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ARGENTINA

MICI-BID-AR-2022-0182

CONSULTATION PHASE REPORT
INTEGRATED URBAN SOLID WASTE MANAGEMENT PROGRAM - REQUEST IV

(AR-L1151)
(3249/OC-AR)

This document was prepared by Martin Packmann, Consultation Phase Specialist, and Gastón Aín, Consultation Phase Coordinator, under the supervision of Andrea Repetto Vargas, MICI Director.

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LINKS	
1.	Policy of the Independent Consultation and Investigation Mechanism (MICI-IDB Policy, document MI-47-8) https://www.iadb.org/document.cfm?id=EZSHARE-525549286-365
2.	Public Registry File for Request MICI-BID-AR-2022-0182 https://www.iadb.org/en/mici/complaint-detail?ID=MICI-BID-AR-2022-0182
3.	Original Request MICI-BID-AR-2022-0182 https://www.iadb.org/document.cfm?id=EZSHARE-863354719-57
4.	IDB Management Response to Request MICI-BID-AR-2022-0182 regarding the Integrated Urban Solid Waste Management Program – Request IV - (AR-L1151) https://www.iadb.org/document.cfm?id=EZSHARE-863354719-80
5.	Eligibility Memorandum for Request MICI-BID-AR-2022-0182 https://www.iadb.org/document.cfm?id=EZSHARE-863354719-91
6.	Consultation Phase Evaluation Report Request MICI-BID-AR-2022-0182 https://www.iadb.org/document.cfm?id=EZSHARE-863354719-101
7.	Loan proposal for the Integrated Urban Solid Waste Management Program (AR-L1151) https://www.iadb.org/Document.cfm?id=38896762
8.	Environmental and social management report (ESMR) for the Integrated Urban Solid Waste Management Program (AR-L1151) https://www.iadb.org/Document.cfm?id=38036613
9.	Environmental and social management framework (ESMF) for the Integrated Urban Solid Waste Management Program (AR-L1151) https://www.iadb.org/Document.cfm?id=EZSHARE-269087460-11
10.	Environmental and social impact assessment for the Project – Public document for comment, downloaded from the website of the Ministry of Environment of the Province of Buenos Aires. May 2021. https://www.ambiente.gba.gob.ar/ParticipacionCiudadana/lujan_EIA-2-500%20(1).pdf
11.	Public consultation for the construction of the new Luján Environmental Center. Friday, 26 August 2022. See consultation at: https://www.youtube.com/watch?v=ETBOqIHDIuk

ABBREVIATIONS

Bank, IDB, or IDB Management	Inter-American Development Bank
Executing agency or MAyDS	Ministry of Environment and Sustainable Development
MICI	Independent Consultation and Investigation Mechanism of the IDB Group
MICI Policy	The Policy, approved by the IDB Board of Executive Directors in December 2014 and revised in December 2015, governing the work of the MICI regarding Requests related to operations financed by the IDB or the MIF (document MI-47-6)
Parties	The Requesters, Management, the borrower, the client, and/or the executing agency, as applicable
Program	Integrated Urban Solid Waste Management Program (AR-L1151)
Project	“Luján Environmental Center” Project

EXECUTIVE SUMMARY

The Bank is financing the “Integrated Urban Solid Waste Management Program” (AR-L1151), the objective of which is to decrease the disposal of urban solid waste in open dumps, and to increase its disposal in properly designed, built, and operated sanitary landfills in urban and tourism centers, increasing its recovery and reuse. The operation, which was designed as a global multiple-works program, is being financed by a sovereign guaranteed investment loan approved by the Board of Executive Directors on 16 July 2014. The total amount is US\$187.5 million, to be financed with US\$150 million from the Bank and a local contribution of US\$37.5 million. The executing agency is the Ministry of Environment and Sustainable Development (MAyDS).

The works that are the subject of the Request received by the Independent Consultation and Investigation Mechanism (MICI) correspond to the “Luján Environmental Center” Project, which will be executed in the municipio of Luján, in Buenos Aires province. The specific objective of this intervention, which has an estimated cost of US\$11 million, is to improve the quality and operation of waste management services. It has two components: (1) the construction of a sorting plant for source-separated waste, and a final disposal module with facilities for collecting and treating leachate and collecting biogas; and (2) the cleanup and closure of the existing Luján open dump, which is at 95% capacity, according to information provided by the Bank and the MAyDS.

According to information provided by the Bank, the Project is being carried out under a single responsibility contracting arrangement, where the company that is awarded the bid is required to design, build, and operate the sanitary landfill. The successful bidder will also prepare an environmental and social impact study for the Project, including the environmental and social management plan and the mechanism to receive complaints locally. In addition, the successful bidder is responsible for obtaining applicable permits and licenses and implementing a meaningful public consultation process. Regarding the environmental and social risks detected by the Bank, the program was classified as a category “B” operation.

On 31 January 2022, the MICI received a Request from a group of 60 Requesters from the municipio of Luján, who are being assisted by the law firm Bomchil. The Request describes current and potential harm to the area’s environment and cultural heritage, as well as to residents’ health, property, and quality of life. These allegations are linked to the cleanup of the open dump that is currently in operation, and to the future building and operation of a new sanitary landfill and environmental ecopark at the Sucre site. The Group of Requesters also cites the lack of meaningful public consultation and citizen engagement activities, the lack of information disclosed about the works, and the lack of documentation on environmental assessments and impacts in the area.

The Request was declared eligible on 6 April 2022, thereby beginning the Assessment stage of the Consultation Phase. As a result, the Parties agreed to initiate a Consultation Phase process consisting of two sequential stages: (a) collection of information regarding the specific ownership and legal status of a set of plots of land in the perimeter of the current site of the Luján open dump, which would make it possible to expand the available area for the Project; and (b) depending on the outcome of the previously described tasks, a second stage where the Parties, facilitated by the MICI, would discuss and analyze the feasibility of reaching a consensus on potential actions to address the issues raised in the Request.

The Parties conducted the agreed inquiries, to ascertain the legal and ownership status of the land around the Luján open dump and to prepare a set of potential options for gaining

access to that land, which would make it possible to make adjustments to the Project to address the issues presented in the Request. As a result of those efforts, a series of elements were identified that would need to be addressed to examine the feasibility of gaining access to eight plots in the vicinity of the Luján open dump: how to gain access to the land (donation for a fee or fee-free, commodatum, expropriation, purchase); the time frames in which that land could be obtained, which in turn are linked to the method selected for getting the title and to the legal status of the plots; ascertain whether soil conditions in the plots are suitable for conducting the Project's final disposal activities and/or for any other activity or infrastructure agreed on.

Once the necessary information was secured, the MICI called a series of meetings to analyze potential solutions. A number of elements needed to be considered, in order to forge a potential agreement that reflected the Parties' interests: (a) the methods and time frames for gaining access to land in the vicinity of the Luján open dump, particularly given that these were two distinct transactions, since the eight plots of interest were divided into two blocks of four plots, each with a separate owner and specific legal and ownership status; (b) a plan for starting the infrastructure works called for at the Sucre site that would make it possible to move forward with the Project, but that would also allow for the time needed to obtain the additional land around the Luján open dump; (c) access to the information needed to monitor compliance with the agreements; and (d) if it is decided to not have final disposal at the Sucre site, mediate measures to ensure that organic waste does not go into the sorting plant to be built in Sucre and that no leachates are generated that could impact the surrounding land.

Based on the talks facilitated by the MICI, the dispute has to be addressed in two stages: the first is aimed at acquiring the first set of plots and starting the works in Sucre that are not linked to final waste disposal; and the second would promote acquiring the second set of plots, which would make it possible to concentrate final waste disposal in the area where the Luján open dump is located. However, the Requesters emphasized that they had one essential condition they wanted to see included in any potential agreement: a commitment from the executing agency and the IDB that there would be no final waste disposal on the Sucre site under any circumstance or in any situation. The Requesters indicated their willingness to look for alternative sites in case the Project was not able to acquire one of the two sets of plots identified. This, however, represented a high uncertainty scenario for the executing agency and Bank Management, since one of the core objectives of the Project (final, controlled waste disposal) had no clear alternative if the land area could not be expanded. In this context, both the MAYDS and the IDB said they could not move forward without clear guarantees on the area for the controlled disposal of waste from Luján.

For the reasons listed above, during the dispute resolution process it was not possible to identify an area of potential agreement for the Parties. The existing alternatives the Parties thought could address the issue were not satisfactory, because the Parties needed to have certain guarantees: in the case of the Requesters, the guarantee that waste would not be disposed of at the Sucre site under any circumstance; and in the case of the executing agency, the guarantee that, if the dispute resolution process was not able to gain access to land in the vicinity of the Luján open dump, it would revert to the original project, which was to establish the Environmental Center at the Sucre site, which included final disposal on approximately 4.5 hectares of that site.

In view of the foregoing, having determined that an agreement satisfactory to all the Parties could not be reached through MICI facilitation, the MICI reports to the Board of Executive Directors of the IDB and to the stakeholders that processing of

Case MICI-BID-AR-2022-0182 in the MICI Consultation Phase has concluded. Pursuant to the MICI Policy and the Guidelines for this Phase, the file is being forwarded to the MICI Compliance Review Phase, so that team can begin processing the Request in that phase.

I. BACKGROUND

A. Geographic and social context of the Program

- 1.1 According to the National Statistics and Census Institute, the Argentine Republic has a population of more than 40 million, concentrated mainly in urban areas (90%) of the country's 23 provinces and the Autonomous City of Buenos Aires. This population concentration poses challenges for a number of different sanitation issues, and solid waste collection and final disposal are no exception.
- 1.2 The nationwide service coverage rate for urban solid waste collection is 99.8%. However, the rate of final disposal in sanitary landfills is 64.7%, according to data published by the Inter-American Development Bank ("IDB" or "the Bank"). Regardless of these coverage statistics, it has also been identified since the early 2000s that, for the main urban centers, final disposal in sanitary landfills required major investments in expansion, equipment, emissions management, and support for the proper closure of open dumps.
- 1.3 Currently, according to the National Strategy for Urban Solid Waste Management, although the waste disposal system of the cities varies depending on their size, most use a controlled or semicontrolled landfill system. However, in these municipios there are clandestine dumps of significant size. Estimates are that more than 70% of municipios with less than 10,000 inhabitants use open dumps for waste disposal. In towns with at least 100,000 inhabitants, the use of open dumps for final waste disposal exceeds 50%. In short, currently more than 25% of waste generated daily nationwide is discarded in open dumps, and almost 30% is disposed of with partial, environmentally insufficient controls.
- 1.4 Regarding the institutional framework, in the Argentine Republic, the Ministry of Environment and Sustainable Development (the "executing agency" or "MAyDS") is responsible for assisting in the implementation of environmental policy, including effective solid waste management, in coordination with environmental management agencies at the provincial and municipal level. The municipios, specifically, are responsible for the area of urban solid waste management and have the authority to levy taxes, the ability to issue their own rules and regulations and assess fees and other contributions, and the jurisdiction to organize collection and disposal systems.

B. The Program

- 1.5 The Bank is involved in addressing the problems described above through the "Integrated Urban Solid Waste Management Program" (loan AR-L1151) (the "Program"). The program, approved by the Board of Executive Directors on 16 July 2014, is a sovereign guaranteed investment loan for US\$187.5 million, to be financed with US\$150 million from the Bank and a local contribution of US\$37.5 million. The guarantor/borrower of the operation is the Argentine Republic. Initially, the executing agencies were the Department of Environment and Sustainable Development (currently MAyDS) and the Ministry of Tourism (currently the Ministry of Tourism and Sports). At the borrower's request, through a third amendment to the loan contract, responsibility for Program execution has been assigned solely to MAyDS.
- 1.6 The Program objective is to decrease the disposal of urban solid waste in open dumps and to increase its disposal in properly designed, built, and operated

sanitary landfills in urban and tourism centers, increasing its recovery and reuse. The program has the following two components:

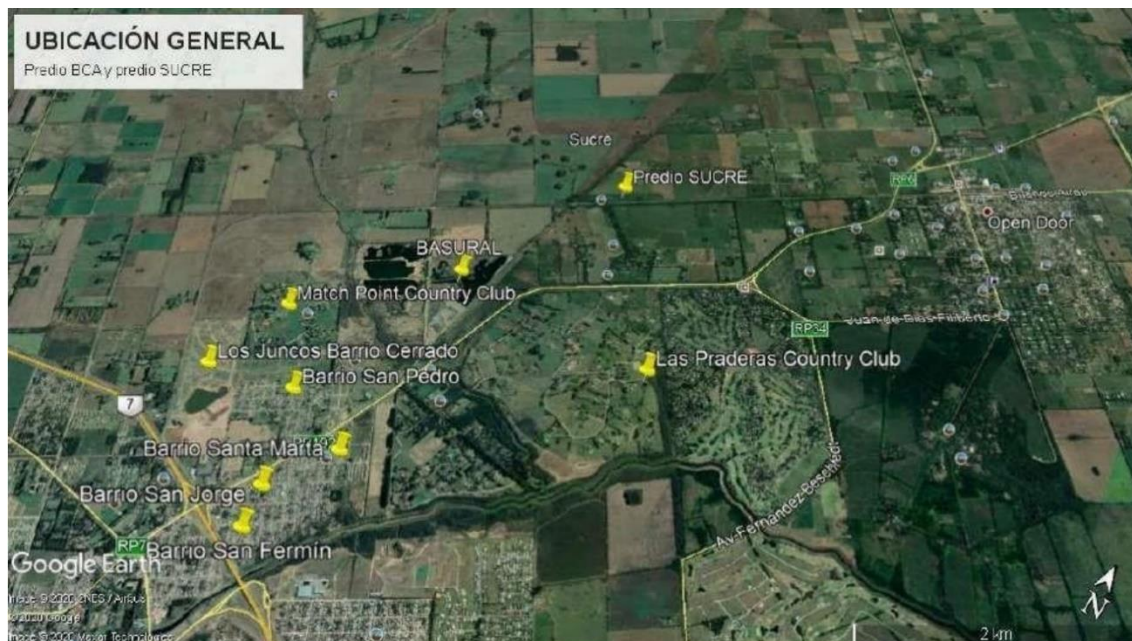
- **Component 1.** Infrastructure and equipment. This component's objective is to help increase recovery and recycling rates and improve the quality of collection and final disposal services. It includes building sanitary landfills, either in converted open dumps or in new sites to be identified, promoting the cleanup and closure of open dumps and, in some cases, supporting the temporary operation of the current final disposal infrastructure.
- **Component 2.** Environmental and social management. This component's objective is the formalization and inclusion of waste collectors and the recovery of urban solid waste. It includes the implementation of labor inclusion plans, community development and awareness-raising, institutional strengthening of teams in local jurisdictions, and the exploitation of urban solid waste mainly through separation at source and recycling.

- 1.7 The operation was designed as a global multiple-works program, because it will finance multiple, physically similar but independent projects. The eligibility criteria for projects include: (i) an urban center with more than 20,000 inhabitants or a tourism municipio as defined by the Argentine government; (ii) signature of the framework agreement for the Program; (iii) submission of a plan to demonstrate ownership of the land where the investments are to be made, in the name of the beneficiary jurisdictions, with zoning conditions compatible with the proposed project; (iv) existence of a legally established operating entity; (v) compliance with the environmental and social requirements described in the Program's environmental and social management report and environmental and social management framework; (vi) a commitment by the operator to properly operate and maintain the infrastructure; (vii) a commitment to prepare projects that are economically, technically, environmentally, and financially sustainable; and (viii) a commitment to fully cover operation and maintenance costs in the medium term.
- 1.8 As occurs with this class of multiple-works operations in the execution stage, the executing agency must submit each one of the specific projects for the Bank's no objection, before authorization is given for financing and execution with Program resources. When the operation was approved, it had a pipeline of 12 projects to benefit 22 communities. Three projects—located in Mendoza, Mar del Plata, and La Rioja—were selected for the Program sample.
- 1.9 Regarding the environmental and social risks detected by the Bank, the Program was classified as category "B" under the Environment and Safeguards Compliance Policy (Operational Policy OP-703), since it could cause localized negative environmental and social impacts, for which effective mitigation measures are available. The identified impacts include: (i) impacts associated with the civil works construction (e.g., generation of noise, dust, solid and liquid waste from the worker camps, risk of workplace accidents, etc.); and (ii) impacts from solid waste operations (such as potential water and soil pollution resulting from the handling of leachates, detriment to the livelihoods of informal waste separators, and the risk of rejection by the population living in the surrounding area). According to the loan proposal, as a special execution condition, prior to competitive bidding for each of the works, the executing agency submits to the Bank, for its no objection, all environmental, social, and occupational safety and health management and/or

mitigation plans, as well as the social inclusion plans of the projects, where appropriate.

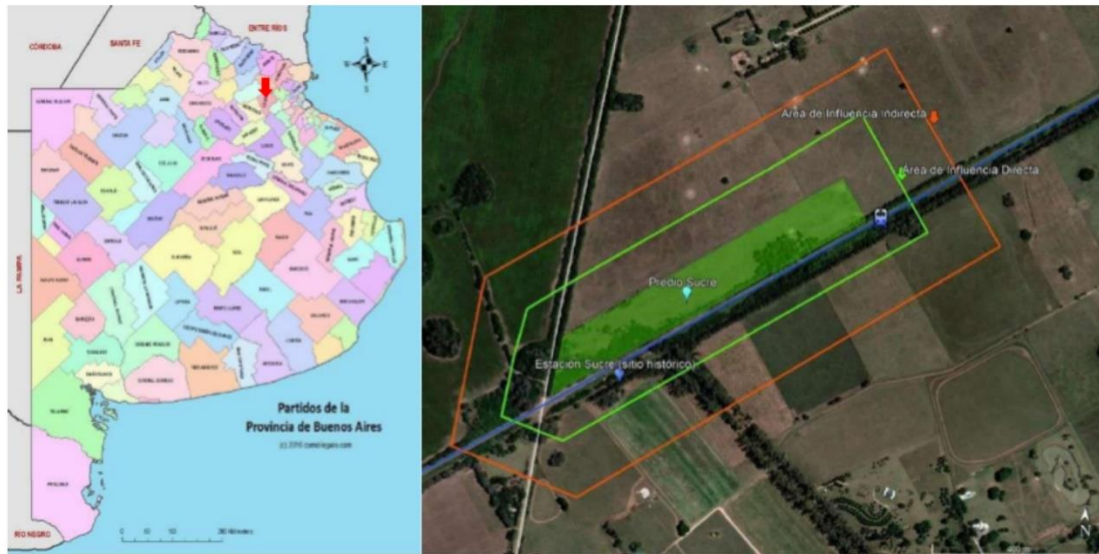
- 1.10 The works that are the subject of the MICI Request correspond to the “Luján Environmental Center” (the “Project”), which will be executed in the municipio of Luján, in Buenos Aires province. The specific objective of this intervention, which has an estimated cost of US\$11 million, is to improve the quality and operation of waste management services.
- 1.11 To achieve its objective, the Project includes the following two components (see Figures 1 to 3):
- **Component 1.** Construction of a sorting plant for source-separated waste, and a final disposal module with facilities for collecting and treating leachate and collecting biogas.
 - **Component 2.** Cleanup and closure of an open dump, which includes municipal land and private lands that are also being utilized.

Figure 1. Project location



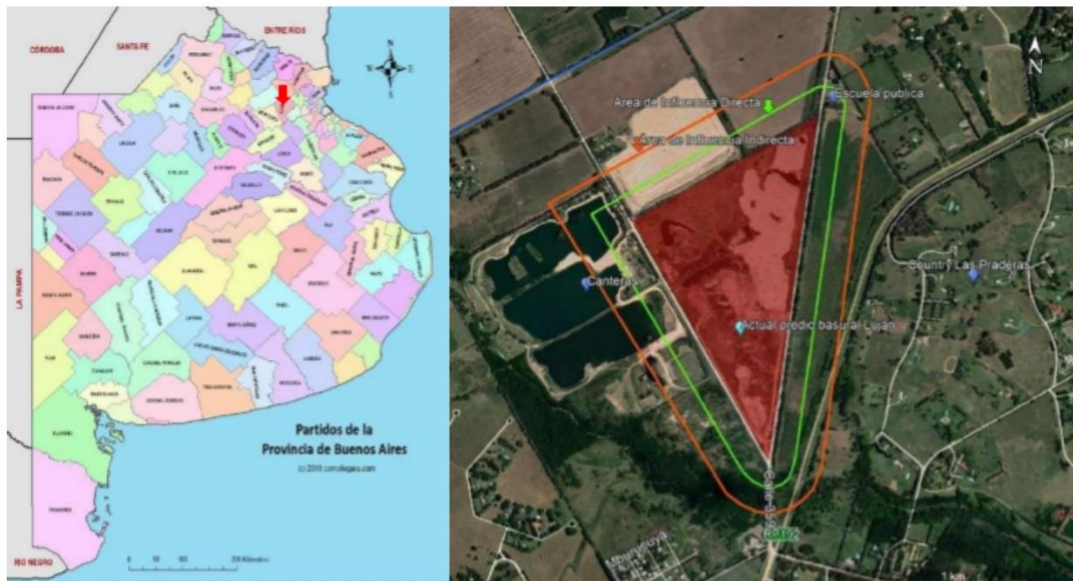
Source: Environmental and social impact assessment for the Project – Public document for comment, downloaded from the website of the Ministry of Environment of the Province of Buenos Aires. May 2021.

Figure 2. Component 1- Sucre site



Source: Environmental and social impact assessment for the Project – Public document for comment, downloaded from the website of the Ministry of Environment of the Province of Buenos Aires. May 2021.

Figure 3. Component 2 – Luján open dump



Source: Environmental and social impact assessment for the Project – Public document for comment, downloaded from the website of the Ministry of Environment of the Province of Buenos Aires. May 2021.

- 1.12 Regarding the status of the works, according to public information published by the Bank, in the first half of 2021 the executing agency submitted the Project to the IDB and requested its implementation under a single responsibility contracting arrangement, where one company designs, builds, and operates the sanitary landfill. The same company is responsible for preparing the environmental and

social impact study for the Project, including an environmental and social management plan and the mechanism to receive complaints locally; obtain applicable permits and licenses; support the implementation of a meaningful public consultation process (including mapping of stakeholders and affected parties); and implement the social inclusion plan.

- 1.13 The Bank gave its no objection to the Project and to the bidding documents in July 2021 but required the executing agency to comply with a timeline for submitting documentation to the IDB project team to verify compliance with the Relevant Operational Policies, prior to starting the works.
- 1.14 The Bank also reported that a national bidding process took place in the second half of 2021 and that it issued its no objection in October of that year to award the contract to the company EVA S.A., which was signed in November. As of the issuance of this Report, there is not yet a final, published environmental and social impact study, and the Bank has not yet given its no objection to start the project works. Moreover, the public consultation exercise was conducted on 26 August 2022.

C. The Request

- 1.15 On 31 January 2022, the MICI received a Request from a group of 60 residents (“Group of Requesters”) of the municipio of Luján, Buenos Aires province, Argentina, who are being assisted by the Bomchil law firm. Information classified as public is available in the MICI Public Registry ([Record of Request MICI-BID-AR-2022-0182](#)).
- 1.16 The Request describes current and potential harm to the area’s environment and cultural heritage, as well as to residents’ health, property, and quality of life, which may be linked to the cleanup of an open dump that is currently in operation (the “Lujan open dump”), and to the future building and operation of a new sanitary landfill and environmental ecopark (“the Sucre site”). The Group of Requesters also cite the lack of meaningful public consultation and citizen engagement activities, the lack of information disclosed about the works, and the lack of documentation on environmental impacts and assessments in the area.
- 1.17 Regarding the specific allegations of environmental harm, the Group of Requesters states that with respect to cleanup of the Luján open dump that is still in operation, the Project omits aspects such as treatment of leachate, as well as the detection and treatment of hazardous toxic waste. The Group also warns that the proposed cleanup activities are insufficient and inadequate, as they do not cover the full area that is impacted; the proposed methodology would not prevent impacts on groundwater sources, the water table, and soil; and lastly, the Project does not have a monitoring plan and operational criteria for the remediation of the dump.
- 1.18 The Request indicates potential operational flaws, as the Project plans for waste to continue to be discharged into the current dump while it is being remediated. It notes that in the timeline for execution of the works, the new sanitary landfill is slated to be built before environmental harm is remediated by cleaning up the dump currently in operation.
- 1.19 With respect to the new landfill and its potential environmental harm, the Request points out that the Sucre site may not meet the minimum characteristics for use as a sanitary landfill, which would directly impact its useful life. It adds that the Sucre

site may lack a perimeter buffer zone, thereby incurring the risk of polluting the soil, air, and water (especially in wells) in adjacent areas.

- 1.20 The Group of Requesters links these potential environmental impacts to future harm to health and quality of life as a result of improper waste management and treatment. They also note that since several of the Requesters are property owners who live and work on land adjacent to the Sucre site, the construction and operation of the Luján Environmental Center could negatively affect the value of their property and the livelihoods derived from these lands.
- 1.21 In terms of harm to cultural heritage, the Group of Requesters indicates that the Sucre site's location and selection as a sanitary landfill would generate impacts on nearby areas considered to be heritage sites since the sanitary landfill is located in a protected heritage area, which would make it incompatible with its planned use.
- 1.22 With respect to the disclosure of relevant information, the Request notes the lack of a final environmental and social impact study specific to the Project. It alleges that the environmental and social information available is insufficient since it contains technical deficiencies, in the view of the Requesters, and does not fully identify the negative impacts and risks. Moreover, the Group of Requesters describes the lack of sufficient opportunities for citizen engagement.
- 1.23 In addition, the Group of Requesters raises questions about the ownership of the Sucre site, noting that the Municipio lacks the proper land title and usage rights, thereby making construction and operation on this land unfeasible.
- 1.24 Regarding prior contact with Management, the Request provides information on interactions since September 2021, including the exchange of correspondence and video calls with the project team. From the Requesters' perspective, although they have received a response and have been addressed, the concerns they raised still remain, as of the date their Request was submitted to the MICI.
- 1.25 Lastly, regarding the MICI process, the Requesters asked the MICI to process their Request through the Consultation Phase and the Compliance Review Phase.

D. The MICI process to date

- 1.26 Table 1 presents the main milestones in the MICI process, from Request intake to the present. Section II.B of this report has further details on the actions taken during the Consultation Phase Process.

Table 1. MICI actions to date

Date	Actions
2022	
31 January	Request received
4 February	Request registered and notifications sent to the Requesters and IDB Management
7 February	Video call with the Group of Requesters
7 February to 6 April	Document review and desk work
17 February	Video call with the IDB project team
8 March	Management Response received

Date	Actions
2022	
21 March	Video call with the Group of Requesters
5 April	
6 April	Eligibility Memorandum issued
6 April 2022	Start of the Consultation Phase's Assessment stage
6 April to 11 July 2022	Review of documents and desk work
9 and 13 May	Visit to Luján, bilateral in-person meetings with the Requesters, IDB Management, and the executing agency in the context of the MICI mission to Argentina
2 June 2022	Extension of the Consultation Phase Assessment period
12 July 2022	MICI mission to Argentina. In-person meeting to assess conditions, with the Requesters, MAYDS, and IDB Management in attendance
29 July 2022	Issuance of the Consultation Phase Assessment Report
30 July 2022	Start of the Consultation Phase Process
21 October 2022	Issuance of the Consultation Phase Report

II. CONSULTATION PHASE

A. Policy framework

- 2.1 The Independent Consultation and Investigation Mechanism (MICI) is governed by the MICI-IDB Policy (document MI-47-8), which was approved by the IDB Board of Executive Directors on 16 December 2014 and updated on 14 April 2021. Under the Policy, Requesters may choose the Consultation Phase, the Compliance Review Phase, or both. If both phases are chosen, processing will begin with the Consultation Phase.
- 2.2 The purpose of the Consultation Phase is to provide a flexible, consensus-based forum to give the Parties an opportunity to address the issues raised in the Request. This Phase is based on a series of methodologies that promote impartial, equitable treatment for all Parties participating in the process. It also relies on the “Guidelines for the Consultation Phase” (document MI-74), which aim to facilitate effective application of Section H of the MICI-IDB Policy, particularly paragraphs 24 to 35, complementing and operationalizing the provisions therein.
- 2.3 The Consultation Phase consists of three sequential stages: Assessment, Consultation Process, and Monitoring. The Policy establishes the purpose and timeframes for each stage. The aim of the Consultation Process is for the Parties to reach an agreement, with a view to providing a response to the issues raised in the Request and addressed during the MICI process, thereby strengthening the Bank’s commitment to complying with its Relevant Operational Policies.

B. Consultation Process timetable

- 2.4 In accordance with paragraph 31 of the MICI-IDB Policy, the maximum period for the Consultation Phase process is 12 months from the date on which the

Consultation Phase Assessment Report is distributed to the Board of Executive Directors.

2.5 In this case, based on the talks with the Parties and on the context and advance times for the Project, the MICI began its work activities on 12 July, when the Parties agreed to explore a dialogue process. Those activities took place in parallel to preparation of the Consultation Phase Assessment Report, which was ultimately distributed to the Board of Executive Directors on 24 August 2022.

2.6 The following activities were conducted during the Consultation Phase Process:

Table 2. MICI actions during the Consultation Phase Process

Date	Action
2022	
18 July 2022	Call with Requesters
22 July 2022	Call with Requesters
22 July 2022	Call with MArDS representative
26 July 2022	Call with MArDS representative
27 July 2022	Call with MArDS representative
3 August 2022	Call with MArDS representative
4 August 2022	Bilateral meeting with Requesters
12 August 2022	Call with Requesters
15 August 2022	Call with MArDS representative
18 August 2022	Bilateral meeting with IDB Management
18 August 2022	Call with Requesters
20 August 2022	Call with MArDS representative
22 August 2022	Call with Requesters
26 August 2022	Public consultation in Luján—Integrated Urban Solid Waste Management Program. MICI attends virtually
6 September 2022	Call with MArDS representative
9 September 2022	Bilateral meeting with IDB Management
9 September 2022	Virtual meeting with Requesters and IDB Management
9 September 2022	Call with MArDS representative
12 September 2022	Virtual meeting with MArDS representatives and IDB Management
12 September 2022	Call with MArDS representative
14 September 2022	Bilateral meeting with Requesters
14 September 2022	Call with MArDS representative
21 October 2022	Issuance of the Consultation Phase Report

C. Methodology and actions taken during the Consultation Phase Process

2.7 As set forth in the MICI-IDB Policy and the Guidelines for the Consultation Phase, the Consultation Process must be flexible, consensus-based, and tailored to the

issues raised in the Request. The methodology used depends on the specific conditions of each case and of the process.

- 2.8 **Process design.** During the initial stage of the Consultation Phase Assessment, the MICI held virtual and in-person meetings to gather information on the viability of starting a dispute resolution process, as well as on the Parties' methodological preferences. Based on those meetings, it was agreed that the Consultation Phase process would consist of two sequential stages: (a) collection of information regarding the specific ownership and legal status of a set of plots of land on the perimeter of the current site of the Luján open dump, which would make it possible to expand the available area for the Project; and (b) depending on the outcome of the previously described tasks, a second stage where the Parties, facilitated by the MICI, would discuss and analyze the feasibility of reaching a consensus on potential actions to address the issues raised in the Request.
- 2.9 When carrying out the activities, priority was given to using the "good offices" approach, which avoids plenary meetings and prioritizes the facilitation team contacting each of the Parties separately. In that regard, from 18 July to 14 September, the MICI, as an impartial third party, headed up 21 conversations through bilateral meetings, trilateral meetings, and calls between the Parties to gather information, learn about progress and potential avenues for resolution, and convey key messages among the actors. Due to the nature of this first information-gathering stage, as well as the high level of mistrust and animosity among the Parties, it was methodologically appropriate to limit multiparty meetings. Those joint spaces, when necessary, would be aimed at ratifying agreements reached bilaterally under the offices of the MICI and/or moving forward on details for a potential agreement that would require a facilitated multiparty exchange.
- 2.10 **Implementation of the information-gathering stage.** Following an in-person meeting on 12 July, the Parties began to make the agreed inquiries to learn about the legal and ownership status of the land in the vicinity of the Luján open dump. This involved talks with municipal authorities, as well as with entrepreneurs and other actors that held title to the land in question. The aim, in addition to clarifying ownership considerations, was to be able to build a set of potential options for gaining access to that land and for that new land, in turn, to make it possible to adjust the Project to address the issues raised in the Request.
- 2.11 Based on the talks held, aspects were identified that would need to be addressed to analyze the feasibility of gaining access to approximately eight plots of land in the vicinity of the Luján open dump: the method for gaining access to the land (donation for a fee or fee-free, commodatum, expropriation, purchase); the time frames in which that land could be obtained, which in turn were linked to the modality selected for getting the title and to the legal status of the plots; and ascertaining whether soil conditions in the plots are suitable for the Project's final disposal activities and/or for any other activity or infrastructure agreed on.
- 2.12 It is important to note that, alongside the information-gathering to examine alternatives, the Project continued moving forward with the administrative procedures to secure the environmental permits. Among other things, this entailed holding a Public Consultation as required by the Environment and Safeguards Compliance Policy (Operational Policy OP-703). This Public Consultation, which was held on Friday, 26 August 2022, lasted approximately five hours. It should be noted that part of the Group of Requesters, together with their legal counsel,

participated in the Public Consultation and took the floor on several occasions. It is also relevant to note that, in implementing the Public Consultation, at different times there was major tension, as well as confrontational stances, between those with a positive perception of the Project and those who have raised objections to it. While the Consultation was in person, the MICI participated virtually as an observer through streaming on YouTube, made available by the Municipio of Luján.¹

- 2.13 In the days leading up to the Public Consultation, the issue of the Luján Integrated Urban Solid Waste Management Program began to be more present in the media, particularly local and provincial media. This led to some discomfort for the Group of Requesters, who on several occasions were publicly named as the opposition to the Project and responsible for alleged delays in the start of the works. The Requesters also said they received messages on social media and through messaging platforms like WhatsApp questioning the group's real interests. Some of those messages also called on them to stop their opposition to the Project. In this context, the Requesters' representatives decided to increase their media exposure to respond to coverage they deemed unfair. The MICI worked bilaterally to have the Parties not disclose confidential information on the MICI Process in their media appearances and advocated for the Parties not being explicitly mentioned when speaking to the media.
- 2.14 **Discussion of potential solutions.** Once much of the necessary information had been obtained, the Mechanism called a series of bilateral and trilateral meetings among the Parties, to examine potential solutions. There were certain elements to bear in mind for structuring a potential agreement, based on the Parties' interests: (a) modes and timeline for gaining access to the land in the vicinity of the Luján open dump, particularly given that these were two distinct transactions, since the eight plots of interest were divided into two blocks of four plots, each with a separate owner and specific legal and ownership status; (b) an arrangement for starting the planned infrastructure works on the Sucre site that made it possible to move forward with the Project but also allowed for the time needed to obtain the additional land in the vicinity of the Luján open dump; (c) access to the information needed to monitor fulfillment of the agreements; and (d) if it is decided to not have final disposal at the Sucre site, mediate measures to ensure that organic waste does not go into the sorting plant to be built in Sucre and that no leachates are generated that could impact the surrounding land.
- 2.15 There were different paths for gaining access to the land: the first block of four plots could be donated (for a fee or fee-free) or provided by commodatum; while the second block could be acquired through an expropriation law. The Requesters also proposed the option of looking for new land that could be purchased to build the Environmental Center, so as not to impact the Sucre site.
- 2.16 The aforementioned options entailed a potential two-stage process: a first stage aimed at procuring the first set of plots and at starting works on the Sucre site not related to the final disposal of waste; and a second stage that would promote acquiring the second set of plots, which would make it possible to concentrate final waste disposal in the area where the Luján open dump is located.
- 2.17 However, beyond the methods for acquiring the land, the Requesters emphasized that they had one essential condition they wanted to see included in any potential

¹ The link to the Public Consultation is available in the Links section.

agreement: a commitment from the executing agency and the IDB that there would be no final waste disposal on the Sucre site under any circumstance or in any situation. The Requesters indicated their willingness to look for alternative sites in case the Project was not able to acquire one of the two sets of plots identified. This, however, represented a scenario of high uncertainty for the executing agency and Bank Management, since there was no clear alternative for one of the Project's core objectives (final, controlled waste disposal) if the land area could not be expanded. In this context, both the MAyDS and the IDB said they could not move forward without clear guarantees on the area for the controlled disposal of waste from Luján.

D. Results of the Consultation Phase

- 2.18 The dispute resolution process facilitated by the MICI made it possible to establish a channel of communication between the Parties. Although this sounds modest, that is the primary, priority objective of any mediation process. In addition, through the MICI process, the flow of information between the Parties was improved, particularly on elements related to the design of the Environmental Center, the planned time frames, the Project's proposed forums for engagement, and the IDB's supervision work.
- 2.19 Alongside the MICI process, the Requesters actively participated in different spheres provided for under local regulations and under the Safeguard Policies, to share their comments, objections, and proposals on different Project documents, particularly the environmental and social impact study. As mentioned earlier, the Requesters also very actively participated in the Public Consultation convened by the Municipio of Luján and the MAyDS in August 2022. This type of interaction in contexts with high mistrust, particularly when a dispute resolution process is occurring in parallel without a facilitation team present, as well as other national or provincial administrative forums, can increase the tension and animosity between the Parties, which appears to have happened in this case.
- 2.20 Despite the efforts by the Parties and the facilitation team, an area of possible agreement for the Parties could not be identified during the dispute resolution process. The existing alternatives that the Parties thought could address the issue were not sufficient, because the Parties needed to have certain guarantees: in the case of the Requesters, the guarantee that waste would not be disposed of at the Sucre site under any circumstance; and in the case of the executing agency, the guarantee that, if the dispute resolution process did not successfully gain access to land in the vicinity of the Luján open dump, it would revert to the original project, which was to establish the Environmental Center at the Sucre site, which included final disposal on approximately 4.5 hectares of that site.
- 2.21 Lastly, it should be noted that since the Parties determined that there was no possible path to reaching an agreement, and during the drafting of this Report, there has been growing media exposure on the Project and on the criticisms the Group of Requesters has repeatedly voiced. This has materialized in national television broadcast coverage in Argentina, as well as in national press outlets.

III. CLOSE OF THE CASE IN THE CONSULTATION PHASE AND TRANSFER TO THE COMPLIANCE REVIEW PHASE

- 3.1 The Guidelines for the Consultation Phase (document MI-74) aim to facilitate application of Section H of the MICI-IDB Policy by providing a roadmap for managing cases during this phase. Section VII of the Guidelines establishes the reasons for ending the Consultation Phase, which include: (a) when the Parties have been unable to reach an agreement within the maximum period established under the Policy.
- 3.2 In view of the foregoing, having confirmed that an agreement satisfactory to all the Parties cannot be reached under MICI facilitation, the Mechanism hereby informs the Board of Executive Directors of the Bank and the stakeholders that processing of Case MICI-BID-AR-2022-0182 in the MICI Consultation Phase has concluded. Pursuant to the provisions of the MICI Policy and the Consultation Phase Guidelines, the file is being transferred to the MICI Compliance Review Phase, so that team can begin processing the Request in that phase.