required by Operational Policy OP-710 on the results of consultations with the affected parties.**

- 2.281 With respect to mitigation measures, compensation options, and means to restore income and compensate for the hardships caused, Operational Policy OP-710 requires both a definition of the compensation and rehabilitation options (criterion V.6) and substantive requirements for the characteristics these measures must have (criterion V.3). These requirements reflect the Bank's high standards in ensuring compliance with one of the basic principles of OP-710: to ensure that the affected people receive fair and adequate compensation and rehabilitation, and within the shortest possible period of time, achieve a minimum standard of living at least equivalent to pre-resettlement levels (Section III-2). Therefore, OP-710 establishes that "compensation and rehabilitation options must provide a fair replacement value for assets lost, and the necessary means to restore subsistence and income, to reconstruct the social networks that support production, services and mutual assistance, and to compensate for transitional hardships (such as ... moving costs, interruption or loss of employment, lost income, among others)." It also requires that the measures "be taken in a timely manner to ensure that transitional hardships are not unnecessarily prolonged and do not result in irreparable harm. The options that are offered should be appropriate for the people affected, and should reflect their capabilities and realistic aspirations." These measures should also take into account "disaggregated baseline data with respect to gender, ethnicity, age, and any other factors pointing to special needs and/or vulnerability" (criterion V.3).
- 2.282 For this program, mitigation measures and options to compensate and restore income are established in the IRMP and the IRSPs for each subsection. The IRMP includes 11 general measures, which through the IRSPs for Subsections 3.1 and 3.2, translate into 3 measures and 6 compensation programs.<sup>379</sup> **Therefore, the MICI found that the specific involuntary resettlement plans comply with the first requirement of Operational Policy OP-710 by including compensation and rehabilitation options for the program, and that they represent an important step in complying with this policy.** However, the MICI considers that these measures fail to comply with the qualitative standards required by OP-710. Specifically, it found that the options and measures included in the IRSPs for Subsections 3.1 and 3.2 do not establish the necessary means to restore subsistence and income, and to compensate for the hardships caused by the program, for the following reasons.
- 2.283 The IRMP establishes a comprehensive list of 11 general mitigation and compensation measures. However, when specific measures for the program were developed through the CAPYME consulting assignment and the IRSPs for Subsections 3.1 and 3.2, they focused on "material or economic support and assistance" within the program to support vulnerable street-front businesses. That did not include any type of economic support; it only involved providing equipment and support with ramps and other physical modifications for a business. In addition, according to CAPYME and the IRSPs for Subsections 3.1 and 3.2, there were no street-front businesses eligible for this measure. Therefore, in reality the

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<sup>379</sup> These nine measures were identified in the IRMP as mitigation measures. The IRSPs do not explain why they make that distinction or what the difference is between a program and a mitigation measure.

- only measure proposed for the 26 street-front businesses classified as vulnerable for Subsections 3.1 and 3.2 are training courses.
- 2.284 During the investigation, the consulting firms responsible for preparing mitigation and compensation proposals indicated that their focus was developing courses to support the future performance of street-front businesses. They acknowledged that this measure did not repair the daily economic impact of the program. Nevertheless, the project team informed the MICI that the option of offering other types of measures to informal businesses has not been ruled out. The MICI does not know whether what is being considered for this would also cover the street-front businesses affected by the program. It is clear that this situation is not described in the IRSPs for Subsections 3.1 and 3.2. The MICI does not have information on the implementation of other mitigation measures to address the impacts identified during the various consulting assignments, in addition to the training measure.
- 2.285 Another important measure to mitigate the impact of the lack of access to businesses for customers during construction and operation is the alternative parking measure. Regarding this, both IRSPs indicate that a plan will be prepared to set up temporary and permanent parking areas, and that parking areas will be created wherever it is feasible, based on the works and on land availability. The IRSPs do not include these plans, even though their preparation was envisaged in the IRMP. Therefore, it is impossible to know about the parking options that will be offered through this measure.
- 2.286 Based on the above, the MICI found that in reality, the measures envisaged in the IRSPs translate into various types of training courses. While these measures are important, that means that the IRSPs do not include other measures to repair the impact on the livelihoods of affected parties during program construction. Therefore, it is unclear whether these measures can be used to restore the affected population's living conditions, as required by Operational Policy OP-710.
- 2.287 **Regarding the description of the applicable legal framework and the institutions involved in implementing the resettlement (criterion V.4), as well as the provisions for monitoring and evaluation, and participatory supervisory arrangements (criteria V.4 and V.6), both IRSPs describe the applicable local legal framework and Bank framework, as well as the existing structure for their implementation.** However, they highlight that the structure is complex, given that it involves a large number of stakeholders. These plans also envisage results monitoring based on a number of indicators, even though they do not establish timelines, responsible parties, or content of the final evaluation, nor participatory supervision mechanisms. **Therefore, the MICI found that, overall, the specific involuntary resettlement plans comply with this criterion.**
- 2.288 **On the existence of a calendar and measures to ensure its fulfillment (criterion V.6), both IRSPs include a calendar and indicate that the PEU will hold meetings with the consulting firms and the builder to ensure proper execution. While the MICI is aware that the timing of the works has changed and that these calendars probably need adjustments, it considers that this criterion has been fulfilled. Lastly, regarding setting a budget, based on the information that the MICI received in February and March 2018, both IRSPs**

have a budget; therefore, the MICI found that they comply with this requirement.

- 2.289 **Based on the above, the MICI concludes that the IRSPs for Subsections 3.1 and 3.2 comply with some of the requirements established in Operational Policy OP-710 and fail to comply with others, pursuant to the compliance findings indicated above. However, since the program is still in execution, and particularly because the works in Subsections 3.1 and 3.2 have not been completed, the MICI believes that there is an opportunity to implement the corrective measures necessary to prevent negative impacts on the affected population. Moreover, the MICI acknowledges that the Bank made a great effort during the program implementation stage to ensure full compliance with its Relevant Operational Policies and therefore ensure compliance with the missing elements.**

## **7. What does the Access to Information Policy (OP-102) establish?**

### **a. Requesters' allegations<sup>380</sup>**

- 2.290 The Requesters indicated that, despite receiving a certain amount of information on the general benefits of the program, they have not been informed of the negative impacts of Metrobus construction and operation or the planned mitigation measures. Specifically, they stated that there is a lack of information about the program's environmental and social impact studies. The Requesters located in the Mercado 4 area claimed that they are not aware of the existence of resettlement plans and have not received information on their alternatives for relocation and compensation.

### **b. Applicable version of Operational Policy OP-102**

- 2.291 The current Access to Information Policy (document GN-1831-28) was approved by the Board of Executive Directors on 12 May 2010 and is applicable to the information produced and received by the Bank on or after 1 January 2011. Prior to this, the Bank had a Disclosure of Information Policy (document GN-1831-18), updated in 2006, applicable to the information produced and received on or after 1 January 2004. Therefore, to harmonize the provisions of the MICI Policy and of Operational Policy OP-102,<sup>381</sup> the aspect to consider in defining the version of this Operational Policy that applies to a specific document will be the date it was produced or received by the Bank.

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<sup>380</sup> Information in this section was taken from the Request submitted and the video testimonials sent to the MICI as part of that Request, and from the Eligibility Memorandum of 5 August 2016. Available in the links section of this document.

<sup>381</sup> Based on the glossary of the MICI Policy, the Relevant Operational Policy that will apply is "the version in effect at the time of Board approval of the Bank-financed operation that is the subject of the Request, unless the relevant policy or legal documentation provides otherwise." At the time this operation was approved (12 May 2010), the Disclosure of Information Policy of 2006 was in effect. Therefore, that would be the Relevant Operational Policy according to the definition in the MICI Policy. However, pursuant to the current Access to Information Policy of 2010: "The provisions of this policy will take effect on January 1, 2011 with respect to information produced on or after that date." In light of these definitions, depending on the date the information was produced or received, either version of Operational Policy OP-102 will apply.

2.292 The MICI found that, for this program specifically, some documents were produced prior to 1 January 2011. Therefore, their dissemination should be analyzed according to the Disclosure of Information Policy of 2006. However, program documents produced after 1 January 2011 will be analyzed pursuant to the Access to Information Policy of 2010.

**c. What does the Disclosure of Information Policy of 2006 (OP-102) establish?**

2.293 The Disclosure of Information Policy of 2006 reaffirmed the Bank's "commitment to transparency and accountability in all of its activities." It was based on a number of principles that indicate that in the absence of a compelling reason for confidentiality, information concerning the Bank and its activities will be made available to the public "in a form and at a time that enhances the transparency and therefore the quality of Bank activities."<sup>382</sup>

2.294 This policy basically consists of a positive list of documents that must be disclosed by the Bank, and in a general manner, indicates the timing of their disclosure.

2.295 The policy refers to the information to be disclosed regarding Bank operations, and makes a distinction between sovereign-guaranteed operations<sup>383</sup> and non-sovereign guaranteed operations.<sup>384</sup> For sovereign-guaranteed operations, Operational Policy OP-102 of 2006 requires the disclosure of the following documents, at the time indicated:<sup>385</sup>

- (i) **The loan proposal:** will be made available to the public after the Board of Executive Directors has approved the operation;
- (ii) **Program concept documents, profiles, abstracts, or eligibility memoranda:** will be made available to the public once the Management Committee has approved them, or once the document has been sent to the respective Management Committee for information, if approval is not required;
- (iii) **Environmental impact assessments, strategic environmental assessments, or other environmental analyses:** will be made available to the public in the borrowing country and Bank headquarters before the Bank conducts its analysis mission;
- (iv) **Environmental and social strategy:** will be made available to the public after the recommendations of the Bank's Committee on Environment and Social Impact and of the Loan Committee have been incorporated; and

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<sup>382</sup> Disclosure of Information Policy (document GN-1831-18), Section II, Basic Principles.

<sup>383</sup> For sovereign-guaranteed operations, the IDB provides financing to governments and government-controlled institutions to support development and social projects.

<sup>384</sup> This refers to financing that the IDB provides for private-sector projects. These operations are carried out without guarantees or counterguarantees from governments.

<sup>385</sup> Disclosure of Information Policy of 2006 (OP-102), Section III. Information available from the Bank, Part A, Operational Information, paragraphs 5(a) and (b); 8; and 9.

- (v) **Environmental and social management report:** will be made available to the public when the Executive Vice President clears it for distribution to the Board of Executive Directors.

2.296 For the MICI to reach a conclusion regarding Operational Policy OP-102, it is necessary to consider the provisions of Operational Policy OP-703 regarding timely disclosure and access to environmental and social information, given the complementarity of both policies on these matters.

2.297 Regarding this, consistent with Operational Policy OP-102, Operational Policy OP-703 reaffirms the express obligation to disclose environmental impact assessments (EIAs) for those operations that require it, indicating that: "An EIA report must be prepared with its ESMP and disclosed to the public *prior to the analysis mission*, consistent with the Disclosure of Information Policy (OP-102)."<sup>386</sup>

**d. The MICI's findings in relation to compliance with the Disclosure of Information Policy of 2006 (OP-102)**

2.298 Table 9 shows the MICI's compliance analysis of the disclosure of program documents pursuant to the requirements of Operational Policy OP-102 of 2006. Significantly, this analysis involves the documents subject to mandatory disclosure associated with program PR-L1044, based on the evaluations completed for the previous sections of this document. The table indicates the type of document, the target date for disclosure to comply with the policy, the document's name, its disclosure date on the Bank's website (if applicable), and whether there was compliance with the provisions of the policy.

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<sup>386</sup> Operational Policy OP-703, Directive B.5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Table 9.**  
**Information for disclosure regarding sovereign-guaranteed operations pursuant to the Disclosure of Information Policy of 2006 (Operational Policy OP-102)**

Type of public document	Target date for disclosure under OP-102 of 2006	Name of the program document (PR-L1044)	Disclosure date on the Bank's website	Compliance with the policy
Loan proposal	After the operation was approved by the Board: <i>29 September 2010</i>	Loan proposal "Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices"	5 October 2010	Yes
Program concept documents, profiles, abstracts, or eligibility memoranda	Once approved or sent to the respective Management Committee for information: <i>unable to confirm</i> <sup>387</sup>	Program profile	4 February 2010	Unable to confirm
Environmental impact assessments or other environmental analyses	Prior to the analysis mission: <i>30 August to 3 September 2010</i>	Resettlement plan framework for urban revitalization of San Jerónimo neighborhood and relocation of informal businesses in the BRT section <sup>388</sup>	23 September 2010	No
Environmental and social strategy	After the recommendations of the Committee on Environment and Social Impact and of the Loan Committee have been incorporated: <i>unable to confirm.</i> <sup>389</sup>	Environmental and social strategy, included as an annex to the program profile	4 February 2010	Unable to confirm

<sup>387</sup>

[REDACTED]

<sup>388</sup> Document dated September 2010. The remaining documents in the environmental and social impact assessment category were produced after January 2011, and will therefore be analyzed under Operational Policy OP-102 of 2010.

<sup>389</sup> See remarks made about the program profile publication target.

**Table 9.**  
**Information for disclosure regarding sovereign-guaranteed operations pursuant to the Disclosure of Information Policy of 2006 (Operational Policy OP-102)**

Type of public document	Target date for disclosure under OP-102 of 2006	Name of the program document (PR-L1044)	Disclosure date on the Bank's website	Compliance with the policy
Environmental and social management report (ESMR)	When the Executive Vice President clears the proposal for distribution to the Board of Executive Directors: <i>unknown date</i> .	Environmental and social management report (ESMR), July 2010	30 July 2010	Unable to confirm
		Updated environmental and social management report (ESMR), October 2010	21 May 2018	No

Source: Prepared by the MICI based on various documents obtained during the investigation.

**e. What does the Access to Information Policy of 2010 (OP-102) establish?**

2.299 With the approval of Operational Policy OP-102 of 2010, the Bank reaffirmed “its commitment to transparency in all aspects of its operations.” The objective of the policy is to enhance the Bank’s “accountability and development effectiveness. Through implementation of this policy the Bank seeks to demonstrate its transparent use of public funds, and by deepening its engagement with stakeholders, to improve the quality of its operations and knowledge and capacity-building activities.”<sup>390</sup>

2.300 The principles of Operational Policy OP-102 of 2010 include maximizing access to information and employing simple and broad means to facilitate access to information. The policy is predicated not on a list of information that the Bank chooses to disclose but rather on maximizing access to information. Regarding this, the policy clearly defines information that will *not* be disclosed through a limited list of exceptions to disclosure, which includes: (i) personal information; (ii) legal, disciplinary, or investigative matters; (iii) communications involving Executive Directors; (iv) safety and security; (v) information provided in confidence and business/financial information; (vi) corporate administrative information; (vii) deliberative information; (viii) certain financial information; (ix) country-specific information; and (x) information relating to non-sovereign guaranteed operations.<sup>391</sup>

**f. The MICI’s findings in relation to compliance with the Access to Information Policy of 2010 (OP-102)**

2.301 To address the Requesters’ allegations about access to information and program documents produced while Operational Policy OP-102 of 2010 was in effect, the MICI will refer to the program’s environmental assessments and documents related to involuntary resettlement that were completed after January 2011, when this policy entered into effect.

<sup>390</sup> Access to Information Policy (document GN-1831-28), Section I, Objectives and Scope.

<sup>391</sup> Access to Information Policy (document GN-1831-28), Section II, Principles; and Section III, Standard of Disclosure.

**Table 10.**  
**Information for disclosure pursuant to the Access to Information Policy of 2010 (OP-102)**

Name of the program document (PR-L1044)	Document date	Target date for disclosure	Disclosure date on the Bank's website	Compliance with the policy
Socioenvironmental study (ESA)	18 November 2011	Prior to the analysis mission <sup>392</sup>	1 November 2011 and 19 July 2017 <sup>393</sup>	No
pEIA for Sections 2 and 3	July 2015	Prior to the analysis mission	14 June 2016	No
pEIA Subsection 1.1	Undated <sup>394</sup>	Prior to the analysis mission	15 February 2018	No
Involuntary resettlement master plan (IRMP)	July 2016	Prior to submitting the program for approval to the Board <sup>395</sup>	20 February 2018	No
Involuntary resettlement specific plan (IRSP) for Subsection 3.1	August 2017	Prior to submitting the program for approval to the Board	19 May 2018	No
IRSP for Subsection 3.2	May 2017	Prior to submitting the program for approval to the Board	23 February 2018	No

Source: Prepared by the MICI based on various documents obtained during the investigation.

**g. Determination of compliance with the Disclosure of Information Policy of 2006 and the Access to Information Policy of 2010**

2.302 Based on the information described in Tables 9 and 10, the MICI found that of the six documents subject to mandatory disclosure pursuant to Operational Policy OP-102 of 2006, five were published in 2010, and one was published upon delivery of the preliminary compliance review report to Management. Of those that were published in 2010, the MICI was only able to verify that one was published within the time frame the policy requires.

2.303 With respect to the ESMR of July 2010, the MICI does not know the specific date when the Executive Vice President cleared it for distribution of the project profile. Therefore, it is not possible to determine whether it was disclosed in the time frame established in the policy, and accordingly, whether there was compliance with the

<sup>392</sup> Operational Policy OP-703, Directive B.5, consistent with Operational Policy OP-102.

<sup>393</sup> This document was published twice. The first time in full and the second, divided into sections.

<sup>394</sup> According to information provided by Management, the MICI believes that this document was prepared in 2017. However, the document is undated.

<sup>395</sup> [REDACTED]

- policy at the time of disclosure. However, regarding the ESMR, it is worth mentioning that the MICI has a version from October 2010 that includes additional content compared with the version disclosed in July of that year and was disclosed in May 2018 after the compliance review report on this case was sent to Management. The MICI considers that the obligation to disclose documents extends to their updates, to ensure that updated information about the program is accessible to the public.
- 2.304 With respect to disclosure of the program profile and the environmental and social strategy, the MICI found that they were disclosed on the IDB website in February 2010. Nevertheless, it has been unable to determine whether this disclosure was made in the time frame that the policy indicates, since the MICI did not find out the specific date when the Committee on Environment and Social Impact and the Loan Committee reviewed these documents.
- 2.305 Regarding the resettlement plan framework, the MICI found that, while the document was disclosed on the IDB website, this disclosure occurred after the analysis mission. Therefore, the MICI considers that this document was not disclosed within the time frame established in the policy.<sup>396</sup> The MICI reiterates that while Operational Policy OP-102 of 2006 does not include resettlement plans in the positive list of documents subject to mandatory disclosure, these plans constitute an essential part of the framework for analyzing impacts and management plans.<sup>397</sup> Also, according to OP-102 of 2006: “Information concerning the Bank and its activities will be made available to the public in the absence of a compelling reason for confidentiality.”<sup>398</sup>
- 2.306 Regarding compliance with the requirements of Operational Policy OP-102 of 2010, the MICI found that the six environmental and social assessment documents for the program that were analyzed and produced after January 2011 were published outside the time frame established by the policy.<sup>399</sup> In its comments on the preliminary version of the compliance review report, Management indicates that environmental and social information prepared during project execution was disclosed “as [it] became available,” but the MICI notes that at least three of them, produced in 2016 and 2017—the pEIA for Section 1.1 (2017),<sup>400</sup> the IRMP (July 2016), and the IRSP for Subsection 3.2 (May 2017)—were published in February 2018.

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<sup>396</sup> The MICI based this on the time frames established in Directive B.5 of Operational Policy OP-703 and in Operational Policy OP-710 regarding disclosure of environmental and social impact assessments and of resettlement plans.

<sup>397</sup> MICI, BR-MICI006-2011, Compliance Review Report, São José dos Campos Urban Structuring Program, page 87.

<sup>398</sup> Disclosure of Information Policy (document GN-1831-18), Section II, Basic Principles.

<sup>399</sup> This is the time frame established in Directive B.5 of Operational Policy OP-703, a provision that must be applied in tandem with Operational Policy OP-102.

<sup>400</sup> Estimated date based on information provided by Management. See footnote 393 above.

- 2.307 In addition, the MICI found that the IRSP for Subsection 3.1<sup>401</sup> was published after the preliminary compliance review report was sent to Management for comment. In its comments, Management reported that it had published the documents pending disclosure, “following the MICI’s recommendation.” Accordingly, although these documents were disclosed late, the MICI acknowledges Management’s efforts to ensure publication.
- 2.308 **Based on the above considerations, the MICI found that the Bank did not comply with its obligation to disclose all the documents subject to mandatory disclosure pursuant to Operational Policy OP-102 in its 2006 and 2010 versions in accordance with the established time frames.**

### III. CONCLUSIONS

#### A. Conclusions regarding compliance with Operational Policies OP-703, OP-710, and OP-102

- 3.1 Chapter II presented a detailed analysis of the findings of the investigation, including the determination of omissions by the Bank with respect to various obligations established in Operational Policies OP-703, OP-710, and OP-102.
- 3.2 In addition to the Directives analyzed in Chapter II, Directive B.1 of Operational Policy OP-703 establishes that “the Bank will only finance operations and activities that comply with the directives of this policy, and are consistent with the relevant provisions of other Bank policies.”
- 3.3 Therefore, based on the findings and conclusions of noncompliance reached by the MICI and set out in Table 11, there was a failure to comply with Directive B.1 inasmuch as the Bank did not comply with Directives B.5 and B.6 of Operational Policy OP-703 or with various provisions of Operational Policies OP-710 and OP-102 (2006 and 2010 versions).
- 3.4 Table 11 below contains a summary of the points of noncompliance that were identified.

**Table 11.  
Summary of conclusions**

Policy	Conclusion as to compliance
<b>OP-703 (B.5)</b>	<p>The Bank <b>did not comply</b> with Directive B.5 inasmuch as it did not ensure that the program had, either overall or for Sections 2 and 3, environmental assessments that identified the potential risks and impacts of the Metrobus for the entire population in the area of influence and established specific measures and management plans to control these risks and impacts.</p> <p>The Bank <b>complied</b> with Directive B.5 inasmuch as it ensured that the program had an environmental assessment that identified the risks and impacts of the program for Section 1, as well as a management plan for those impacts.</p>

<sup>401</sup> As indicated in the section regarding Operational Policy OP-710, the MICI does not know whether the versions of the IRSPs for Subsections 3.1 and 3.2 that it analyzed are the final versions of these documents. Management is responsible for determining which version should be disclosed. The IRSP for Subsection 3.3 is not being considered, since none of the Requesters are located in that subsection.

**Table 11.  
Summary of conclusions**

Policy	Conclusion as to compliance
<b>OP-703 (B.6)</b>	The Bank <b>did not comply</b> with Directive B.6 inasmuch as it did not provide, as part of the dissemination processes for the program, complete and specific information to affected parties about the impacts that might affect them and the proposed mitigation measures, pursuant to the consultation standards of this directive.
<b>OP-703 (B.4)</b>	The Bank <b>complied</b> with its obligation to identify “other risk factors” that could affect the sustainability of the program and to develop measures to manage them, pursuant to Directive B.4 of Operational Policy OP-703, regarding the governance capacity of the executing agency.
<b>OP-703 (B.9)</b>	The Bank <b>did not comply</b> with Directive B.9 inasmuch as it did not identify potential impacts on critical and noncritical cultural sites and establish measures to protect their integrity during the program preparation stage and within the framework of the environmental assessment process, as the policy indicates.
<b>OP-710</b>	The Bank <b>did not comply</b> with Operational Policy OP-710 inasmuch as it did not have a resettlement plan prior to program approval, as required in the time frames of this policy. The Bank <b>did not comply</b> with OP-710 inasmuch as it did not have a resettlement plan for Section 1 after program approval that satisfied the requirements of this policy. The Bank <b>complied</b> with its obligation to have resettlement plans for Subsections 3.1 and 3.2 of the program; however, these plans do not comply with some requirements of OP-710.
<b>OP-102</b>	The Bank <b>did not comply</b> with its obligation to publish all the documentation subject to mandatory disclosure pursuant to Operational Policy OP-102 in its 2006 and 2010 versions in accordance with the established time frames.
<b>OP-703 (B1)</b>	The Bank <b>did not comply</b> with Directive B.1 inasmuch as it financed an operation that did not comply with Directives B.3, B.5, and B.6 of Operational Policy OP-703 and was not consistent with various provisions of Operational Policies OP-710 and OP-102 (2006 and 2010 versions).

**B. Conclusions regarding the connection between the alleged harm and the findings of noncompliance**

3.5 According to the MICI Policy, a Compliance Review investigation will determine whether an action or omission by the Bank relating to a Bank-financed operation resulted in the failure to comply with one or more Relevant Operational Policies, and in Harm to the Requesters.<sup>402</sup> Significantly, that same policy also establishes that a Compliance Review process is not a judicial process and is aimed at investigating potential noncompliance with Relevant Operational Policies for a specific operation.<sup>403</sup> In addition, the policy specifies that “the MICI does not award compensation, damages, or similar benefits.”<sup>404</sup> Therefore, the MICI’s mandate is to analyze whether the noncompliance found has caused or could cause the harm alleged by the Requesters. As far as the definition of harm, the MICI Policy specifies that harm is “[a]ny direct, material damage or loss,” and that it “may be actual or reasonably likely to occur in the future.”<sup>405</sup> In consideration of the fact that a determination of harm is not intended for the purpose of awarding compensation to an individual, the methodology for analyzing the occurrence of the harm alleged

<sup>402</sup> MICI Policy (MI-47-6), paragraph 45.

<sup>403</sup> MICI Policy (MI-47-6), paragraph 37.

<sup>404</sup> MICI Policy (MI-47-6), paragraph 16(d).

<sup>405</sup> MICI Policy (MI-47-6), Glossary.

by the Requesters is to review whether the existence or potential existence of the harm can be reasonably established based on a review of, primarily, four elements: the testimony of the Requesters, the documents and evidence that they provide, the potential impacts identified by the project documents, and the compliance review mission conducted in Paraguay. It should also be noted that in the case of projects in execution like the present one, the main purpose with respect to conclusions of harm is to prevent any potential impact associated with the project from materializing by taking the corresponding corrective action.

- 3.6 Before analyzing the specific allegations made by the Requesters regarding harm, the MICI believes it is relevant to provide an overview about them and their conditions. The case was presented by eight street-front business owners, two informal business owners, and one individual who is not a business owner; they are all located in Sections 1 and 3 of the program. Street-front Requesters, except for one classified as a “large enterprise,” have small businesses that are run by the owners themselves, their families, and in some cases, a small number of employees, and their families depend on them for their livelihoods. Specifically, the businesses of street-front Requesters for Section 3 are: a hardware store with three employees, which supports the Requester’s children and her mother (Subsection 3.2); a glass products store with six employees, which supports the Requester’s family; a food business managed by a mother and head of household, with one employee, which supports five children and heavily relies on sales to pedestrians and people waiting for mass transit in front of the business; and two optician stores, one with two employees and the other for which no information is available (all in Subsection 3.1). The Requesters in Section 1 are a hardware store on Avenida Pettirossi, where Mercado 4 is located, which has eight employees; and a large store in the Microcenter. The two Requesters with informal businesses sell flowers and clothing, and have small sales stalls in Mercado 4: one is a mother and head of household who supports four children and a brother with disabilities; the other is a senior who supports five children, four grandchildren, and his spouse. Lastly, the Requester who is not a business owner indicated he has two properties in the Microcenter.<sup>406</sup>
- 3.7 The MICI found that in this case, the Requesters alleged two types of harm: (i) actual harm; and (ii) potential harm, regarding two aspects of the program: the construction stage and the operation stage of the Metrobus.
- (i) *With respect to actual harm*
- 3.8 Actual harm refers to that caused to street-front business owners in the sections where construction has begun, as well as those caused to Requesters who have been affected by the works, even though they are not located in the section under construction. Both types of Requesters indicated that they are already experiencing impacts from the operation’s construction, which have resulted in a decrease in customers and in revenue.
- 3.9 For Subsection 3.2, which is already under construction, the Requester stated that street closures and traffic congestion in the corridor have resulted in a reduction in customers and the subsequent decrease in revenue from sales. This decrease

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<sup>406</sup> Information obtained through visits and interviews during the Compliance Review mission.

may also impact his employees. Regarding progress in the works, based on information provided by Management, Subsections 3.3 and 3.2 are currently under construction. However, the progress in Subsection 3.2 has not been extensive, and therefore the MICI lacks information to corroborate the direct impact on the specific street-front businesses involved that submitted the Request. Nevertheless, it is important to note that, based on information provided by Management, the construction of Subsections 3.3 and 3.2 is suffering considerable delays, and the closures and difficult access to the area that are anticipated for the program are becoming prolonged.

- 3.10 Regarding these allegations, the possible impacts on street-front businesses that were anticipated in the project documents during the construction stage were a decrease in customers due to street closures, traffic congestion, vehicle detours, and uncertain logistics for the works, as well as the inability to park in the area. A decrease in customers was identified as one of the most significant risks because of its impact level and the high likelihood of its occurrence, acknowledging that a drop in sales can have an extremely strong impact. In addition, access to street-front businesses located in the Metrobus corridor can be a critical factor for sales.<sup>407</sup> During the Compliance Review mission, there was acknowledgment that any works in front of a business will affect its sales due to the low flow of pedestrians and vehicles, as well as the lack of parking. These effects can be particularly serious for street-front business owners who rely on daily revenues for their livelihoods.
- 3.11 Considering that the harm alleged by the Requester is among the impacts identified in program documents, and that the MICI found several cases of noncompliance with Directives B.5 and B.6 of Operational Policy OP-703 and with Operational Policy OP-710, particularly in relation to the mitigation measures, defined in the IRSP for Section 3, the late identification of the affected population, and the absence of an ESMP for Sections 2 and 3, the conclusion is that there is a risk that this harm could materialize.
- 3.12 Requesters located in sections where the works have not begun stated that they are in a similar situation. They indicated that their customers and revenues have decreased because the Metrobus construction in Section 3 has caused vehicles to use alternative routes, reducing the number of people who visit the businesses in the area. All the Requesters highlighted that this harm affects not only them, but also their families, dependents, and even employees. Lastly, the majority of the Requesters stated that their decreased revenues can have serious impacts on their livelihoods, since they rely on their daily revenues, particularly those Requesters who are mothers and heads of household.
- 3.13 The MICI found that the program lacks an overall assessment of its environmental and social impacts that includes a complete identification of affected parties. Therefore, while the MICI lacks documents to verify the allegations of actual harm of this type, it found that the assessments and resettlement plans for each section focus on the impacts of the works in the sections where they are being carried out, and do not identify the impacts of those works in the remaining sections. In

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<sup>407</sup> GEAM plan on Sections 2 and 3, May 2016, pages 90, 91, and 95; CAPYME report on Sections 2 and 3, page 24.

addition, although the works were divided into sections to facilitate construction, as a practical matter this is one project, and every section is adjacent to the next and located a short distance away. For example, Section 3 is 5.95 kilometers long and is divided into three subsections that are 1 to 2 kilometers long. Therefore, it is plausible for works in one subsection to have effects on another located less than 2 kilometers away. Accordingly, because of a lack of knowledge, a lack of evaluation of this information, and the closeness between sections, there is a risk that the harm alleged by the Requesters is occurring.

- 3.14 Additionally, the Requesters emphasized that this situation is worse because of the uncertainty they are experiencing from not having complete information about the program's impacts and the measures planned to mitigate its effects. Regarding this, the MICI found that the absence of effective consultations for an extended time period caused growing uncertainty among the Requesters, particularly those in Mercado 4, about the extent and degree of the potential impacts they might suffer. This worsened their vulnerable situations. The MICI believes, overall, that uncertainty impacts people and specifically, prevented the Requesters from making decisions relevant to the operation of their businesses and their family's livelihood. This is particularly true given the lack of knowledge about the extent of the program's impact on their economic activities, and therefore, on their means of support. In this case, that uncertainty worsened because, while the tendering processes and the works moved forward, the socioeconomic diagnostic assessments of the affected population, the environmental and social assessments, and the resettlement plans for the program were prepared in parallel with the progress of the works. It is unclear whether, and when, the proposed mitigation measures will be implemented.

(ii) *With respect to potential harm*

- 3.15 The Requesters expressed concern with the possible worsening of the impacts described above once the construction of the program reaches their businesses. They also stated their concerns about decreased revenues, customers, and sustainability of their businesses once the Metrobus is operating. The latter, they alleged, is due to the decrease in vehicle flow along the corridor and the lack of parking in front of their businesses, since a significant portion of their customers arrive by car. They are also concerned about street closures and the difficulties this will pose to load and unload merchandise. They all mentioned that these effects may even result in a need to close their businesses in the future. Separately, the Requesters for Mercado 4 emphasized that they are unaware of their resettlement alternatives and are concerned about serious financial impacts on them and their families if their resettlement is inadequate — since their sales are connected to the flow of customers and location of this market. Lastly, one of the Requesters stated that, while his economic activity is not commercial, he does have two properties in the Microcenter of Asunción that will depreciate given the difficult access resulting from the program. Therefore, the potential harm alleged by the Requesters covers situations that might arise once the construction of the works starts in other sections, if corrections or relevant mitigation measures are not implemented.
- 3.16 As indicated above, various program documents identified the harm alleged by the Requesters during the construction stage as potential, and even highly probable, risks. With respect to the harm alleged during the operation stage because of the

lack of parking and subsequently, a decrease in customers, the MICI found that this impact was identified in the program, and that as of the date this report was prepared, a parking plan did not exist. In terms of the harm alleged during the operation due to the decrease in the flow of pedestrians outside street-front businesses, the MICI does not have information to establish in a reasonable manner that this harm might occur. According to program documents, during the Metrobus operation, the flow of pedestrians will increase due to increased use of public transportation and the distance between stations. While the Requesters alleged that a culture of walking does not exist in Paraguay and that because of the Metrobus, customers will no longer walk in front of their businesses, the MICI does not have information to corroborate this.

- 3.17 With respect to the materialization of the harm alleged that had already been identified by the program, Operational Policies OP-703 and OP-710 establish concrete criteria that must be followed to assess environmental and social impacts, design mitigation measures to resolve them, and prepare involuntary resettlement plans. Complying with them ensures that an operation has the lowest possible negative impact on the community. Based on the conclusions regarding the Bank's noncompliance with OP-703 and OP-710, the MICI believes that there are elements connected to the existence of a risk that in the future, the harm alleged by the Requesters may materialize. First, the lack of a complete identification of the potential affected parties, the impacts on them, and the mitigation measures to address these. Second, the lack of an ESMP for Section 3 and consultations about the program's environmental and social assessments that comply with the requirements of OP-703. And third, the lack of resettlement plans for the entire corridor that comply with OP-710. This is acknowledged in the program documents indicated above. Particularly, the MICI believes that a possible resettlement of informal business owners in vulnerable situations, like those in Mercado 4, without a resettlement plan that meets the highest standards of OP-710, involves a risk of affecting their living conditions and making their situations even more fragile.
- 3.18 Lastly, for the non-business-owner Requester in Subsection 1.1, who alleged the potential devaluation of his properties and difficult access to them as a result of the Metrobus operation, the MICI found that the program identified as one of the positive impacts of high significance the "rise in real estate values for the properties neighboring the corridor" due to the conditions of the new road and the various urban improvements that will be implemented.<sup>408</sup> In terms of vehicle access, the MICI found that the Metrobus route will pass through Herrera street in Section 1, and not through streets Estados Unidos and 14 de Mayo, where the Requester indicated his properties are located. While vehicle traffic may increase due to the complete or partial closure of vehicle access on the streets where the Metrobus will travel, based on several program documents, in general, road infrastructure will improve and traffic congestion in the area will decrease thanks to the program's public transportation improvements.<sup>409</sup> In addition, the Requester mentioned to the MICI during the Compliance Review mission that the Microcenter area is currently abandoned and is even dangerous, and that he used to live in one of the

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<sup>408</sup> ESMR, pages 11 and 20; 2017 pEIA, page 259; and IRMP, page 15.

<sup>409</sup> 2017 pEIA, page 259; and IRMP, page 16.

properties and moved out due to the parking and accessibility problems that already exist in that area.

- 3.19 Therefore, the MICI believes that in that particular case, there is not sufficient information to connect the alleged potential harm regarding access and value of his real estate to the Metrobus operation. On the contrary, the Requester mentioned characteristics or aspects of the Microcenter area without the program, which could improve with the program's intervention. Accordingly, the MICI does not have elements to connect the program to the harm alleged by this Requester.

#### **IV. CONSIDERATIONS AND RECOMMENDATIONS**

- 4.1 The MICI believes it is relevant to specifically refer to certain matters that arose during this Compliance Review process. Therefore, considerations about three particular subjects are included below. In addition, the second part of this chapter presents a number of recommendations from the MICI for the Board of Executive Directors to consider.

##### **A. Considerations**

- (i) *Importance of the early identification of the population potentially affected by an operation and the timely preparation of environmental and social assessments*

- 4.2 The installation of a public transportation system like the Metrobus, used already in large cities around the region, will entail for Asunción and its surrounding areas a significant change in terms of modernization, improvement, and efficiency in using public transportation. Without diminishing the multiple benefits that the Metrobus will offer the population once it is operating, it is worth remembering that to get to that point, it is necessary to implement complex processes involving activities that will cause direct and indirect negative impacts on various population groups. The timely identification of these groups is essential to be able to prevent, minimize, compensate, or mitigate the impacts and risks of a program of this magnitude in all of its stages.
- 4.3 This is the second consecutive case reviewed by the MICI in which an urban project that involves works in a predominantly commercial area fails to timely identify the population affected by the execution of the works. Taking into account that the works are being carried out in vulnerable urban areas that have already experienced intervention, and that the operation will have significant positive impacts, the negative impacts that these works cause should still not be minimized. In these cases, the Bank should not forget the value added of its intervention in operations of this type, and therefore should ensure at all times that the environmental and social safeguards are not pushed into the background during the operation's preparation stage.
- 4.4 In this case, a baseline of the population that might be affected was not prepared until there had already been much progress in the program. Therefore, the first environmental and social assessments were incomplete; various consultation and communication efforts lacked sufficient information on program impacts and the measures to address them; and once the program was in execution, multiple studies and consulting assignments had to be carried out to attempt to correct the

- initial failure. Not having that information, in addition to affecting risk planning, impacts program costs due to the investment of resources in the subsequent preparation of numerous additional studies.
- 4.5 The MICI believes that the Bank made significant efforts to ensure this operation's sustainability, in particular once its execution began. However, the operation's complexity increased because of noncompliance with the provisions of the Relevant Operational Policies for the preparation stage, and due to the decision to postpone the obligations to prepare environmental and social assessments and determine mitigation measures until the execution stage. The controversial atmosphere surrounding the Metrobus worsened as time passed, because the affected population did not have clear information about the plans to mitigate the impacts of its implementation.
- (ii) *Vision of the operation as a whole*
- 4.6 As indicated above, numerous socioenvironmental studies and documents have been prepared for the program from 2010 to date. However, so far there is not a single, complete environmental assessment of the program as a whole, with its corresponding ESMP. The only documents that analyze the operation in its entirety, given the insufficient information available, included plans for the later preparation of socioenvironmental impact assessments. Then, the execution of works was divided into sections, and with that the studies prepared were also divided. In addition, these studies focus on different types of affected population groups. Therefore, while dividing may be useful for works execution, the fragmentation of environmental and social assessments can pose certain risks. This is particularly the case because it is difficult to isolate impacts from section to section, given that the program is located in a single corridor along a large commercial avenue and that intervention in one area will inevitably have effects on the remaining ones. That problem was compounded by postponing for later stages the preparation of socioenvironmental assessments for sections with more complex social issues, even though the works in the corridor had already started. This created uncertainty and mistrust among people who still lack complete information and see that the works are moving forward.
- (iii) *Importance of the participation of the Bank's Environmental and Social Safeguards Unit (ESG)*
- 4.7 Operations of this significance require from the beginning the participation of experts from ESG. This will ensure that the capacity of the technical teams is strengthened and that from the beginning, the impacts and mitigation measures necessary for the environmental and social sustainability of the operation are properly identified. When the Metrobus was classified as a category B operation, the Bank did not envisage the participation of environmental and social experts in operations with this classification. However, the MICI is aware that the Bank has recently made an effort to have ESG provide support for all category B operations. This will undoubtedly result in the strengthening of these operations. Also, the Metrobus program already has stronger support from ESG. This support should be continued and that unit's guidance should be followed.
- 4.8 Separately, while having solid supervision from the Bank is important for any operation, in this case, the many different studies and the diversity of their

recommendations made the program's implementation and supervision more complex. Therefore, the Bank's role in monitoring will be essential to ensure the proper execution of the actions that are still pending.

**B. Recommendations**

4.9 The MICI believes that the value added of a Compliance Review process like the one presented here is twofold: first, with respect to the operation being investigated specifically, in order to correct and/or strengthen the sustainability of the program; and second, in terms of areas or subjects connected to the Operational Policy framework that pose challenges at the time of implementation, for which the independent insight of the MICI can support the Bank's ongoing improvement process.

4.10 The recommendations presented here seek to address these two aspects and are submitted to the Board of Executive Directors for its consideration and approval of their adoption. Based on the MICI Policy, if the Board of Executive Directors accepts these recommendations and deems them appropriate, it will instruct Management to prepare an action plan, in consultation with the MICI, and to submit this plan for the Board's consideration. For this Compliance Review, it should be noted that the program is in execution and that various activities connected to the Metrobus component are still pending. Therefore, the MICI's recommendations are presented in order according to their level of relevance and the timeliness that their implementation requires.

4.11 **Recommendation 1.** As established in this report, the program lacks, as of the completion of this investigation, a resettlement plan for Section 1, where Mercado 4 is located and where a highly vulnerable population works. Therefore, the MICI recommends that Management should ensure that there is a resettlement plan in place as soon as possible for the program that has been prepared in consultation with the affected parties and complies with the requirements of Operational Policy OP-710. Particularly, the plan should mandate mitigation and compensation measures that address the specific vulnerabilities of the affected parties, ensuring that after resettlement they can improve on or at least restore the situation that they were previously in.

<b>Recommendation 1</b>	Management should ensure that there is a resettlement plan in place as soon as possible for Section 1 that has been prepared in consultation with the affected parties, complies with the requirements of OP-710, and includes, in particular, mitigation and compensation measures that address the specific vulnerabilities of the affected parties and ensure the restoration of their situations.
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4.12 **Recommendation 2.** Various environmental, social, and resettlement analyses were prepared in parallel and even after the startup of program works. Specifically, the MICI found that the IRSPs for Subsections 3.1 and 3.2 were completed after the startup of works along this corridor. In addition, various questions were raised about the suitability of the measures designed to address the impacts during the program's construction stage, especially given the delays that occurred during that stage and the timeframes in which these documents were prepared. In addition, it

was found that these resettlement plans do not include outcomes from the consultations with the population or how the information from these consultations was considered in preparing these plans. Based on the above, it is recommended that Management should conduct an environmental and social audit for these two subsections, to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, it should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.

<b>Recommendation 2</b>	Management should conduct an environmental and social audit to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.
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4.13 **Recommendation 3.** In this case, the MICI has found that the Bank identified the potential impacts on critical cultural sites during the environmental assessment for Section 1 and that it established guidance on a mitigation path that the contractor would have to develop and fulfill once this section has been tendered. Therefore, in order to protect critical and noncritical cultural sites in the historic center of Asunción, the MICI recommends that Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.

<b>Recommendation 3</b>	Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.
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4.14 **Recommendation 4.** Given the widespread presence of a vulnerable population and the requirements established in Operational Policy OP-710 on monitoring and evaluation, it is recommended that within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of that population, pursuant to the provisions of OP-710, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.

<b>Recommendation 4</b>	Within the framework of Operational Policy OP-710 and within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of the affected population, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.
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- 4.15 **Recommendation 5.** While preparing this report, the MICI found that the majority of documents subject to mandatory disclosure pursuant to Operational Policy OP-102 were disclosed late. Accordingly, pursuant to the provisions of the Bank Operational Policy OP-102 and in order to strengthen the transparency of Bank operations in accordance with international best practices on access to information, the MICI recommends the timely disclosure of all documents produced in the future that are subject to mandatory disclosure as indicated in OP-102 and all updates to published documents.

<b>Recommendation 5</b>	Disclose, in a timely manner, all documents produced in the future that are subject to mandatory disclosure and all updates to published documents.
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- 4.16 **Recommendation 6.** This case involved an analysis of economic disruption of formal business owners potentially affected by the program but not requiring physical resettlement through a resettlement plan pursuant to the standards of Operational Policy OP-710. However, despite the application of this policy in terms of economic disruption due to the program, the MICI found that OP-710 only refers to physical resettlement. Being aware of Management's efforts to bridge the gap in analyzing economic disruption through OP-710 and OP-703, the MICI would like to note that economic disruption is not a subject that is expressly included in either of these policies, so the tools developed as international best practices to address this (*a plan to restore living conditions*) are not included in the Bank's Relevant Operational Policies. Taking that into account and given the number of operations that cause these types of impacts and the risk of uneven subjective treatment owing to the absence of regulatory guidance, the MICI recommends evaluating the relevance of introducing language specific to this issue in the Bank's Relevant Operational Policies.

<b>Recommendation 6</b>	Evaluate the relevance of introducing language specific to the issue of economic disruption in the Relevant Operational Policies, in order to resolve the current gap in the rules.
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- 4.17 **Recommendation 7.** Based on the previous recommendations and in accordance with the provisions of the MICI Policy, it is recommended that Management should be instructed to prepare an action plan, in consultation with the MICI, for implementation of these recommendations and their schedule, and that

Management should present this plan to the Board of Executive Directors for consideration as soon as possible, as shown in paragraph 4.10.

- 4.18 With respect to this recommendation, along with its comments on the preliminary compliance review report, Management has submitted a proposed action plan “to implement the MICI’s recommendations.” Subject to the Board of Executive Directors’ approval of the findings and recommendations contained in this report and in accordance with paragraph 49 of its Policy, the MICI would be willing to work with Management to finalize the action plan and monitor its implementation, as well as issue reports according to an ad hoc monitoring plan. Should the Board approve the recommendations in this report, a monitoring plan for implementation of the plan presented by Management will be presented, for the purpose of keeping the Board and the Requesters apprised of the status of implementation.

<b>Recommendation 7</b>	Management should prepare an action plan, in consultation with the MICI, for implementation of the recommendations included in this report that are approved by the Board of Executive Directors, containing an implementation schedule compatible with the operation under investigation, which the MICI will monitor pursuant to paragraph 49 of its policy.
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- 4.19 According to the provisions of paragraph 48 of the MICI Policy, following its consideration by the Board, this report will be published in the Public Registry along with Management’s response and the Board’s final decision.
- 4.20 In the event that the action plan for addressing the recommendations is approved by the Board of Executive Directors, the MICI will issue monitoring reports periodically according to the implementation schedule for the proposed actions.

## ANNEX I

### MANAGEMENT'S COMMENTS ON THE PRELIMINARY VERSION OF THE COMPLIANCE REVIEW REPORT



#### MEMORANDUM

**File classification:** MICI-BID-PR-2016-0101

EZSHARE-448177878-1002

**Date:** 23 May 2018

**TO:** Victoria Márquez-Mees, MICI Director

**FROM:** Néstor Roa, Chief of the Transport Division

**CC:** Executive Vice President; Vice President for Countries; Vice President for Sectors and Knowledge; Manager of the Climate Change and Sustainable Development Sector; Manager of the Infrastructure and Energy Sector; Manager of the Southern Cone Countries; Representative in Paraguay; Chief of the Transport Division; Chief of the Housing and Urban Development Division; Chief of the Environmental Safeguards Unit; and Chief of the Sovereign-guaranteed Operations Division of the Legal Department.

**RE:** Management's comments on the draft document "Compliance Review Report." Case MICI-BID-PR-2016-0101. Paraguay. Program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices (PR-L1044, loan contracts 2420/BL-PR and 2419/OC-PR).

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#### I. INTRODUCTION

1. The purpose of this memorandum is for the Bank's Management ("Management") to comment on the draft document "Compliance Review Report" ("the report") that was submitted to Management by the Independent Consultation and Investigation Mechanism (MICI) in an email dated 24 April 2018. The report refers to case MICI-BID-PR-2016-0101, regarding the Program for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices (PR-L1044, loan contracts 2420/BL-PR and 2419/OC-PR) ("the program").

2. This memorandum is structured as follows. Section II presents the background of the program from its conception to date. Section III presents Management's comments on the MICI Compliance Review Report. Section IV presents Management's comments on the MICI's recommendations. Lastly, this memorandum includes as annexes: a table with specific comments from Management on the MICI's conclusions regarding compliance with Relevant Operational Policies; an action plan to implement the MICI's recommendations; and a table detailing the content of the resettlement plans prepared as part of the program in compliance with Operational Policy OP-710.

## **II. BACKGROUND**

3. According to the provisions of the Environment and Safeguards Compliance Policy (Operational Policy OP-703), the program was classified as a category B operation on the basis of the environmental and social impacts identified during the preparation process. The IDB's Board of Executive Directors approved the program on 29 September 2010. The Republic of Paraguay and the Bank signed the loan contract on 9 October 2010. The legislative ratification for the program was completed on 27 December 2013. The Bank approved eligibility of the program on 15 April 2014. The disbursement of loan proceeds began in July 2014. The program is currently in the implementation stage, with approximately 23.02% of the loan proceeds disbursed to date.
4. The operation includes two main components: (i) urban renewal; and (ii) the first metropolitan public transport corridor (bus rapid transit - Metrobus) ("the program"). It was structured as a joint operation between the Transport Division (INE/TSP) and the Fiscal and Municipal Management Division (IFD/FMM, currently CSD/HUD). The program is executed by an execution unit that reports directly to the Ministry of Public Works and Communications (MOPC) of Paraguay.
5. In May 2016, the MICI received a Request from a group of 10 business owners and a resident of Asunción who alleged harm as a result of the installation of the Metrobus system. Among these Requesters are four owners of formal businesses located on Avenida Mariscal Estigarribia. The impacts they alleged are economic harm during construction due to street closures, which impacts customer access to their businesses, and during Metrobus operation due to the elimination of public spaces that are currently used for parking. There are also five Requesters that are licensed vendors, which are businesses that occupy public spaces on municipal property. They alleged that they were told that they will have to vacate the area but did not receive information about compensation. One other Requester fears harm to the financial condition of her business from the expropriation of part of its premises to widen the road for construction of the Metrobus system, the loss of her three customer parking areas due to access being blocked by the Metrobus route, and the resulting drop in customers. Lastly, the only Requester who is not a business owner is afraid that his property will lose value due to the access limitations resulting from construction of the Metrobus. The Requesters also claimed that there was a lack of environmental impact studies, proper public consultations, and disclosure of information in regard to the program, which has caused uncertainty about the planned mitigation measures.
6. In July 2016, the Request was declared eligible by the MICI Director and was subsequently transferred to the Consultation Phase. In October 2016, the case was transferred to the Compliance Review Phase, since the Requesters refused to participate in the Consultation Phase.
7. Management is aware that the analysis and conclusions resulting from this case could help expand the knowledge base and offer considerations and recommendations

regarding the application of the Operational Policy on Involuntary Resettlement (OP-710), Operational Policy OP-703, and the Access to Information Policy (OP-102). In this regard, Management believes it is important to describe the context within which the Bank supports the development of infrastructure projects during the conceptual stage and the actions that take place during the execution process, including regarding environmental and social considerations. This includes analyzing and developing plans and programs with necessary milestones, particularly for the start of the construction and operation stages, to ensure that environmental and social impacts are properly controlled, mitigated, or compensated.

### **III. MANAGEMENT'S COMMENTS ON THE MICI COMPLIANCE REVIEW REPORT**

8. Management recognizes the major efforts made by the MICI in reviewing, analyzing, and synthesizing in its report the extensive amount of information available about such a complex program. It is important to highlight that since approval of the operation in 2010, the amount of detail in the reports and analyses continues to increase as the program progresses. Actually, one of the objectives of Component 2 of the Bank's loan is to finance the final design and other activities to develop the program. As with many infrastructure projects, this one requires an update of the design during the execution period, including environmental and social studies and plans. Likewise, the Bank maximized its support for the program by approving two additional operations: the PROPEF for Downtown Redevelopment, Modernization of Metropolitan Public Transport, and Government Offices (PR-L1056); and the technical cooperation operation Support for the Preparation of Studies for Operations PR-L1084 and PR-L1044 (PR-T1174). In doing so, the Bank supported the executing agency in updating the design. In addition, route alternatives were reviewed again, to try to avoid impacting the markets in Asunción (Mercado 4) and San Lorenzo. This analysis showed a need to divide the contracting for Metrobus construction into two stages. Therefore, the sections that included the markets were postponed until the second stage, which is being analyzed in great detail. As progress was made on the design, the following were prepared: an overall environmental impact assessment (EIA); master and specific involuntary resettlement plans; individual EIAs for each section; and applicable environmental and social management plans (ESMPs) for each section and subsection, as detailed in Tables 3 and 6 of the MICI report.
9. The Bank's environmental and social policies establish very specific scopes and procedures for the program preparation stage. Management acknowledges that there was a failure to fully comply with some specific elements of the policy during the program preparation stage. However, the requirements were met during the execution stage. To evaluate the various instruments that were prepared during program implementation, it is important to understand the context in which this implementation took place. Likewise, the series of studies and plans should be analyzed as a whole and not in an isolated manner, since they were prepared sequentially. It is also important to highlight that these studies and plans were completed before the startup of construction in the respective sections and subsections into which the program was divided. The program was actually modified as a result of environmental and social analysis activities and public consultations. The works in the areas surrounding the markets, where almost half of the Requesters are located, were postponed.
10. Management would like to point out that, while the preliminary environmental assessment and the resettlement framework (which were put together during program preparation) lacked detailed baseline information about the potential affected parties to be able to specify mitigation and compensation measures, there were detailed EIAs by section, with their respective ESMPs, as well as detailed censuses and vulnerability

analyses for all business owners. These were developed as the program design process progressed and were completed before the startup of construction in every subsection.

11. Management takes note that the MICI's analysis was not conclusive with respect to the occurrence of actual harm (paragraph 3.9 of the report). As well, accordingly, no substantial and direct damage or losses suffered by the Requesters were observed as a result of a failure to comply with the Bank's policies. Management also notes that the report describes some potential impacts as part of the section corresponding to actual harm (paragraphs 3.6 and 3.7 of the report).
12. Likewise, regarding what is referred to as potential harm (assumed impacts that would prevent the Requesters from making decisions, according to paragraph 3.10 of the report), the report also does not demonstrate methodologically (or otherwise) that this constitutes substantial and direct damage or losses suffered by the Requesters. Lastly, Management notes that the report does not connect the assumed harm to the Requesters with Bank actions or omissions related to the program.
13. Annex I includes detailed comments from Management regarding the conclusions of the MICI report.

#### **IV. MANAGEMENT'S COMMENTS ON THE MICI'S RECOMMENDATIONS**

14. The MICI report includes eight recommendations. Management's comments on these recommendations are presented below.

***Recommendation 1: Management should ensure that there is a resettlement plan in place as soon as possible for Section 1 that has been prepared in consultation with the affected parties, complies with the requirements of OP-710, and includes, in particular, mitigation and compensation measures that address the specific vulnerabilities of the affected parties and ensure the restoration of their situations.***

15. The resettlement plan for Section 1 is in the preparation stage and its completion depends on the section's final design, which is planned for June 2018. Impact mitigation alternatives that are being analyzed as part of the preparation of the final design may have a strong effect on the resettlement plan.

***Recommendation 2: Management should conduct an environmental and social audit to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.***

16. Management agrees that there is a need to evaluate the implementation of mitigation measures, and is actually in the process of retaining consulting services to prepare an analysis of the implementation of resettlement plans and mitigation measures in the corridor. If necessary, a supplementary compensation plan will be proposed, which will apply to the entire corridor and will specifically target the most vulnerable populations.

***Recommendation 3: Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.***

17. The EIA for Section 1 identified the potential risk of impacting the historic heritage of this area. The ESMP for this section includes the preparation of a detailed plan to protect its historic and cultural heritage. This plan, which should be prepared by the contractor for the section, is currently being put together. This detailed plan will be submitted to the Bank to obtain its no objection. Management will specifically monitor the plan's implementation during the execution of works in the section.

***Recommendation 4: Within the framework of Operational Policy OP-710 and within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of the affected population, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.***

18. This activity is included in the resettlement master plan; in the social management plan for occupants of public spaces in Sections 1, 2, and 3 prepared by GEAM; and in the diagnostic assessment, impact identification, and mitigation measure proposals prepared by CAPYME for Sections 2 and 3 and by Fundación Emprender for Section 1. Management will closely monitor the execution of this activity.

***Recommendation 5: Publish on the Bank's website all documents subject to mandatory disclosure and disclose in a timely manner documents prepared in the future and updates to published documents.***

19. Management will update the disclosure of the documents that were already published and will closely monitor the publication of documents to be prepared in the future as part of program execution.

***Recommendation 6: Management should evaluate the difficulties surrounding the implementation of Operational Policy OP-710, particularly regarding the timing and depth of the analysis required prior to approval of an operation, in order to determine the need to propose language amending OP-710 to the Board of Executive Directors.***

20. Management would like to highlight that the Bank's environmental and social policies are applied during every stage of the program definition process, from concept to final design. There are various environmental and social assessment tools that can be used to analyze impacts and risks, based on the stage of development of the operation, including the strategic environmental and social assessment and the environmental and social impact assessment. This recommendation could be addressed as part of the update to the Bank's environmental and social policies, which is expected to take place in the near future, once the Office of Evaluation and Oversight (OVE) concludes the evaluation of the implementation of these policies that is currently underway.

***Recommendation 7: Evaluate the relevance of introducing language specific to the issue of economic disruption in the Relevant Operational Policies, in order to resolve the current gap in the rules.***

21. Management agrees with the MICI's interpretation regarding the growing significance of the economic impact of Bank-financed operations. This is a subject that other multilateral financing organizations have also identified and addressed in various ways. Management believes—as with the previous recommendation—that this recommendation could be addressed as part of the update to the Bank's environmental and social policies, which is expected to take place soon, once OVE concludes the evaluation of the implementation of these policies that is currently underway.

**Recommendation 8: Management should prepare an action plan, in consultation with the MICI, for implementation of the recommendations included in this report that are approved by the Board of Executive Directors, containing an implementation schedule compatible with the operation under investigation, which the MICI will monitor pursuant to paragraph 49 of its policy.**

22. An action plan to implement the MICI's recommendations is presented in Annex I as a draft proposal, pending the Board's decision.

**ANNEX I: MANAGEMENT’S COMMENTS ON THE MICI’S RECOMMENDATIONS**

POLICY	MICI’S CONCLUSIONS	MANAGEMENT’S COMMENTS
<p>OP-703 (Directive B.5)</p>	<p>The Bank <b>did not comply</b> with Directive B.5 inasmuch as it did not ensure that the program had, either overall or for sections 2 and 3, environmental assessments that identified the potential risks and impacts of the Metrobus for the entire population in the area of influence and established specific measures and management plans to control these risks and impacts.</p>	<p>Numerous environmental and social analyses were produced during the program preparation and execution stages. However, Management acknowledges that although the analyses produced during the preparation stage identified potential risks and impacts on various affected groups, they did not properly identify some impacts on the street-front businesses in the corridor, because some program elements had not been defined during that stage. Nevertheless, during the execution stage there was full compliance with the requirements of Directive B.5, since specialized studies and specific mitigation and compensation plans were prepared for all sections, based on the level of definition of the program and works progress, as detailed in Tables 5 and 6 of the MICI report.</p>
<p>OP-703 (Directive B.6)</p>	<p>The Bank <b>did not comply</b> with Directive B.6 inasmuch as it did not provide, as part of the dissemination processes for the program, complete and specific information to affected parties about the impacts that might affect them and the proposed mitigation measures, pursuant to the consultation standards of this directive.</p>	<p>Management is aware that during the preparation stage, since the affected parties had not been thoroughly identified, there was an inability to conduct meaningful consultations. Nevertheless, during the program execution stage, communication strategies and consultation activities with various affected groups were planned and continue to be carried out: (i) nearly 1,000 site visits; (ii) informational meetings with street-front business owners in 2015 (15) and 2016 (13 with street-front business owners and 8 with fixed-stall vendors); (iii) public hearings in 2016; and (iv) informational workshops in 2016, etc. Likewise, a unit to address complaints and claims was formed prior to the startup of works. In addition to information posts throughout the program, which will be implemented jointly with the contractor for the works, an information office was set up in Mercado 4. During the stage prior to the startup of works, the process for consultation and information exchange with the affected parties was conducted in an individual manner, with site visits. This was due to the relatively conflictive environment at the beginning of program execution, which made it infeasible to hold large public events. Two local institutions with experience working with formal businesses (the CAPYME foundation) and informal businesses (nongovernmental organization GEAM) carried out the process. During the site visits, affected parties were informed about the potential program impacts and mitigation measures, and their questions, complaints, and suggestions were heard and addressed. As a result of these consultations, specific mitigation and compensation plans were prepared for each affected party.</p>

POLICY	MICI'S CONCLUSIONS	MANAGEMENT'S COMMENTS
OP-703 (Directive B.9)	The Bank <b>did not comply</b> with Directive B.9 inasmuch as it did not identify potential impacts on critical and noncritical cultural sites and establish measures to protect their integrity during the program preparation stage and within the framework of the environmental assessment process, as the policy indicates.	During the program preparation stage, no elements were available to be able to determine the need to trigger Directive B.9. The Metrobus route in general is not classified as a critical site for historic and archaeological heritage. The only area with some buildings of historic value is the Microcenter of Asunción, which corresponds to Section 1 of the program. The final route of the corridor in that area was only recently determined (in early 2017). Therefore, the EIA for Section 1 included the applicable analysis to determine the need to establish measures to protect this heritage. Although that section of the program does not include plans to widen existing streets and avenues, and therefore, no impact to the buildings is expected, the ESMP for this section included preventive measures to protect historic heritage.
OP-710	The Bank <b>did not comply</b> with Operational Policy OP-710 inasmuch as it did not have a resettlement plan prior to program approval, as required in the time frames of this policy.	Management acknowledges that during the preparation stage, there were no plans for involuntary resettlement and for mitigation and compensation of economic impacts in the Metrobus corridor. There was only an involuntary resettlement framework with general guidelines. However, during program execution, the policy's requirements were fulfilled. An involuntary resettlement master plan (IRMP) and involuntary resettlement specific plans (IRSPs) were prepared, which include: (i) the new division of the program into sectors, by section and stage; (ii) a thorough identification of the groups affected, mainly businesses and street-front business owners; (iii) appropriate public consultations, carried out through individual interviews; and (iv) specific mitigation and compensation measures for every affected party. In addition, the following were prepared: (i) a census of informal businesses that require resettlement, including specific solutions; and (ii) an evaluation of the street-front business owners affected and the vulnerabilities of their businesses, as well as customized proposals. Management believes that the resettlement plans comply with the requirements of Operational Policy OP-710 (see Annex III).
	The Bank <b>did not comply</b> with OP-710 inasmuch as it did not have a resettlement plan for Section 1 after program approval that satisfied the requirements of this policy.	The IRMP determines the general framework for all the program's resettlement processes and includes all the sections. The IRSPs establish the specific details for every section and subsection, and are prepared as each of these works reaches the final design stage. For Section 1, to date (May 2018), the contractor has not been given the starting order to prepare the final design for the section. So it is not yet possible to prepare an IRSP for the section, and therefore, the statement that the Bank did not comply with Operational Policy OP-710 in this section is incorrect.

POLICY	MICI'S CONCLUSIONS	MANAGEMENT'S COMMENTS
OP-102	<p>The Bank <b>did not comply</b> with its obligation to publish all the documentation subject to mandatory disclosure pursuant to Operational Policy OP-102 in its 2006 and 2010 versions in accordance with the established time frames.</p>	<p>Regarding the disclosure of information during the program preparation stage, including environmental and social information, it is important to indicate that to date, that information has already been disclosed, in compliance with the requirements of OP-102 of 2006 and 2010. The two documents that were pending disclosure have already been published (the IRSP for Subsection 3.1 and the ESMR from October 2010), following the MICI's recommendation to "<i>Publish on the Bank's website all documents subject to mandatory disclosure.</i>"</p> <p>With respect to the timeliness of the disclosure, it is relevant to consider that, while the disclosure of environmental and social assessments during the preparation stage took place after the analysis mission, which did not comply with Operational Policy OP-102 of 2006 and Directive B.5 of Operational Policy OP-703, the Bank disclosed environmental and social assessments during program execution as they became available. This was the case with the 2011 environmental impact assessment and its respective environmental and social management plan; the Metrobus environmental impact assessment; the environmental impact assessment for Sections 2 and 3 and its respective environmental and social management plan; the resettlement plan framework; the involuntary resettlement master plan; the monitoring reports; and other program documents.</p> <p>A characteristic of the program is that it is being executed by sections. Therefore, the environmental and social documents prepared for specific sections to be executed over time will be disclosed before the start of each specific segment. Lastly, it is important to highlight that, following the MICI's recommendation to "<i>disclose in a timely manner documents prepared in the future and updates to published documents,</i>" these documents will be disclosed by the Bank pursuant to Operational Policy OP-102.</p>

**ANNEX II: ACTION PLAN TO IMPLEMENT THE MICI'S RECOMMENDATIONS**

MICI'S RECOMMENDATION		PROPOSED ACTION	ESTIMATED PERIOD FOR COMPLETION
1	Management should ensure that there is a resettlement plan in place as soon as possible for Section 1 that has been prepared in consultation with the affected parties, complies with the requirements of OP-710, and includes, in particular, mitigation and compensation measures that address the specific vulnerabilities of the affected parties and ensure the restoration of their situations.	Prepare an involuntary resettlement specific plan for Mercado 4, in consultation with the affected parties and pursuant to Operational Policy OP-710. <i>(NOTE: Other than for Mercado 4, no involuntary resettlement is expected.)</i>	Preparation to begin in June 2018 and be completed by December 2018.
2	Management should conduct an environmental and social audit to confirm whether the measures designed to address impacts during the construction stage have been implemented effectively and are sufficient to address impacts on the businesses in the area, and if not, should determine the remediation or corrective measures necessary to effectively address these impacts, pursuant to the noncompliance findings indicated with respect to Operational Policy OP-710 for Section 3.	Prepare an assessment of the economic impacts on formal and informal businesses in Section 3 of the Metrobus corridor. Subsequently, prepare a compensation plan for these impacts, also applicable to the remaining sections of the corridor.	Contracting of consulting services in June 2018. Preparation by the end of August 2018 and implementation starting in September 2018.
3	Management should monitor the contractor's actions to fulfill the guidelines of the socioenvironmental management plan (PMSA) regarding historic heritage assets and should evaluate, at the appropriate time, whether the proposed mitigation measures comply with the standards of Directive B.9.	(i) Prepare a plan to protect the historic and cultural heritage in Section 1.  (ii) Monitor the plan's implementation, to be performed by the Bank.	Completion by December 2018.  Throughout the execution period for Section 1.
4	Within the framework of Operational Policy OP-710 and within a reasonable period of time, Management should conduct an evaluation to determine the living conditions of the affected population, and depending on the results, should establish corrective measures compatible with the requirements of the Relevant Operational Policies.	As part of the involuntary resettlement master plan, evaluate the living conditions of the affected population and determine the applicable corrective measures. This was included in the involuntary resettlement master plan; in the social management plan for occupants of public spaces in Sections 1, 2, and 3 prepared by GEAM; and in the diagnostic assessment, impact identification, and mitigation measure proposals prepared by CAPYME for Sections 2 and 3 and by Fundación Emprender for Section 1.	Throughout the program execution period.

MICI'S RECOMMENDATION		PROPOSED ACTION	ESTIMATED PERIOD FOR COMPLETION
5	Publish on the Bank's website all documents subject to mandatory disclosure and disclose in a timely manner documents prepared in the future and updates to published documents.	(i) Update the publication on the Bank's website of the environmental and social documents prepared to date.  (ii) Monitor the publication of environmental and social documents to be prepared in the future.	Already completed.  Throughout the program execution period.
6	Management should evaluate the difficulties surrounding the implementation of Operational Policy OP-710, particularly regarding the timing and depth of the analysis required prior to approval of an operation, in order to determine the need to propose language amending OP-710 to the Board of Executive Directors.	Address this recommendation as part of the possible update to the Bank's environmental and social policies, once OVE concludes the evaluation of the implementation of these policies that is currently underway.	To be determined after completion of the OVE report.
7	Evaluate the relevance of introducing language specific to the issue of economic disruption in the Relevant Operational Policies, in order to resolve the current gap in the rules.	Address this recommendation as part of the possible update to the Bank's environmental and social policies, once OVE concludes the evaluation of the implementation of these policies that is currently underway.	To be determined after completion of the OVE report.
8	Management should prepare an action plan, in consultation with the MICI, for implementation of the recommendations included in this report that are approved by the Board of Executive Directors, containing an implementation schedule compatible with the operation under investigation, which the MICI will monitor pursuant to paragraph 49 of its policy.	(i) Prepare the action plan.  (ii) Execute the action plan.	Upon approval of the Compliance Review Report.  Throughout the program execution period.

**ANNEX III: CONTENT OF RESETTLEMENT PLANS THAT DEMONSTRATES COMPLIANCE WITH THE REQUIREMENTS OF OPERATIONAL POLICY OP-710**

OP-710 REQUIREMENTS <sup>1</sup>	IRMP <sup>2</sup>	IRSP <sup>3</sup> FOR SUBSECTION 3.2 May 2017	IRSP FOR SUBSECTION 3.3 March 2017
The definition of the final package of compensation and rehabilitation options.	Chapter 5, "Compensation measures," page 19. Chapter 5.B, "Compensation measures and programs," page 21.	Chapter 10.2, "Compensation measures and mitigation programs for the population affected directly and indirectly," page 32.	Chapter 3.4, "Selection of compensation measures and mitigation programs by group affected," page 28.
The eligibility criteria for each option.	Chapter 5.A, "Eligibility criteria," page 20. Chapter 5.C, "Eligibility matrix," page 31.	Chapter 10.1, "Eligibility criteria," page 31.	Chapter 3.1, "Eligibility criteria," page 25.
A reasonably accurate estimate of the number of people that will receive each option or combination.	Information included in the studies from GEAM and CAPYME.	Table 9, "Matrix of affected parties," page 24. Table 11, "Classification of street-front business owners," page 28. Table 12, "Social units associated with each premises," page 29.  Chapter 10.3.1, "Monetary compensation for loss of land and/or improvements" Table 14, "Matrix of units benefitting from the measures and the programs they will have access to," page 33.  Chapter 10.3.2, "Support program for vulnerable businesses" Table 15, "Matrix of units benefitting from the measures and the programs they will have access to," page 34.	Chapter 3.4.1, "Compensation measures selected for Subsection 3.3," page 29. Table 13, page 32 Table 14, page 36 Table 15, page 39.  Chapter 3.4.2, "Mitigation programs selected for Subsection 3.3," page 41. Table 16, page 44.  Annex 6, "Matrix of affected parties on a case-by-case basis," page 66.

<sup>1</sup> Section V.6 of the Operational Policy on Involuntary Resettlement (OP-710), including requirements for the final resettlement plan.

<sup>2</sup> IRMP: involuntary resettlement master plan.

<sup>3</sup> IRSP: involuntary resettlement specific plan.

<b>OP-710 REQUIREMENTS<sup>1</sup></b>	<b>IRMP<sup>2</sup></b>	<b>IRSP<sup>3</sup> FOR SUBSECTION 3.2 May 2017</b>	<b>IRSP FOR SUBSECTION 3.3 March 2017</b>
Institutional arrangements and/or an execution mechanism that provides for the implementation of applicable local laws and regulations dealing with expropriation, rights to property, and the management of resettlement activities in a timely manner, assigns clear responsibilities for the execution of all elements of the resettlement plan, and provides for proper coordination with other program components.	Chapter 6.F, "Institutional management for plan implementation," page 35.	Chapter 11, "Institutional actors involved in execution," page 42.	Chapter 3.3, "Institutional management of measures," page 26. "Flowchart of actors involved in process," page 27.
The final budget funded within the overall program budget.	Chapter 9, "Timeline and budget," page 40.	Chapter 13, "Budget," page 47.	Annex 8, "Budget," page 77.
A calendar for execution of activities required to provide the goods and services that comprise the compensation and rehabilitation package, linked to landmarks of the overall program so that relocation sites (or other services) are made available in a timely manner.	Chapter 9, "Timeline and budget," page 40.	Chapter 12, "Timeline in coordination with scheduling of works," page 45.	Chapter 6.1, "Timeline," page 58.
Provisions for consultation and involvement of local entities (public or private) that can contribute to execution and assume responsibility for the operation and maintenance of programs and infrastructure.	Chapter 7, "Relationship with the affected population," page 37.	Chapter 11, "Institutional actors involved in execution," page 42.  Annex 6, "Process to implement measures and actors involved."	Chapter 5.4, "Dissemination of the IRSP," page 57. "Flowchart of actors involved in process," page 27.  Annex 4, "Matrix of actors," page 64.
Provisions for monitoring and evaluation, including funding, from the beginning of the execution period through the target date for achievement of full rehabilitation of the resettled communities.	Chapter 8, "Monitoring and supervision," page 39.  Chapter 3.C, "Institutional framework," page 12.	Chapter "Supervision, monitoring, and evaluation system - Indicators," page 48.	Chapter 5, "Monitoring, supervision, and evaluation," page 55.
Provision for participatory supervisory arrangements, which combined with monitoring, can be used as a warning system to identify and correct problems during execution.	Chapter 8, "Monitoring and supervision," page 39.  Chapter 3.C, "Institutional framework," page 12.	Chapter 11, "Institutional actors involved in execution," page 42.  Annex 6, "Process to implement measures and actors involved."	Chapter 5, "Monitoring, supervision, and evaluation," page 55. "Flowchart of actors involved in process," page 27.  Annex 4, "Matrix of actors," page 64.
A mechanism for the settlement of disputes regarding land, compensation, and any other aspects of the plan.	Chapter 7.B, "Mechanism to address complaints and claims," page 38.	Chapter 10.5.2, "Mechanism to address questions and claims," page 41.	Chapter 4.2, "Mechanism to address questions and claims," page 51.