

**REPORT No. 187506-BO**

**INSPECTION PANEL  
INVESTIGATION REPORT**

**BOLIVIA**

**SANTA CRUZ ROAD CORRIDOR CONNECTOR  
PROJECT (SAN IGNACIO-SAN JOSÉ) (P 152281)**



**FEBRUARY 12, 2024**



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## Abbreviations and Acronyms

ABC	<i>Administradora Boliviana de Carreteras</i> – Bolivian Road Administration
ACISARV	<i>Asociación de Comunidades Indígenas de San Rafael de Velasco</i> – Indigenous Communities' Association of San Rafael de Velasco
ACISIV	<i>Asociación de Cabildos Indígenas de San Ignacio de Velasco</i> – Association of Indigenous Counsel of San Ignacio de Velasco
AMS	Accountability Mechanism Secretary
BIC	Bank Information Center
BOB	Bolivian Bolivianos
BP	Bank Procedures
CCICH-TURUBO	<i>Comunidades Indígena Chiquitana Turubó de San José de Chiquitos</i> – Chiquitana Turubó Indigenous Communities of José de Chiquitos
CCISM	<i>Central de Comunidades Indígena de San Miguel</i> – Central Indigenous Communities of San Miguel
CIDOB	<i>Cenfederación de Pueblos Indígenas de Bolivia</i> – Confederation of Indigenous Peoples of Bolivia
CoC	Code of Conduct
CPC	Child Protection in Crisis
CPF	Country Partnership Framework
CSO	Civil Society Organization
DDV	<i>Derecho de Vía</i> – Right-of-Way
DNNAs	<i>Defensoría del Niño, Niña y Adolescente</i> – Defenders of Children and Adolescents
EHS	Environmental, Health, and Safety
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESIA	Environmental and Social Impact Assessment
ESIRT	Environmental and Social Incident Response Toolkit
FELCV	<i>Fuerza Especial de Lucha Contra la Violencia</i> – Special Force Against Violence
GBV	Gender-based Violence
GRM	Grievance Redress Mechanism
GRS	Grievance Redress Services
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC/EBRD	International Finance Corporation/European Bank for Reconstruction and Development
INRA	<i>Instituto Nacional de Reforma Agraria</i> – National Institute of Agrarian Reform
IPP	Indigenous Peoples Plan
ISR	Implementation Status and Results Reports
MPD	<i>Ministerio de Planificación del Desarrollo</i> – Ministry of Development Planning
NGO	Nongovernmental Organization
OHS	Occupational Health and Safety
OICH	<i>Organización Indígena Chiquitana</i> – Chiquitania Indigenous Organization

OMIRV	<i>Organización de Mujeres Indígenas Rafaeleñas de Velasco</i> – Organization of Indigenous Women of Rafaeleñas de Velasco
OP	Operational Policy
PAD	Project Appraisal Document
PAP/s	Project-Affected Person/People
PPE	Personal Protective Equipment
RAP	Resettlement Action Plan
ROW	Right-of-Way
RPF	Resettlement Policy Framework
RSA	Road Safety Audit
SA	Social Assessment
SEA/SH	Sexual Exploitation and Abuse, and Sexual Harassment
SLIMs	<i>Servicios Legales Integrales Municipales</i> – Municipal Integrated Legal Services
STD	Sexually Transmitted Disease
TCOs	<i>Tierras Comunitarias de Origen</i> – Community Lands of Origin
TIOC	<i>Territorio Indígena Originario Campesino</i> – Original Peasant Indigenous Territory
TMP	Traffic Management Plan
UEDDV	<i>Uso Efectivo de Derecho de Vía</i> – Effective Use of the Right-of-Way
USD	United States Dollars
VES studies	Vertical Electrical Sounding studies
WRMP	Water Resource Management Plan



## Executive Summary

### Introduction

1. On December 19, 2022, the Inspection Panel (the “Panel”) of the World Bank (the “Bank”) received a Request for Inspection (the “Request”) concerning the Santa Cruz Road Corridor Connector Project (San Ignacio-San José) (P152281), (the “Project”) in Bolivia. The Request was submitted by four individuals (the “Requesters”) who stated they are leaders of four *Centrales Chiquitanos* (organizations of Chiquitano Indigenous People) in the Chiquitania region of the eastern Bolivian lowlands. The Requesters authorized (i) two local civil society organizations (CSOs) to represent them and (ii) the Bank Information Center (BIC) – a US-based, nongovernmental organization (NGO) – to provide them with support and advice during the Panel process. The Requesters and their local representatives asked the Panel to keep their identities confidential.
2. The Panel registered the Request on January 13, 2023, and Bank Management (“Management”) submitted its Response to the Request (the “Management Response” or the “Response”) on February 15, 2023. In addition, on March 14 and November 14, 2023, Management provided separate written responses to the Panel regarding the concerns raised by the Requesters to the Panel during its eligibility and investigation field visits.
3. The Panel conducted a field visit to Bolivia March 4-12, 2023, and submitted its eligibility Report to the Board of Executive Directors (the “Board”) on March 17, 2023, recommending an investigation, which the Board approved on March 31, 2023. On May 16, 2023, the Panel posted its Investigation Plan on its website, and conducted its investigation field mission to Bolivia September 12-29, 2023.
4. **Project Description.** The Project Development Objective is “*to improve transport accessibility along the road corridor between San Ignacio de Velasco and San José de Chiquitos*” by upgrading a 208-kilometer road from gravel to asphalt concrete, thereby connecting the above municipal capitals in the Department of Santa Cruz. This includes the construction of bypasses in populated areas, building three small bridges, and construction of approximately 300 culverts.
5. **Request for Inspection.** The Requesters claimed the Chiquitanos were not meaningfully consulted during the development of the Project’s original Indigenous People’s Plan (IPP) or informed about the negative impacts, risks, and benefits of the Project during the initial consultation on the IPP. They claimed the revised IPP, agreed in December 2021 after three years of consultation with the Bank team and the implementing agency, while improved and strengthened, still has shortcomings – such as inadequate social and economic benefits, and lacks measures intended to avoid, minimize, or compensate for the Project’s adverse impacts – and is not being effectively implemented. The Requesters raised concerns that induced impacts from the road upgrade was creating opportunities for settlers to move into the area and engage in illegal activities. The Request raised concerns about the sexual exploitation and abuse, and sexual harassment (SEA/SH) of indigenous women and girls by Project workers. The Request alleged that the Project Contractor’s hiring conditions do not guarantee the labor rights of Chiquitano workers. During the Panel’s field visits, the Requesters voiced concerns related to the right-of-way

(ROW), resettlement and compensation, borrow pits, *atajados* (artificial ponds that provide drinking water for humans and animals), road safety and road access.

6. **Management Response.** Management, in its Response, stated although it understood the Requesters' concerns regarding the economic and demographic changes – and their impacts on land, land titling, and livelihoods in the Chiquitania region – resulting from agribusiness expansion, logging, and wildfires, these cannot be attributed to the Project. Management noted that these issues relate to longstanding national agrarian policies, plans, and legislation independent of the Project. Management stated the Environmental Social Impact Assessment (ESIA) identified Project-related impact for all its phases, including the “*induced future*”. Management found the ESIA was of “*acceptable quality*” but noted it lacked in-depth analysis of the broader economic and demographic developments in the Project area. Management found the ESIA conclusion “*reasonable*” that mitigating these “*induced impact*” falls outside the scope of the Project, but noted it recognized the significance of these developments on the Chiquitanos as part of its on-going development dialogue.

7. Management stated it is unaware of land being confiscated or being redistributed in the Project area, or Project-related land titling issues, and claimed the Project has no part in or impact on land titling processes. However, Management stated the Project's revised IPP nevertheless contains measures to help strengthen the capacity of indigenous organizations to address the issues of land acquisitions and land rights.

8. Management claimed the original IPP was “*fully consistent*” with the requirements of the Bank's Indigenous Peoples Policy and was “*the result of a process of free, prior, and informed consultation*” that led to broad community support for the Project. Management stated that in 2018, at the request of the indigenous communities, a process to revise and update the IPP began. Management considered the revised IPP is “*fully consistent with all requirements set out in OP 4.10.*” Management's Response acknowledges the IPP revision was delayed due to several factors. Management stated the implementation of the revised IPP commenced in October 2022 and was expected to conclude in December 2023. Furthermore, it expressed its view that the Bank Policy on Indigenous Peoples (OP 4.10) does not tie benefits to a specific Project implementation timeline.

9. According to Management, the Project's ROW is described in the resettlement instruments developed for the Project. Management stated the width of the ROW varies whether it is being implemented in urban or rural sections of the road. In accordance with the law, the *Administradora Boliviana de Carreteras* (ABC, the Bolivian Road Administration) as the national entity for roads, can limit the ROW – including land acquisition for it – taking technical, social, and economic considerations into account. Management stated more than 40 consultations were held with communities as part of the ROW resettlement program. It acknowledged that there were approximately 11 cases of pending compensation for land already acquired, and that it had requested ABC to complete these payments urgently, and not to proceed with works in any sections of the road where compensation is pending.

10. Management stated, in light of the Bank's significant concerns about the borrow pit-related risks, it sent a letter to the Borrower in May 2023 concerning potential suspension of the loan proceeds and requested ABC to submit a report on borrow pits, with which ABC complied.

Management stated that the Project’s 2016 ESIA did not include a detailed analysis of all potential Project impacts on the *atajados*, but did identify *atajados* as existing infrastructure that would be directly affected by the acquisition of the ROW. Management stated that the 2016 ESIA identified road safety as “*a notable risk*” and this has been an on-going challenge for the Project. Management acknowledged delays in payment to workers and other labor issues, and requested a Labor and Occupational, Health and Safety (OHS) Audit for Project works to be completed by April 2023, which Management confirmed were completed in September 2023.

11. Management stated, given the high prevalence of gender-based violence (GBV) in Bolivia, it recognized the need to address SEA/SH issues in the Project from its early stages. Management stated that in 2019, the Bank retrofitted GBV components following the issuing of the Bank’s “Good Practice Note on Addressing Gender Based Violence in Investment Project Financing Involving Major Civil Works.” Management stated that as soon as it became aware in 2021 of a Project-related SEA/SH incident, it immediately responded and ensured that measures were in place to offer services to survivors. Management stated in response to alleged cases of SEA/SH raised by BIC in September 2022, it consulted key stakeholders and worked with ABC on a GBV Action Plan.

12. The Management’s Response stated that the Bank correctly followed all its policies and procedures applicable to the Project, including those relevant to the issues raised in the Request.

### **The Chiquitano Context, Environmental and Social Assessment, and Free, Prior, and Informed Consultation**

13. **Identification of Impacts in Project Documents.** The Panel reviewed the Project’s safeguard documents, and notes the inconsistent approach in the Project documents with respect to the Project’s potential, induced impacts. The 2015 SA identified that the Project was likely to increase population density and agro-industrial activities in the Project area, but stated mitigation measures for these impacts were beyond the scope of the Project. However, there were no detailed assessments of the above identified impacts of the Project in the 2015 SA. The 2016 ESIA identified the Project’s likely future induced impacts of contributing to population growth, further expansion of the agricultural frontier, and land pressure increases in the Project area. Yet the updated 2022 SA concluded that these issues were solely due to Government agricultural policy and that the Project had no effect on them. According to the 2022 SA these were contextual issues occurring irrespective of the Project.

14. The Panel notes that the positive impacts – such as improved connectivity and widespread, enhanced economic development – were considered attributable to the Project, and the Project Appraisal Document (PAD) extensively described them. The Panel observes the Project has an inconsistent approach when evaluating its potential positive and adverse impacts and developing mitigation measures for the potential, Project-induced impacts it identified.

15. The Panel notes the contextual complexities of the Chiquitano lands and recognizes that they relate to wider policies and processes and do not stem from the Project. However, the Panel notes this does not preclude the road upgrade’s potential to exacerbate and/or add to the issues confronting the Chiquitano communities in the Project area and the need for the Project to assess

adequately, consult meaningfully, and consider fully, mitigation measures for potential, induced impacts.

16. The Panel agrees with Management that the Project cannot solely be expected to solve or mitigate these broader impacts. However, the Panel does not agree with Management's view (which Management told to the Panel during its meetings), that while the social impacts of the road upgrade will be "largely positive", such as improved connectivity, access to jobs and services, and development of local markets, agricultural productivity, and business activity, the Project will not contribute to any ongoing, economic and demographic changes that might adversely affect the Chiquitano communities. Given the significance of the road upgrade, and the potential vulnerability of the Chiquitanos' access to land, water, and resources, the Panel notes that the Project's potential induced impacts should have been assessed more thoroughly by the Project.

17. **Free, Prior, and Informed Consultation.** The Panel reviewed various safeguard documents in relation to meetings that occurred as part of the consultation process. The Panel notes that the 2010 ESIA, consultations were open, public consultation meetings attended by some Chiquitano representatives and community members, among other stakeholders. The resettlement-related consultations which, for the most part, took place in the areas of the affected communities, primarily involved the displaced persons. The Panel notes that – according to both the original and revised versions of the SA and IPP, and feedback from ABC, Bank staff, and the Chiquitano representatives who participated in these meetings – discussions focused mainly on IPP benefit projects; in other words, the Panel notes that the consultation processes described in both versions of the SA were explicitly aimed at getting feedback from the Chiquitano representatives on the projects to be included in the IPP.

18. Both the original and revised versions of the SA and IPP stated that the objective of these documents was to assess the possible positive and negative impacts on the Chiquitano Indigenous Peoples resulting from the road upgrade, and to put forward culturally appropriate, mitigation measures. However, neither the 2015 SA nor the 2022 SA assessed all of the Project's potential adverse impacts on the Chiquitanos. Management told the Panel that the Project's direct adverse impacts were addressed in other safeguard documents – such as the ESIA, the Resettlement Action Plan (RAP), and the Social and Environmental Impact Management Plans. The Panel notes that the public consultation for the 2010 ESIA was neither designed for nor specifically aimed at the Chiquitanos, and therefore, did not correspond to a process of free, prior, and informed consultation. The Panel also notes that public consultation meetings took place seven years before the Project was approved. The Panel notes that consultations targeting the Chiquitano representatives took place in 2015 and between 2020 and 2021, but these were explicitly focused on getting feedback on possible benefit projects to be included in the original and revised IPPs, not on discussing the potential, direct and indirect, adverse impacts of the Project.

19. The Panel notes that Management did not ensure that there was adequate consideration of the wider implications of upgrading the road, thereby improving access to an area where Indigenous Peoples had unresolved territorial land claims and identified vulnerabilities relating to land and natural resources. Furthermore, the Panel notes that the SA did not adequately assess the Project's direct, negative impacts on the Chiquitanos, and how it may affect them in a differentiated manner. **The Panel finds Management did not ensure that the 2015 and 2022**

**Social Assessments had adequate breadth and depth of analysis of the Project’s potential, adverse effects on the Chiquitano communities in the Project area, given the complexity, risks, and challenges facing them. The Panel therefore finds Management in non-compliance with OP 4.01, paras. 2 and 3, and OP 4.10, para. 9 and its Annex A, para. 2(b).**

20. The Panel notes that the only consultation processes described as “free, prior, and informed” specifically implemented for the Chiquitano Indigenous People were those carried out for the original SA and IPP in 2015, and the consultations that took place between 2020 and 2021 as part of revising these documents. As noted above, these documents did not adequately assess the Project’s direct or induced, adverse impacts. The Panel notes that, according to both versions of the SA and IPP, and feedback from ABC, Bank staff, and the Chiquitano representatives who participated in these meetings, the discussions focused on the IPP benefit projects.

21. The Panel notes that OP 4.10 requires that assessment of potential, adverse effects of the project on the affected Indigenous Peoples ensure free, prior, and informed consultation with them. The Panel also notes the absence of a framework for ensuring free, prior, and informed consultation with the affected indigenous communities during the Project implementation, as per the Policy requirement. **The Panel finds Management did not ensure the provision of an assessment of the Project’s potential, adverse impacts on the Chiquitano communities and consequently did not ensure an adequate process of free, prior, and informed consultation with them in non-compliance with OP 4.01, para. 14, OP 4.10, paras. 6(c) and 10(c) and its Annex B, para. 2(d).**

### **The Indigenous Peoples Plan and the Grievance Redress Mechanism**

22. Management stated the implementation of the revised IPP began in October 2022, has “*proceeded rapidly*,” and was expected to conclude in December 2023. The Panel notes the implementation challenges regarding the IPP. The Panel observes this is largely because the IPP did not specify outcomes for its activities, which could impede the Project from delivering expected benefits even where such activities have been completed. The Panel notes that the Requesters consider the revised 2022 IPP “*relatively strong*” and “*much improved*” compared to the original version, and that had it been implemented, much of the harm they allege in the Request could have been avoided. The Panel therefore notes the importance to the Requesters of the IPP implementation. The Panel also notes the Requesters and others in the Chiquitano communities said they were neither informed about the negative impacts of the Project they claim to be experiencing nor told how these might affect them in the future. They told the Panel that, had they had more information earlier including about adverse impacts of the road upgrade Project, they would have viewed the revised IPP differently and this would have changed the way they would have approached their negotiations on the revised IPP.

23. The Panel notes several problems in – and community concerns about – the discrepancies between the objectives and the designs of some of the IPP projects, as well as the implementation of them. For example, the Panel noted the non-functioning wells drilled by the Contractor which had been sealed due to insufficient water flow, poor quality or salinized water. Furthermore, the Panel notes that while the equipment in the artisanal workshops require power and access to electricity, this is not provided under the IPP. Moreover, while these workshops are intended to provide cooperative workspaces for indigenous women’s empowerment, support knowledge

sharing and training in traditional handicraft skills, and position women to market their handicrafts, none of these objectives can be accomplished in buildings too small to accommodate many women, their worktables, and their equipment. In addition, the Panel observed that construction of *casas grandes* in the three *centrales* had not commenced, the major project of the revised 2022 IPP. The Panel notes the concerns raised regarding the lack of budget and a financial plan to operate these *casas grandes* after their construction. The Panel notes the IPP focuses on “outputs” than “outcomes.” As a result, the Panel has serious concerns about the risk that IPP commitments are being implemented without creating meaningful or sustainable outcomes for their intended beneficiaries.

24. The Panel notes the IPP is still under implementation and recognizes the full effectiveness of the IPP implementation can only be made once the implementation is completed. The Panel also notes OP 4.10 does not tie provision of benefits to a specific project implementation timeline. The Panel hopes that the serious issues raised on the benefit projects, their execution and sustainability are addressed before the conclusion of the IPP implementation.

25. The Panel observes that the initial grievance management system was neither culturally appropriate nor developed in consultation with the Chiquitano representatives. However, following the Request for Inspection, the Panel notes the Project has increased the number of channels available for raising complaints in an effort to make the GRM more accessible, and has improved its presence in communities where there are issues. The Panel notes the communities have expressed concerns that when they do raise concerns through the Project’s GRM channels, they claim these are not accepted or go unanswered, and their issues are not followed up. The Panel notes the communities’ claims that issues receive responses only after extreme measures, such as blockades, are taken. **Notwithstanding the Project’s recent efforts to resolve grievances through increased presence in the communities, the Panel finds Management in non-compliance with OP 4.10, Annex B, para. 2(h) for not ensuring the existence of a functioning method for responding to concerns raised, and for not accommodating the customary dispute resolution process used by the Indigenous People.**

### **Impact from the Right-of-Way, Borrow Pits, and Atajados**

26. **Resettlement and Compensation Relating to the Right-of-Way.** Bank staff told the Panel they had concerns about Project-related resettlement requirements as early as 2018, and considered the handling of these a critical task. On May 19, 2023, Management issued a “Notice of Potential Suspension of Disbursement” to the Borrower after identifying non-compliance with Project safeguards on resettlement requirements.

27. The Panel reviewed the updated 2020 RAP and identified no significant gaps in the document. However, given the breadth and extent of resettlement-related complaints voiced to the Panel by the Project-Affected People (PAPs), and the misunderstanding evident in communities during the Panel’s March and September 2023 field missions, there appear to be problems associated with the implementation of the RAP. The Panel observed a lack of information and clarity about how decisions had been made on ROW width, valuation of payments, payment methods, discretion applied by ABC on properties that were partially or marginally in the ROW, and the basis for the “effective use of the ROW” (*Uso Efectivo de Derecho de Vía*, UEDDV). The

Panel notes the latter was in the 2020 RAP, but the majority of the PAPs claim they have not seen the RAP, and it was not explained to them.

28. The Panel finds that ABC made efforts to reduce the width of the ROW in several road sections to avoid or minimize the number of houses, structures, crops, and trees affected by resettlement. The Panel notes that, in order to minimize resettlement, the Project took account of “*an effective use of ROW*” (UEDDV) which was used by ABC in different sections of the road alignment. **The Panel finds Management in compliance with OP 4.12, para. 2(a) for minimizing resettlement.**

29. While the Panel observed that the replacement houses appear to be of higher quality than those they replaced, it noted that the PAPs’ claim that they were not consulted on the design on the houses. While Management states that more than 40 consultation meetings were conducted with all communities to discuss the resettlement program, compensation alternatives, the ROW, and the process for clearing it, the Panel observed the insufficient understanding among many PAPs on how the ROW was determined, their lack of knowledge about their current land status, communal land title on the land between the *effective use of ROW* and the 50-meter ROW determined by national legislation, and on how compensation was determined, including the valuation of trees and crops.

30. The Panel notes repeated testimony it heard from many PAPs in different villages about how compensation was paid to them. The Panel notes lack of transparency and procedural issues PAPs faced in receiving their compensation payments for economic resettlement. The PAPs consistently told the Panel they were not given receipts or documents explaining the amounts of compensation paid to them for lost assets (e.g., fruit trees, small crops, etc.), or how these were calculated, including short notices given to pick up their checks and transportation costs they had to pay. They also told the Panel that they were given no time to read the documents, nor were they allowed to photograph it or bring someone to assist them.

31. The Panel noted during its March 2023 eligibility field mission that some PAPs said they received no – or in some cases, only partial – compensation prior to Project acquisition of their land and assets. The Panel notes Management acknowledged this in its “Notice of Potential Disbursement Suspension” sent to the Borrower in May 2023, and identified it as noncompliance with the RAP. The Panel understands, according to Management and ABC, these payments have now been closed out. **The Panel finds Management in non-compliance with OP 4.12, paras. 8 and 10, for not ensuring payment of compensation prior to taking of land and related assets, and for not ensuring an adequate process for compensation payments.**

32. **Borrow Pits.** The Panel heard a number of concerns about the borrow pits used by the Project. These issues pertain to access; the contract negotiation process between the Contractor and the Chiquitano communities, and the contents of the contracts; non-disclosure clauses in the contracts; unfulfilled commitments in the agreements; concerns about rehabilitating the exploited borrow pits and land, and poor response to community complaints. The Panel noted the Bank’s significant concerns about the borrow-pit related risks, and that the Bank specifically asked ABC to submit a report describing site-specific risks for all borrow pits under the Project and that “*ABC complied with the requested action in the specified timeframe of 60 days.*”

33. The Panel notes that while the 2016 ESIA required a specific EMP for each borrow pit – including a closure plan – no social impact assessment or social management plan was developed for potential impacts from borrow pits, nor were potentially affected communities farther from the road identified or included in any safeguard document. The Panel further notes additional safety measures relating to borrow pits are required to bring all of them into compliance, and that Management requested full implementation of the borrow pit EMPs, including their closure plans, after submission of the Request. **The Panel finds Management in non-compliance with OP 4.01, para. 2 for not ensuring adequate implementation of the ESIA and EMPs for borrow pits. The Panel also finds Management in non-compliance with OP 4.01, para. 3 for not ensuring consideration of environmental and social aspects in an integrated way when identifying and mitigating impacts from borrow pits.**

34. The Panel notes that the communities, Bank Management, ABC, and the Supervision Firm all acknowledge the issues regarding the borrow pits. As covered in Chapter 2, the Panel observes the SAs did not adequately assess the Project’s direct impacts on the Chiquitano communities, including the impact of creating the borrow pits. The Panel observes that as a result, the Project provided no measures to mitigate those impacts, such as assisting the indigenous communities in negotiations with the Contractor.

35. The Panel notes that Management understands such agreements are voluntary in nature, and it is therefore up to property owners to decide what they will accept as compensation. The Panel notes the Chiquitano communities were expected to negotiate the use of the borrow pits with the Contractor without the benefit of adequate information, prior knowledge of how to negotiate, or an understanding of the legal implications of what they signed. The Panel notes there appears to have been a lack of supervision and oversight when these agreements were being negotiated. No community with whom the Panel spoke with received assistance when negotiating and signing the agreements and the communities negotiated the agreements without the benefit of information about adequate compensation – in other words, without “*informed consent and power of choice.*” The Panel also notes the wide power imbalance between the Contractor and Chiquitano communities during the negotiation of these agreements and the stringent nondisclosure and arbitration clauses that were included in the agreements. **The Panel finds Management did not ensure provision of measures to minimize, mitigate, or compensate adequately for the negative impacts associated with development of the borrow pits, including adequate support to the Chiquitano communities regarding the Contractor’s negotiated access to their lands for development of borrow pits. The Panel therefore finds Management in non-compliance with OP 4.01, para. 2, and OP 4.10, para. 1.**

36. *Atajados*. During the Panel’s September 2022 field visit, six communities in all four municipalities claimed the road construction adversely affected their *atajados*, including with increased sedimentation and contamination due to rainwater runoff from the road, and by obstructing water inflow; two communities also attributed the same to the excavation of borrow pits. They emphasized that access to clean, potable water is critical in the Project area.

37. The Panel understands that some *atajados* in the Project area are remnants of old, lateral borrow pits from work carried out in the 1970s, which have filled with rainwater and become communal ponds. The Panel observed that *atajados* are used by communities for various purposes,



such as drinking water for humans or livestock, washing clothes, or swimming. The Panel notes some communities claim that their *atajados* are within the ROW, and in other communities, the *atajados* are near the road but outside the ROW.

38. The Requesters and the communities told the Panel they have raised *atajado*-related issues to the Contractor and the Supervision Firm for three years. Management informed the Panel that it learned of several, unanticipated impacts on existing *atajados* through the Project GRM and through regular meetings and joint inspections with the communities, and indicated that it is working on resolving them.

39. The Panel notes that the impact of the road construction on their *atajados* is important to the communities, as it affects their sources of water for human and animal consumption. The Panel notes that the Chiquitania region is water-stressed, and that during the long, dry season, communities suffer acute water shortages. Therefore, any impact on their existing water sources is significant. The Panel also notes Management’s acknowledgement that although the 2016 ESIA identified *atajados* as existing infrastructure that would be affected by acquisition of the ROW, it lacked detailed analysis of all potential impacts on them. The Panel notes no social impact assessment or social management plan was developed for potential impacts on the *atajados*. **The Panel finds Management did not ensure identification or mitigation of impacts on *atajados* and therefore is noncompliant with OP 4.01, para. 2.**

### **Road Safety, Occupational Health and Safety, and Labor Working Conditions**

40. **Road Safety.** The Requesters and some communities adjacent to the road corridor and near Project auxiliary sites, such as borrow pits, raised concerns about road safety, lack of road signage, pedestrian crossings, side paths, and speed management or speedbumps. The Requesters and the PAPs provided the Panel with examples of fatal road accidents in the past year. The Requesters and the PAPs claimed they repeatedly raised road safety concerns to the Contractor and the Supervision Firm, but that the Project has not adequately addressed them.

41. Management stated the identification of road safety was a “*notable risk*” in the 2016 ESIA. Management stated the Contractor initially developed a Road Safety Plan in September 2019 with a major update in March 2021, which included many improvements.

42. The Panel recognizes Management identified the Contractor’s shortcomings in implementing road safety management measures and that Management issued a “Third Call to Attention” letter to the Contractor in December 2022 to address noncompliance with the Contractor’s Road Safety EMP. This letter indicated that although the Supervision Firm identified deficiencies, the Contractor took no action to address them. The Panel also notes that the “Notice of Potential Disbursement Suspension” issued by Management to the Government in May 2023 cited noncompliance on road safety management, and required correction of such deficiencies within 45 days. The Panel notes that by the end of that period in July 2023, Management accepted evidence supplied by ABC indicating it had sufficiently addressed most of the road safety deficiencies.

43. The Panel notes that significant issues concerning Road Safety were raised by communities along the road. The Panel made its own observations on road safety, risks to pedestrians – particularly schoolchildren, and inadequate signage and traffic management during its field visit. The Panel notes that Road Safety has been a significant and ongoing concern for Management and recognizes the steps Management has taken to ensure improvements in road safety, particularly following the Request for Inspection.

44. The Panel believes that sufficient attention to the risk of serious accidents was not paid before receipt of the Request and that Road Safety concerns are an ongoing challenge for the Project. The Panel notes that adding worksites without a corresponding increase in safety equipment or in the Supervision Firm’s and Contractor’s resources would predictably exacerbate the shortcomings in Project road safety. The Panel notes that despite Management’s efforts to ensure improvements in road safety, the implementation of adequate and effective road safety measures protective of local communities and road-users, including pedestrians, are not in place. The Panel notes the EHS Guidelines focus on the construction phase road safety issues for local communities and road-users. **The Panel finds Management did not ensure adequate implementation of the ESIA and road safety measures to protect the community and workers’ human health, safety, and livelihoods in non-compliance with OP 4.01, paras. 2 and 3.**

45. **Occupational Health and Safety and Labor Working Conditions.** The Requesters complained about the Project’s labor and working conditions, including the conditions of worker camps, lack of safety training, delays in salary and overtime payments, back-to-back, short-term contracts, grievances related to benefits such as accidental and medical insurance, and issues with timely delivery and replacement of personal protective equipment (PPE).

46. Management’s Response claimed the Project bidding documents and subsequent civil works contracts contain all standard clauses and requirements related to labor under applicable Bank policies. Management acknowledged delays in payment of workers, OHS management, and other labor issues, and that these concerns have been brought to the attention of the Contractor and ABC. Management stated some of these issues have already been resolved, and it has asked ABC to ensure that outstanding labor issues are also resolved. Management also requested Labor and OHS Audits (the “Audits”) for Project works, to be completed by ABC by April 15, 2023.

47. The Panel notes the Bank’s February 2023 supervision mission identified several serious instances of noncompliance with key commitments made in the Project ESIA relating to the health, safety, and wellbeing of the Project workforce. A central issue raised during the mission concerned the poor labor conditions of the Contractor’s workers – workers were observed to not be wearing PPE and working at heights without lifelines, a sub-base area operating without an Environmental Management Plan approved by the Supervision Firm, and noncompliant signage and safety measures in this area, and no minimum working conditions to promote the safety and cleanliness of the area.

48. In September 2023, the Panel observed that most of the worker contract issues raised in the Request had been addressed in the communities it visited. The Panel notes that Management requested the implementation of corrective measures to address the issues identified in the Audits

and also included in Management’s May 2023 “Notice of Potential Disbursement Suspension.” However, the Panel observes that it was not until submission of the Request for Inspection, that the gravity and extent of these issues was brought to the attention of the Project, and the Labor and OHS Audits were commissioned. The Panel notes that despite Management’s improvements, the Contractor does not have a robust Health and Safety management system in place, which impedes the efforts to implement corrective measures.

49. The Panel reviewed the Project’s relevant safeguard documents and notes that prior to submission of the Request in December 2022, there were considerable gaps in Management’s attempts to ensure that the Project was prepared and had sufficient capacity to apply the specific OHS measures and standards which were committed to in the Project specific safeguard document, the 2016 Project ESIA, in particular relating to the management programs detailed in its Prevention and Mitigation Program. These include specific standards in relation to Project management of OHS and measures governing worker accommodations and camp management including the commitment to adopt the IFC/EBRD Guidelines for Workers Accommodation. The Panel notes the serious, widespread shortcomings in working conditions to the safety and wellbeing of the Project workforce. The Panel notes that the independent OHS Audit reported the absence of an adequate, worksite, health and safety management system – resulting in inadequate or absent processes and procedures, poor and limited risk assessment, improper and inadequate machinery and equipment, the lack or absence of workforce PPE, insufficient site safety supervision, insufficient workforce health and safety training, inadequate incident reporting and investigation, and substandard, poor quality workforce accommodations.

50. Although the ESIA included prevention and mitigation measures for OHS, working conditions, and accommodation camps, the Panel observes significant shortcomings in their implementation. **The Panel finds prior to the submission of the Request, Management did not ensure implementation of OHS measures, including working conditions, which led to inadequate implementation of the ESIA, in non-compliance with OP 4.01 on Environmental Assessment, and the Bank’s Environmental Health and Safety Guidelines.** The Panel notes Management’s increased focus on this issue after the submission of the Request for Inspection, but there remain serious concerns regarding the capacity challenges of the ABC, the Supervision Firm and the Contractor in managing and implementing OHS measures until the completion of the Project.

### **Sexual Exploitation, Abuse, and Sexual Harassment**

51. The Request alleged that workers hired by the Contractor and subcontractors for Project activities have committed SEA/SH on indigenous women and girls. The Requesters claimed several measures developed by the Project to prevent and respond to SEA/SH on children have not been implemented. Furthermore, the Requesters said that, despite their inquiries, the Project has not fully informed them about actions that have been implemented.

52. In its Response, Management said the high prevalence of GBV in Bolivia prompted it to address SEA/SH issues in the Project from its early stages and to include in Project documents measures targeted to help prevent and respond to SEA/SH incidents. Management added that such measures reflected good practice and lessons learned from Bank-financed road projects in Uganda

and Democratic Republic of Congo. Management stated that to apply those lessons, in 2019 the Bank retrofitted GBV components on all ongoing infrastructure projects. In this Project, retrofitting included strengthening GRM effectiveness, educating workers about the Code of Conduct (CoC), and increasing training for workers on safeguards and GBV issues.

53. Management said when it became aware in 2021 of a Project-related SEA/SH incident, it immediately responded to ensure that measures were in place to offer services to survivors, strengthen the CoC, report on GRM, and sensitize workers. Management stated that when BIC informed it in September 2022 of alleged cases of SEA/SH, including those involving minors, the Bank and ABC agreed on a GBV Action Plan – with inputs from BIC and an NGO called Child Protection in Crisis – which is being implemented and “*progressing well.*”

54. The Panel notes the high prevalence of GBV in Bolivia and that the Department of Santa Cruz, where the Project is located, has the most GBV-related complaints in the country. The Panel further notes the particular vulnerabilities of indigenous communities to SEA/SH risks, including to adolescent girls and children. The Panel notes that underreporting of SEA/SH incidents is common in both the country and the Chiquitania region. The Panel heard from the Chiquitano communities about social taboos against reporting SEA/SH incidents, that significant self-censorship exists in the communities, and that perpetrators acting with impunity deter the pursuit of formal charges in most potential cases.

55. The Panel notes that the Project has put in place a system for preventing and managing SEA/SH concerns and incidents, which has been continuously strengthened and improved as incidents and allegations are reported. The Panel notes that, according to the cases reported in 2023, the reporting system feedback loop appears to work.

56. The Panel agrees with Management that collaborating with the state’s legal institutions, in line with Bolivian Law No. 348, and using the national systems to prevent and manage GBV allegations is appropriate for the Project. The Panel notes that systems to prevent and manage GBV are only viable if they are accessible, resourced, and functioning. The Panel notes that the 2016 PAD identified the difficulties Project-affected communities have accessing the SLIMs due to their remote locations and transportation costs. The Panel observed that not all SLIMs in the four municipalities are equally funded. The Panel further noted in all four municipalities, the SLIMs face resourcing challenges of varying degrees. The Panel notes the *promotoras* explained they often pay the transportation costs related to reporting of incidents, and this burden is one of the main reasons for high turnover among them.

57. The Panel notes the various steps and actions taken by the Project to supplement the resource gaps and transportation barriers. This includes assistance to Project-related victims to access required resources where SLIMs are under-staffed, assistance to both SLIMs and Project-related victims on transportation costs and hiring *Proceso* in September 2021 to perform a social evaluation of the SLIMs/DNNAs and conduct training to strengthen their activities.

58. The Panel notes that the Contractor has prepared a new “Protocol for Attention to Victims of GBV,” which contains a detailed description of all the entities that deal with such cases and the steps for processing a complaint. The Panel notes the extensive training provided to workers on

the Code of Conduct, by the SLIMs and specialized staff hired by the Supervision Firm and the Contractor. The Panel also notes the increased training to *promotoras* following the development of the GBV action plan and also the specific training targeting school children, adolescents, teachers and *Caciques*.

59. The Panel reviewed the case logs, ESIRTs, as well as the supervision documents, and observed that, although the cases are entered in a timely manner, they contain insufficient information on the incidents, survivors, perpetrators, and follow-up actions. The Panel also observed that despite the classification of incidents as “serious” and “severe” in the five reported cases involving Project workers, the perpetrators received only warnings from the Contractor. The Panel notes there appears to be no system to monitor if the agreed actions with the perpetrators are being followed.

60. The Panel cannot comment on the effectiveness of implementing a survivor-centric approach because it met no victims or survivors in relation to the Project, as none came forward.

61. This Investigation afforded the Panel an opportunity to assess how the Project is implementing the measures put forward by the Bank following the Panel’s Uganda and Democratic Republic of Congo investigations involving GBV cases. As noted in this Chapter, there are still areas related to SEA/SH the Bank and the Project are working on, but after retrofitting the Project in 2019, the Project’s system to prevent and manage SEA/SH issues has been continuously strengthened and improved. **The Panel finds Management in compliance with OP 4.01 on Environmental Assessment in managing SEA/SH risks.**

## **Project Supervision**

62. The Requesters claimed they suffered harm due to Bank’s failures and omissions in Project design and implementation.

63. The Management Response stated that the Bank conducted 11 missions to the Project sites between 2018 and 2022. It explained that although the contract for the civil works was signed on September 11, 2018, works could not begin until the Supervision Firm contract was awarded. The Response noted delays in hiring the Supervision Firm, which officially started work on May 23, 2019. Furthermore, according to Management, civil works begun in September 2019 paused in March 2020 due to COVID-19 and did not fully resume until April 2021.

64. The Panel notes the frequency of Bank supervision of the Project was adequate. The Bank undertook regular supervision missions since Project approval. The Panel finds that Management periodically assessed the Project and reviewed the Borrower’s monitoring of results, risks, and implementation status. **The Panel finds the frequency of Management’s supervision of the Project in compliance with the requirements of the Directive on Investment Project Financing, para. 44.**

65. The Panel observes that environmental and social specialists were always on Bank supervision mission teams. The Panel also observes that after the Request for Inspection was submitted to the Panel, Management significantly increased both environmental and social

expertise to tackle issues raised in the Request or identified by Management. The Panel notes additional social specialists joined the September 2022 mission to respond promptly to the alleged SEA/SH cases reported to Management, and remain closely engaged with Bank supervision on this Project. The Panel, however, deems that as OHS issues persisted, the absence of OHS specialists on the Project team became evident. The Panel observes the Bank Project team's capacity for dealing with OHS and labor protection was limited.

66. The Panel notes Project implementation faced unforeseen, external challenges – such as COVID-19 restrictions, severe forest fires, and political instability in the Project area – which hindered the Bank team's ability to conduct in-person supervision missions. The Panel recognizes Management's effort to utilize technology to monitor the on-the-ground situation remotely.

67. The Panel notes that delays in finalizing the contracts of the Supervision Firm and the Contractor affected IPP preparation and implementation. The Panel notes IPP implementation only started in October 2022, was underway at the time of drafting this Report, and its final outcome has yet to be realized. The Panel notes several problems in the implementation of the IPP projects. Furthermore, the Panel is concerned about the conflicting role of the Supervision Firm, which is both implementing the institutional strengthening component of the IPP activities and supervising its implementation on behalf of ABC. The Panel notes Management is aware of the conflicting role the Supervision Firm plays in implementing the institutional strengthening component of the IPP, which is important for achieving the IPP objectives.

68. The Panel notes that, before submission of the Request, Management overlooked several complex issues raised along the entire road corridor, and missed the early warning signs in the GRM log and the Supervision Firm's monthly reports. The Panel notes the Supervision Firm was hired nine months after the Contractor was retained, and was given insufficient time to establish itself prior to commencing works. The Panel notes that Management was unaware of the serious issues the Project faced until it identified instances of noncompliance related to resettlement, borrow pits, OHS, and road safety after submission of the Request. The Panel observes that Management's lack of awareness of these issues until submission of the Request may have prolonged impacts that could have been mitigated earlier. **The Panel finds that, except for SEA/SH issues, Management did not effectively monitor the Project implementation or identify appropriate follow-up actions needed prior to submission of the Request. The Panel therefore finds that, prior to submission of the Request, Management was in non-compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44.**

69. The Panel notes Management's increased supervision following submission of the Request, and the various actions taken to address the issues relating to resettlement, borrow pits, OHS, and road safety – such as issuing the “Notice of Potential Disbursement Suspension” and follow-up actions with the Borrower. **The Panel finds Management in compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44, after submission of the Request.**

## Conclusion

70. While the relevant safeguard policies were triggered by Management, the Project has encountered several challenges during implementation, some directly linked to construction and others related to the longer-term concerns raised by several indigenous Chiquitano community members. Management on the one hand was aware of the concerns and needs of the Chiquitanos, such as revising the original IPP when dissatisfaction and concerns were raised by several Chiquitanos in all four *centrales* on the initial version; developing a GBV action plan and strengthening and improving GBV actions as concerns were brought to its attention; commissioning labor and safety audits as issues were identified, with requirements for commensurate, time-bound actions to address the issues, and providing the attention and time of several senior World Bank staff members to the Project as issues became evident. On the other hand, many of these actions were undertaken following the Request for Inspection and there was inadequate identification of many of the issues discussed in the Report and the social risks and impacts to the Chiquitanos, which has made implementation challenging.

71. The Project has faced – and continues to face – a myriad of issues and has a large footprint given that it is a linear project operating in an area predominantly inhabited by Indigenous People. The Panel notes that most community members it met with recognized the benefits of the road upgrade, but felt their concerns on adverse impacts were not being heard and adequately addressed. While several steps are now being taken by Management to address these issues, many of these could have either been avoided or mitigated had Management identified them earlier and factored in sufficient contextual analysis to anticipate how they would play out in an area where Indigenous Peoples rights, claims, vulnerabilities, and aspirations are paramount. In the Panel’s opinion, Management’s view that any adverse impacts would be small and manageable because the Project was an “upgrade” of an “existing road” and not a construction of a new road, led to a significant underestimation of risks and the relevance of the social context to the Project and therefore how the Project’s impacts would play out in its broader operating environment.





## Chapter 1 - Introduction

### 1.1. Background to the Panel’s Investigation

1. On December 19, 2022, the Inspection Panel (the “Panel”) of the World Bank (the “Bank”) received a Request for Inspection (the “Request”) concerning the Santa Cruz Road Corridor Connector Project (San Ignacio-San José) (P152281), (the “Project”) in Bolivia.<sup>1</sup> The Request was submitted by four individuals (the “Requesters”) who stated they are leaders of four *Centrales Chiquitanos* (organizations of Chiquitano Indigenous People)<sup>2</sup> in the Chiquitania region of the eastern Bolivian lowlands. The Requesters authorized (i) two local civil society organizations (CSOs) to represent them and (ii) the Bank Information Center (BIC) – a US-based, nongovernmental organization (NGO) – to provide them with support and advice during the Panel process. The Requesters and their local representatives asked the Panel to keep their identities confidential.

2. The Request claimed the Chiquitanos were not meaningfully consulted during the development of the Project’s original Indigenous People’s Plan (IPP)<sup>3</sup> or informed about the negative impacts, risks, and benefits of the Project during the initial consultation on the IPP. The Request alleged that Project activities threaten their land and livelihoods because the road corridor, which is being upgraded under the Project, creates opportunities for illegal activities and for settlers to move into their area. The Request alleged that the original IPP neither effectively addressed adverse impacts nor guaranteed the Chiquitanos access to Project benefits. The Request stated that a revised IPP<sup>4</sup> – agreed in December 2021 after three years of engagement with the Bank team and the implementing agency – while “*relatively strong*” and “*much improved*”, still has shortcomings, such as inadequate social and economic benefits, and lacks measures intended to avoid, minimize, or compensate for the Project’s adverse impacts. The Request raised concerns about ineffective implementation of the IPP. It alleged that Project-affected community members have raised concerns about sexual exploitation and abuse, and sexual harassment (SEA/SH)<sup>5</sup> of indigenous women and girls perpetuated by Project workers. The Request alleged that the Project Contractor’s hiring conditions do not guarantee the labor rights of Chiquitano workers. During the Panel’s field visits, the Requesters expressed concerns about the lack of information on the negative impacts and risks of the Project. They also voiced concerns related to the resettlement and compensation on the right-of-way (ROW), and Project impacts from and on borrow pits, *atajados* (artificial ponds that provide drinking water for humans and animals), road safety, and access.

3. The Panel registered the Request on January 13, 2023, and Bank Management (“Management”) submitted its Response to the Request (the “Management Response” or the

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<sup>1</sup> [Request for Inspection](#), December 19, 2022.

<sup>2</sup> The Panel understands the Chiquitanos are recognized as Indigenous Peoples in Bolivia.

<sup>3</sup> The Panel notes that the original Indigenous Peoples Plan (IPP) document is dated November 2015. The Panel also notes the original IPP was approved in 2016, and was disclosed on the World Bank’s website in May 2016. This Report refers to the original IPP as the “2016 IPP”.

<sup>4</sup> The Request calls the January 2022 Chiquitano IPP the “updated IPP”; this Report refers to it as the “revised IPP.”

<sup>5</sup> The Request uses the phrase “sexual exploitation, abuse, and harassment (SEA/H).” In this Report “sexual exploitation and abuse, and sexual harassment (SEA/SH)” is used.

“Response”) on February 15, 2023.<sup>6</sup> In addition, on March 14 and November 14, 2023, Management provided separate written responses to the Panel regarding the concerns raised by the Requesters to the Panel during its eligibility and investigation field visits respectively.

4. The Panel conducted a field visit to Bolivia March 4-12, 2023, to inform its eligibility assessment. The Panel submitted its Report and Recommendation to the Board of Executive Directors (the “Board”) on March 17, 2023, recommending an investigation, which the Board approved on March 31, 2023. Following Board approval of the Panel’s recommendation to investigate, the Accountability Mechanism Secretary (AMS) offered the Requesters and the Borrower – the Plurinational State of Bolivia (“Bolivia” or the “Government”) – the opportunity to participate in dispute resolution. On May 12, 2023, the AMS informed the Board, the Panel, and Bank Management a “Notice of No Agreement to Pursue Dispute Resolution” that there was no agreement from both Parties to pursue dispute resolution.<sup>7</sup>

5. The Panel thereupon commenced its Investigation and posted its Investigation Plan on its website on May 16, 2023. This Plan outlined the key questions to be addressed and included a brief description of the Investigation’s methodology.<sup>8</sup>

## 1.2. Contextual Information and Project Description

6. **Country Context.** Bolivia is a landlocked country.<sup>9</sup> The Government made strategic connectivity one of the main investment planning priorities for the primary road sector, which includes improving connectivity between all of Bolivia’s regions, and building up a part of the road network designated as the *Corredor Bioceánico* – the bi-oceanic corridor. This corridor connects Brazil to the Chilean ports of Arica and Iquique, and the Peruvian ports of Ilo and Matarani via entry points in Bolivia’s north (San Matias) and south (Puerto Suarez) in the eastern Department of Santa Cruz.<sup>10</sup> The primary road network (comprising approximately 16,000 kilometers) is instrumental in providing efficient transport services, trade, and economic activities, and “*socially important integration between Bolivia’s regions.*”<sup>11</sup> According to the Project Appraisal Document (PAD), in 2014, 31 percent of Bolivia’s public investment (five percent of the total budget) was in the transport sector, of which nearly USD one billion was allocated to improving the primary road network.<sup>12</sup>

7. **Project Description.** The Board approved the Project on January 11, 2017, for a total cost of USD 230.05 million – the International Bank for Reconstruction and Development (IBRD)

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<sup>6</sup> The World Bank, [Management Response to Request for Inspection Panel Review of the Bolivia: Santa Cruz Road Corridor Connector Project \(San Ignacio - San José\) \(P152281\)](#) (“Management Response”), February 14, 2023.

<sup>7</sup> Accountability Mechanism, [Notice of No Agreement to Pursue Dispute Resolution, Bolivia: Santa Cruz Road Corridor Connector Project \(San Ignacio - San José\) \(P152281\)](#), May 12, 2023.

<sup>8</sup> Inspection Panel, [Bolivia: Santa Cruz Road Corridor Connector Project \(San Ignacio - San José\) \(P152281\) Investigation Plan](#), May 16, 2023.

<sup>9</sup> The World Bank, [Project Appraisal Document on a Proposed Loan in the Amount of US\\$ 200 million and a Proposed Credit in the Amount of US\\$ 30 million to the Plurinational State of Bolivia for a Santa Cruz Road Corridor Connector Project \(San Ignacio - San Jose\) \(PAD\)](#), December 13, 2016, p. 2, para. 4.

<sup>10</sup> PAD, p. 3, para. 10.

<sup>11</sup> PAD, p. 2, paras. 5 and 6.

<sup>12</sup> PAD, p. 2, para. 9.

Loan is financing USD 200 million, an International Development Association (IDA) Credit is financing USD 30 million equivalent, and the Borrower is providing USD 50,000. The Project's closing date at the time of approval was December 31, 2021. The Project was restructured three times. On December 21, 2021, the first Restructuring Paper extended the closing date to November 30, 2023.<sup>13</sup> On April 6, 2022, the second Restructuring Paper added a disbursement category for resettlement expenditures within the total Bank-financed amount.<sup>14</sup> On November 22, 2023, the third Restructuring Paper extended the closing date to May 31, 2025.<sup>15</sup> The Project was 32.67 percent disbursed at the time of the Panel's receipt of the Request. The Project is implemented by the *Administradora Boliviana de Carreteras* (ABC) – the Bolivian Road Administration.<sup>16</sup>

8. The Project Development Objective is “to improve transport accessibility along the road corridor between San Ignacio de Velasco and San Jose de Chiquitos.”<sup>17</sup> The PAD stated the road corridor has strategic importance for economic development and poverty alleviation at the national and regional levels, and is a critical component of the primary road network in Bolivia's eastern region, where the nation's agricultural and hydrocarbon productivity is concentrated.<sup>18</sup> The Project has two components: Component A is road upgrading (USD 225.05 million) and Component B is technical studies and project management (USD five million).

9. The objective of Component A is to upgrade from gravel to asphalt concrete<sup>19</sup> a 208-kilometer-long road connecting the towns of San Ignacio de Velasco and San José de Chiquitos in the Department of Santa Cruz (see Map 1).<sup>20</sup> The PAD described the terrain as mostly flat or gently rolling hills, and stated the work will follow the existing road alignment and largely take place within the established ROW.<sup>21</sup> Component A includes the construction of three bypasses of populated areas, straightening the alignment by San Diablo hill, the building of three small bridges, and the replacement or construction of approximately 300 culverts.<sup>22</sup> According to the PAD, It also supports the implementation and supervision of the safeguard instruments and documents, including the Environmental Impact Assessment (EIA), Environmental Management Plan (EMP), the Resettlement Policy Framework (RPF), the Resettlement Action Plan (RAP), and the IPP.<sup>23</sup> The issues raised in the Request related to Component A.

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<sup>13</sup> The World Bank, [Restructuring Paper on a Proposed Project Restructuring of Santa Cruz Road Corridor Connector Project \(San Ignacio - San Jose\) Approved on January 11, 2017 to Ministerio de Planificación del Desarrollo](#), December 21, 2021.

<sup>14</sup> The World Bank, [Restructuring Paper on a Proposed Project Restructuring of Santa Cruz Road Corridor Connector Project \(San Ignacio - San Jose\) Approved on January 11, 2017 to Plurinational State of Bolivia](#) (April 2022 Restructuring Paper), April 6, 2022.

<sup>15</sup> The World Bank, [Restructuring Paper on a Proposed Project Restructuring of Santa Cruz Road Corridor Connector Project \(San Ignacio - San Jose\) Approved on January 11, 2017 to Plurinational State of Bolivia](#), November 22, 2023.

<sup>16</sup> PAD, p. 1 and p. 2, para. 7.

<sup>17</sup> PAD, p. 5, para. 18.

<sup>18</sup> PAD, p. 4, para. 14.

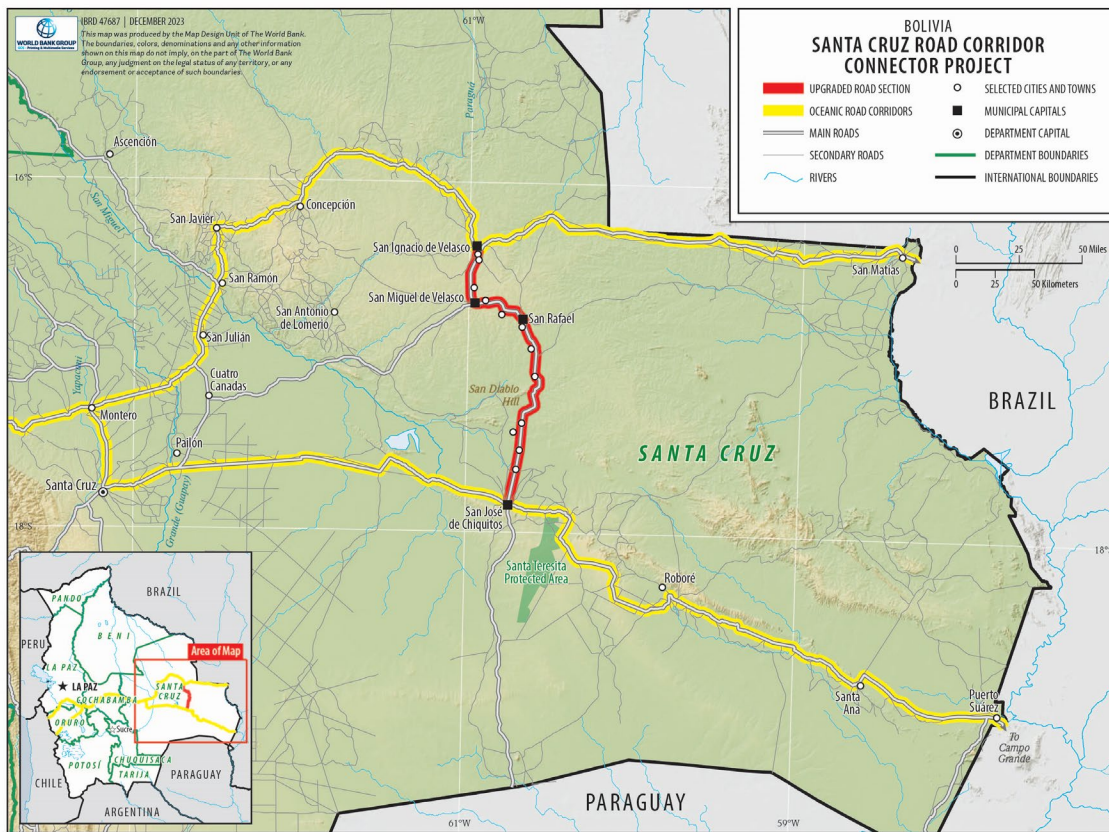
<sup>19</sup> PAD, p. 4, para. 14.

<sup>20</sup> PAD, p. 6, para. 23.

<sup>21</sup> PAD, p. 6, para. 23.

<sup>22</sup> PAD, p. 6, para. 23.

<sup>23</sup> PAD, pp. 6 and 7, para. 23.



Map 1: The Project Road Corridor (Source: The World Bank)

10. Component B finances the preparatory activities and feasibility studies for the upgrade of the approximately 300-kilometer-long San Matias-San Ignacio de Velasco bi-oceanic road corridor connecting to Brazil (northern corridor).<sup>24</sup>

11. The Project was assigned Environmental Category B, and triggered Bank policies on Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Indigenous Peoples (OP/BP 4.10), Physical Cultural Resources (OP/BP 4.11), and Involuntary Resettlement (OP/BP 4.12).

### 1.3. Request for Inspection

12. The paragraphs below briefly introduce the issues raised in the Request and those that were brought up by the Requesters and other affected community members during the Panel’s eligibility assessment field visit in March 2023 and its investigation field visit in September 2023, and to which Management was given an opportunity to respond.

13. **Chiquitano Land, Livelihoods, and Identity.** The Request stated the Chiquitania region is undergoing agricultural expansion, increasing deforestation, and land degradation; its land is heavily contested as the many businesses seeking entry, dispute access and ownership. The

<sup>24</sup> PAD, p. 7, para. 24.

Request explained that the Chiquitanos understood, early on, the threats posed by the Project to their land and livelihoods because, in their view, the road creates “*new opportunities for illegal activities and settlers to invade their territories*”; they communicated these concerns to the Bank at the time of Project design. The Requesters alleged that the road upgrade has accelerated illegal occupation and confiscation of indigenous lands, and poses a huge risk to the indigenous land titling efforts underway or planned. The Request stated that increasing rates of wildfires, are exacerbated by these activities, and also endanger their land and livelihoods. According to the Request, tensions in the region were high prior to the Project and it “*was clear from the time of project design that the construction would happen in a very risky context.*”

14. **The Indigenous Peoples Plan (IPP).** The Request claimed the Chiquitanos were not meaningfully consulted during the development of the original IPP. It alleged that during the initial consultation, the Chiquitanos’ participation “*was weak and ineffective because they didn’t have meaningful information*” about the Project’s negative impacts, risks, and benefits. It claimed the original IPP contained no appropriate mitigation measures to address the Project’s adverse impacts effectively, and did not guarantee access to Project benefits. The Requesters stated that since 2018, they have repeatedly informed Bank Management about these shortcomings and the need to improve the original IPP.

15. The Requesters acknowledged that, following three years of dialogue and negotiations with the Bank team and the ABC, their inputs were included in the revised IPP approved in January 2022. They considered the revised document “*relatively strong*” and “*much improved*” compared to the original version; however, they alleged that the revised IPP lacks mitigation measures to address “*land insecurity and settler invasion.*” The Request stated that the revised IPP “*exists only on paper and has not been implemented [which] makes it worthless in preventing harm resulting to the community from the project.*” The Requesters alleged that although road construction started in 2019, most of the measures intended to avoid, minimize, mitigate, or compensate for adverse impacts and provide social and economic benefits to the Indigenous Peoples have yet to be implemented, four years later. The Request stated that, had the revised IPP been implemented, “*much of the harm described in [the Request] would have been avoided.*” They believe the Bank Policy on Indigenous Peoples is being “*violated.*”

16. **Land Take in the Right-of-Way (ROW).** The Requesters and other members of Project-affected Chiquitano communities raised concerns about direct impact from land take by the Project in the ROW area, and related resettlement and compensation. Key issues include lack of information and clarity about the definition and decisions regarding the width of the ROW and related mitigation measures, lack of clarity on the compensation valuation methodology used for community-owned lands and crops in the ROW, delayed compensation payments for assets and replacement housing, and ambiguity regarding future land take.

17. **Borrow Pits.** The Requesters and members of affected Chiquitano communities raised issues regarding borrow pits created in their communities for the extraction of materials to be used on the road. These issues included the manner in which agreements over borrow pits on their communal lands were reached – including lack of access to information during negotiations, access to borrow pits, safety associated with their operation, non-implementation of commitments made in these agreements, and non-rehabilitation of the borrow pits once the work ceased. The

Requesters and other community members also claimed lack of meaningful consultation regarding the subsequent development of the borrow pits.

18. **Water Sources.** The Requesters and some Project-Affected People (PAPs) raised concerns regarding the negative impact of road construction on their water sources. They claimed the water supply to the *atajados* in or near the ROW and those affected by borrow pits has been affected as a result of the Project. The Requesters and the PAPs explained that the *atajados* suffer increased sedimentation and contamination due to runoff from the road, and obstructed water inflow. They emphasized that clean, potable water is critical in the Project area, where water is scarce.

19. **Road Safety and Access.** The Requesters and some of the communities adjacent to the road corridor raised concerns about road safety, including lack of or inadequate road signage, pedestrian crossings, side pathways, and safety measures for schoolchildren and others walking along or crossing the road. The Requesters and the PAPs described fatal accidents that had occurred on the road over the past year. The Requesters and some of the affected communities claimed some of their houses are inaccessible due to roadbeds<sup>25</sup> that are now either too far above or below them. The Requesters and some of the communities also complained about the flooding of some of their houses due to the road, and/or drainage problems that have been caused by other road construction activities.

20. **Occupational Health and Safety, and Labor and Working Conditions.** The Requesters raised complaints about labor and working conditions, including the conditions of worker camps, lack of safety training, delayed salary and overtime payments, back-to-back short-term contracts, grievances related to benefits such as accidental and medical insurance, and issues with timely delivery and replacement of personal protective equipment (PPE).

21. **Sexual Exploitation and Abuse, and Sexual Harassment (SEA/SH).** The Requesters alleged SEA/SH of indigenous women and girls by Project workers. It claimed several measures developed to prevent and respond to “*child SEA/H* [sic]” have not been implemented. Furthermore, they said they are not fully informed about the actions that have been implemented, despite their many inquiries.

#### 1.4. Management Response

22. On February 15, 2023, Management responded to the Request. In addition, on March 14 and November 14, 2023, Management provided the Panel written responses (Annexes 2 and 3) regarding the issues raised during the Panel’s eligibility and investigation field visits respectively; these issues related to land take in the ROW, extraction of road construction materials (borrow pits), the impact on water sources, and road safety and access concerns.

23. **Chiquitano Land, Livelihoods, and Identity.** Management stated that it understands the Requesters’ concerns regarding the economic and demographic changes occurring in the Chiquitania region.<sup>26</sup> It stated that increases in occupation of land, agribusiness, and wildfires in

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<sup>25</sup> Roadbed is a part of a road, on which vehicles travel.

<sup>26</sup> Management Response, p. 11, para. 29.

the Chiquitania region cannot be attributed to the initial works of the road upgrade.<sup>27</sup> Management noted that the works began in September 2019 and progress stood at 37 percent at the time of the Response,<sup>28</sup> and it is of the “*firm view*”<sup>29</sup> that the Project is not the cause of the alleged harm stemming from economic and demographic changes.<sup>30</sup> Management also noted that the issues raised relate to long-standing agrarian policies, plans, and legislation independent of the Project.<sup>31</sup> According to Management, these are part of a broader, national effort to increase agricultural development that has facilitated migration to the Chiquitania region.<sup>32</sup> The Response added that the Santa Cruz region has some of the country’s most productive farmlands.<sup>33</sup> Furthermore, it noted that before the Project, access to the region was already well-developed due to the existing regional road network.<sup>34</sup>

24. Management stated that the Environmental Social Impact Assessment (ESIA)<sup>35</sup> identified Project-related impacts for all its phases, including the “*induced future*”<sup>36</sup> which considers the Project’s potential, future contribution to ongoing expansion of the agricultural and livestock frontier, logging, growth of settlements, and increased commercial and tourism activities.<sup>37</sup> According to Management, the ESIA concluded that mitigating these “induced future” impacts falls outside the scope of the Project, which Management finds “*reasonable*”<sup>38</sup> given that such mitigation required national level policy and legislative action.<sup>39</sup> While Management found the ESIA of “*acceptable quality*,”<sup>40</sup> it noted that the ESIA lacked in-depth analysis of the broader economic and demographic developments in the Project area and Chiquitania region.<sup>41</sup> Management noted that any potential, future impacts road upgrading might cause on these “*ongoing trends would be minor*.”<sup>42</sup> Management noted that the Bank recognizes the significant, potential impacts of these broader developments on the local population of the Chiquitania region as part of its ongoing development dialogue.<sup>43</sup>

25. Regarding land titling, Management said it was unaware of land being confiscated in the Project area and/or being re-distributed to other population groups, or that any such activities could

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<sup>27</sup> Management Response, p. 11, para. 31.

<sup>28</sup> Management Response, p. 11, para. 31.

<sup>29</sup> Management Response, p. 11, para. 30.

<sup>30</sup> Management Response, p. 11, para. 30.

<sup>31</sup> Management Response, p. 11, para. 30.

<sup>32</sup> Management Response, p. 11, para. 30.

<sup>33</sup> Management Response, p. 9, para. 22.

<sup>34</sup> Management Response, p. 13, para. 39.

<sup>35</sup> The Panel notes that the title of this document is “*Actualización y Complementación del Estudio Integral Técnico Económico Social y Ambiental (T.E.S.A.) de la Carretera San José de Chiquitos-San Ignacio de Velasco*,” which translates to “Update and Complement to Comprehensive Technical Economic Social and Environmental Study (T.E.S.A.) of the San José de Chiquitos-San Ignacio de Velasco Corridor.” Management’s Response refers to this document as Environmental Social Assessment (EIA). For the purpose of this Report, this document is referred to as the Environmental Social Impact Assessment (ESIA).

<sup>36</sup> Management Response, p. 15, para. 45.

<sup>37</sup> Management Response, p. 15, para. 45.

<sup>38</sup> Management Response, p. 16, para. 47.

<sup>39</sup> Management Response, p. 16, para. 47.

<sup>40</sup> Management Response, p. 15, para. 45.

<sup>41</sup> Management Response, p. 15, para. 45.

<sup>42</sup> Management Response, p. 15, para. 46.

<sup>43</sup> Management Response, p. 16, para. 48.

have any possible relation to the Project.<sup>44</sup> Management understands that 174 Chiquitano communities are seeking land titles, but noted that only one of the 24 communities within the Project area has a pending land title issue.<sup>45</sup> Management claimed the Project has no part in – or impact on – land titling processes, which are led by the *Instituto Nacional de Reforma Agraria* (National Institute of Agrarian Reform, INRA).<sup>46</sup> The Response stated that population migration and related land use changes exist at regional or provincial levels, and providing measures to support land titling is beyond the Project’s scope, and cannot be addressed effectively through the Project.<sup>47</sup> Management stated the Project’s revised IPP nevertheless contains measures to help strengthen the capacity of the indigenous organizations, which could address land acquisition and land rights.<sup>48</sup>

26. **The Indigenous Peoples Plan (IPP).** Management stated the original IPP was “*fully consistent*”<sup>49</sup> with all requirements set out in the Bank Policy on Indigenous Peoples (OP 4.10). Management claimed the document was “*the result of a process of free, prior, and informed consultation with the four ‘Centrales Chiquitanas’ in the Project area*”<sup>50</sup> which represent “*indigenous peoples communities,*”<sup>51</sup> and the consultation process led to broad community support for the Project.<sup>52</sup> Management stated the original IPP set out the measures through which Indigenous Peoples would receive culturally appropriate, social and economic benefits, and described how potential, adverse impacts on Indigenous Peoples would be avoided, minimized, mitigated, or compensated.<sup>53</sup> Management stated the measures included in the original IPP enhanced opportunities for all Chiquitano communities to benefit from the Project, responded to the priorities and concerns raised through the consultation process, and built on the findings of the Social Assessment (SA).<sup>54</sup>

27. Management’s Response stated that in 2018, at the request of the indigenous communities, a process to revise and update the IPP began.<sup>55</sup> The Response explained this was necessary in part due to the passage of time since the finalization of the original IPP, and the changes in the leadership of the Chiquitano organizations.<sup>56</sup> The Response stated that “[t]he revised IPP [...] is also the result of a meaningful consultation process, inclusive of the four Chiquitano organizations and members of the communities in the Project area.”<sup>57</sup> It explained that during the consultation process, the Chiquitano communities reiterated their support for the Project and for the IPP.<sup>58</sup> Management stated the revised IPP was agreed upon in December 2021, and approved by the Bank

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<sup>44</sup> Management Response, p. 16, para. 49.

<sup>45</sup> Management Response, pp. 16 and 17, para. 50. The Management Response stated after finalizing the revised IPP, the total number of affected communities is 24. Management Response, p. 16, Footnote 18.

<sup>46</sup> Management Response, p. 17, para. 51.

<sup>47</sup> Management Response, p. 17, para. 52.

<sup>48</sup> Management Response, p. 17, para. 52.

<sup>49</sup> Management Response, p. 17, para. 54.

<sup>50</sup> Management Response, p. 17, para. 54.

<sup>51</sup> Management Response, p. 17, Footnote 20.

<sup>52</sup> Management Response, p. 17, para. 54.

<sup>53</sup> Management Response, p. 17, para. 53.

<sup>54</sup> Management Response, p. 17, paras. 54 and 55.

<sup>55</sup> Management Response, p. 18, para. 56.

<sup>56</sup> Management Response, p. 18, para. 56.

<sup>57</sup> Management Response, p. 18, para. 56.

<sup>58</sup> Management Response, p. 18, para. 56.



in February 2022.<sup>59</sup> Management viewed the revised IPP as “*fully consistent with all requirements set out in OP 4.10.*”<sup>60</sup> The Response acknowledged that the IPP revision process was delayed by several factors, including the slow recruitment of a Supervision Firm, wildfires in the area, the 2019 civil unrest, the 2020 general elections, COVID-19, and ABC staff turnover.<sup>61</sup>

28. Management’s Response stated there appears to be confusion in the Request as to whether the IPP could cover population migration, expansion of agricultural areas, logging, and land titling – all of which Management considers outside the scope of project-level instruments, such as the IPP.<sup>62</sup> According to Management, the revised IPP included two groups of activities: (i) local economic development projects intended to “*revalue the identity of Indigenous Peoples*”<sup>63</sup> and (ii) organizational strengthening projects to promote participation, deliberation, and decision-making by the Chiquitano indigenous organizations.<sup>64</sup> The Response noted that the revised IPP contains no measures to help regulate or intervene in the land titling process, as these are “*beyond the remit of the Project and its impacts.*”<sup>65</sup>

29. The Response stated the implementation of the revised IPP, which started in October 2022, has “*proceeded rapidly*”<sup>66</sup> and was expected to conclude in December 2023.<sup>67</sup> It stated that the delay was due to the time required to amend the contracts of the Contractor and the Supervision Firm to reflect the new budget and the revised IPP, COVID-19, political developments in the country, severe wildfires, staff turnover at the implementing agency, and that the divisions among the Chiquitano organizations became more complex for the IPP implementation.<sup>68</sup> Management claimed, however, no measures directly relevant to mitigating road construction impacts have been delayed.<sup>69</sup> Furthermore, it expressed its view that OP 4.10 does not tie benefits to a specific project implementation timeline, hence “*these delays do not amount to policy non-compliance.*”<sup>70</sup>

30. **Land Take in the Right-of-Way (ROW).** According to Management’s March 2023 written response, the process establishing the Project ROW is described in the resettlement instruments developed for the Project – the 2016 RPF, the 2016 RAP which was updated in 2020, and the 2022 Abbreviated RAP. Management stated that the width of the ROW varies between urban and rural sections of the road. In rural areas, national legislation provides for a ROW extending 50 meters from each side of the road’s centerline. According to Management, ABC is the competent national entity for roads, in accordance with Article 6 of Law No. 966 on the Right-of-Way and Public Registry of Roads Domain, and can limit ROW width for reasons of proportionality, usefulness, functionality, and security – i.e., “*effective use of the ROW*” (*Uso*

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<sup>59</sup> Management Response, p. 19, para. 62.

<sup>60</sup> Management Response, p. 19, para. 61.

<sup>61</sup> Management Response, p. 19, para. 63.

<sup>62</sup> Management Response, p. 18, para. 57.

<sup>63</sup> Management Response, p. 18, para. 59.

<sup>64</sup> Management Response, p. 18, para. 59.

<sup>65</sup> Management Response, p. 19, para. 61.

<sup>66</sup> Management Response, p. 19, para. 62.

<sup>67</sup> Management Response, p. 19, para. 62.

<sup>68</sup> Management Response, p. 12, para. 32, and pp. 39 and 40.

<sup>69</sup> Management Response, p. 20, para. 64.

<sup>70</sup> Management Response, p. 20, para. 64.

*Efectivo de Derecho de Vía*, UEDDV). Management added this may enable ABC to limit land acquisition for the ROW, taking into account technical, social, and economic considerations.<sup>71</sup>

31. Management's March 2023 written response stated that more than 40 consultation meetings were conducted with the communities to discuss the resettlement program, compensation alternatives, the ROW, and the process for clearing it.<sup>72</sup> Management said ABC informed it that field work demarcating the boundaries of 32 affected properties had taken place without the affected persons being present.<sup>73</sup> Management added that the Supervision Firm will revisit these properties to obtain the signatures of these PAPs, but that this process had been delayed.<sup>74</sup> Management acknowledged approximately 11 cases of pending compensation payments for land already acquired. Management stated that the Bank has (i) requested ABC to complete these pending compensation payments urgently, (ii) reinforced the message that compensation needs to be paid prior to acquisition, (iii) requested ABC to instruct the Supervision Firm and the Contractor not to proceed with works on any sections where compensation is pending, and (iv) recommended to ABC – and ABC has agreed – to instruct the Supervision firm and the Contractor to immediately cease any works where compensation is pending, while ensuring that the worksite is left in a transitable and safe traffic condition.<sup>75</sup>

32. **Borrow Pits.** Management's November 2023 written response stated that, based on the Bank field observations in February 2023, it requested ABC "*to ensure full implementation of the borrow pit EMPs.*"<sup>76</sup> According to Management, in May 2023, in light of the Bank's significant concerns about borrow pit-related risks, the Bank sent a letter to the Borrower concerning potential suspension of the loan proceeds. The letter requested a report on borrow pits be submitted by ABC within 60 days, with which ABC complied. Management stated the Project's attention to this issue has been improving and risk reduction measures are being implemented.<sup>77</sup>

33. Management also reported in its November 2023 written response that the Contractor had secured bilateral contracts with communities and property-owners along the ROW to extract materials for the Project from borrow pits. Management stated these agreements are voluntary and therefore it is up to these property-owners to decide whether they provide access to the borrow pits in exchange for compensation. Management acknowledged these bilateral contracts contained non-disclosure clauses, but claimed to be unaware of any conflicts between property-owners and the Contractor over them.<sup>78</sup>

34. **Water Sources.** Management's November 2023 written response stated that the Project's 2016 ESIA did not include a detailed analysis of all potential Project impacts on the *atajados*, but did identify *atajados* as existing infrastructure that would be directly affected by the acquisition of the ROW. Management said that, during its supervision visit in February 2023, it made observations regarding the updated information on the *atajados*, which are in the latest version of

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<sup>71</sup> Annex 2, Management's March 2023 written response, p. 1.

<sup>72</sup> Annex 2, Management's March 2023 written response, p. 1.

<sup>73</sup> Annex 2, Management's March 2023 written response, p. 1.

<sup>74</sup> Annex 2, Management's March 2023 written response, pp. 1 and 2.

<sup>75</sup> Annex 2, Management's March 2023 written response, p. 3.

<sup>76</sup> Annex 3, Management's November 2023 written response, p. 5.

<sup>77</sup> Annex 3, Management's November 2023 written response, p. 5.

<sup>78</sup> Annex 3, Management's November 2023 written response, p. 6.

the Contractor's Water Resource Management Plan (WRMP).<sup>79</sup> Management stated that all Project-related water sources are monitored in accordance with the WRMP, and that the Bank is following up with ABC to strengthen Project supervision and monitoring to anticipate and manage potential impacts, and to avert potential conflicts with communities.<sup>80</sup> Management added that the Project's Grievance Redress Mechanism (GRM), regular meetings, and joint inspections with the communities have also helped identify several unanticipated impacts on existing *atajados* and guided resolution of issues.<sup>81</sup> Management said it is following up with ABC on further strengthening Project supervision and monitoring of the Project's impacts on *atajados*.<sup>82</sup>

35. **Road Safety and Access.** Management's November 2023 written response stated that the 2016 ESIA had identified road safety as "*a notable risk*"<sup>83</sup> associated with Project construction and operation, and proposed a Road Safety Program aimed at reducing the probability of accidents, and adequate signage along the road to prevent environmental and social impacts during all stages of the Project.<sup>84</sup> Management stated that despite such requirements, consistent and rigorous implementation of road safety has been an ongoing challenge across the large Project area. Management said its May 2023 "Notice of Potential Disbursement Suspension" highlighted significant inadequacies in the Project's management of road safety risks and outlined remedial actions to be performed within specified timeframes.<sup>85</sup> Management stated ABC submitted evidence related to each of the remedial actions outlined in the Notice, and the Bank found ABC had demonstrated substantial compliance on all but one issue, and that the Contractor needs to update the road safety EMP to reflect fully the recommendations of a comprehensive review undertaken by ABC in July-August 2023.<sup>86</sup>

36. **Occupational Health and Safety, and Labor and Working Conditions.** Management's Response stated that the Project's "*bidding documents and subsequent civil works contracts contain all standard clauses and requirements related to labor under applicable Bank policies.*"<sup>87</sup> It acknowledged delays in payment of workers and other labor issues and has brought these concerns to the attention of the Contractor and ABC.<sup>88</sup> Management said some of these matters have already been resolved, and it has asked ABC to ensure that outstanding labor issues are as well. Furthermore, in its February 2023 Response, Management requested a Labor and Occupational Health and Safety (OHS) Audit for Project works, to be completed by April 15, 2023.<sup>89</sup>

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<sup>79</sup> Annex 3, Management's November 2023 written response, p. 1.

<sup>80</sup> Annex 3, Management's November 2023 written response, p. 2.

<sup>81</sup> Annex 3, Management's November 2023 written response, p. 2.

<sup>82</sup> Annex 3, Management's November 2023 written response, p. 4.

<sup>83</sup> Annex 3, Management's November 2023 written response, p. 7.

<sup>84</sup> Annex 3, Management's November 2023 written response, p. 7.

<sup>85</sup> Annex 3, Management's November 2023 written response, p. 7.

<sup>86</sup> Annex 3, Management's November 2023 written response, p. 8.

<sup>87</sup> Management Response, p. vii, para. xv.

<sup>88</sup> Management Response, p. 24, para. 81.

<sup>89</sup> Management Response, p. 24, para. 82. The Panel notes that Management's Response refers to a Labor and occupational, health and safety (OHS) Audit. However, the Panel notes Management commissioned two independent Audits on Labor and OHS. The Panel reviewed the findings of both Audits, which were shared by Management in September 2023.

37. **Sexual Exploitation and Abuse, and Sexual Harassment (SEA/SH).** Management’s Response stated that, given the high prevalence of gender-based violence (GBV) in Bolivia, it recognized the need to address SEA/SH issues in the Project from its early stages. This prompted inclusion of targeted measures in Project documents to help prevent and respond to SEA/SH incidents.<sup>90</sup> The Response also stated that Project planning incorporated institutional learning to “reflect the good practices based on lessons learned from Bank-financed road projects in Uganda and the Democratic Republic of Congo.”<sup>91</sup> Management stated that, in 2019, the Bank retrofitted GBV components on all its ongoing infrastructure projects, following the issuance of the Bank’s “Good Practice Note on Addressing Gender Based Violence in Investment Project Financing Involving Major Civil Works.”<sup>92</sup> The Response stated the Bank conducted 11 missions between 2018 and 2022, which included training and confirming that essential SEA/SH measures were in place.<sup>93</sup> Management explained that, in April 2021, with the support of the Bank’s Human Rights, Inclusion, and Empowerment Trust Fund, the Bank engaged the local NGO *Proceso-Servicios Educativos* (“Proceso”) to work with the four municipalities’ *Promotoras Comunitarias* – community-nominated women (*promotoras*) who assist with GBV prevention, monitoring, and reporting. These efforts are coordinated with *Servicios Legales Integrales Municipales* (Municipal Integrated Legal Services, SLIMs) and *Defensoría del Niño, Niña y Adolescente* (Defenders of Children and Adolescents, DNNAs).<sup>94</sup> Management added that, in 2021, agreements to further strengthen GBV reporting and communication were signed with the municipalities of San Ignacio de Velasco, San Rafael, and San José de Chiquitos, and with the Supervision Firm and Contractor.<sup>95</sup>

38. Management said it became aware in 2021 of a Project-related, SEA/SH incident, to which it responded immediately and ensured that measures were in place to offer services to survivors, strengthen the Code of Conduct, report on GRM, and sensitize workers.<sup>96</sup> Management stated that, in September 2022, BIC informed it of alleged cases of SEA/SH, including some involving minors.<sup>97</sup> According to Management, in response the Bank and ABC agreed on a GBV Action Plan in 2022, which was consulted upon with key stakeholders, including BIC and Child Protection in Crisis (CPC).<sup>98</sup> Management stated the implementation of the GBV Action Plan is underway.<sup>99</sup> Management added that, in January 2023, the San Rafael de Velasco SLIM and DNNA informed the Supervision Firm about two SEA/SH cases related to the Project.<sup>100</sup>

39. **Management Response Conclusion.** The Response stated that the Bank correctly followed all its policies and procedures applicable to the Project, including those relevant to the issues raised in the Request. Management believes the Requesters’ rights or interests have neither

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<sup>90</sup> Management Response, p. 12, para. 33.

<sup>91</sup> Management Response, p. 22, para. 74.

<sup>92</sup> Management Response, p. 23, para. 77.

<sup>93</sup> Management Response, p. 22, para. 75.

<sup>94</sup> Management Response, p. 22, para. 76.

<sup>95</sup> Management Response, p. 23, para. 78.

<sup>96</sup> Management Response, p. 23, para. 79.

<sup>97</sup> Management Response, p. 35.

<sup>98</sup> Management Response, p. 23, para. 79.

<sup>99</sup> Management Response, p. 12, para. 33.

<sup>100</sup> Management Response, p. 36.

been, nor will be, directly or adversely affected by the alleged failure of the Bank to implement its policies and procedures.<sup>101</sup>

40. In its March and November 2023 written responses, recognizing the concerns raised by the Requesters and the Project-affected communities with the Panel during its field visits, Management acknowledged some issues remain an implementation challenge, and described the steps being taken to address them, which are being monitored and supervised by the Bank.

## 1.5. Focus and Design of the Investigation

41. The Panel's Investigation focused on questions relating to: i) Chiquitano land, livelihoods, and identity, (ii) the IPP, (iii) land take and resettlement, (iv) borrow pits, (v) water sources, (vi) road safety and access, (vii) occupational health and safety, labor and working conditions, and (viii) SEA/SH. It also assessed Bank supervision of the Project following Project approval in January 2017. The Panel reviewed Project-related documents from the preparation to implementation stages, and considered actions taken by the Bank since receiving the Request.

42. The Panel's Investigation team consisted of Panel Chairperson Ramanie Kunanayagam (Lead Inspector), Panel Member Ibrahim Pam, Investigations Officers Ayako Kubodera and Camila Jorge do Amaral, Panel consultants María Treviño Salce and Dana Clark, and four expert consultants including Kathryn Tomlinson (anthropologist and expert on Indigenous Peoples and social safeguards issues), María Carolina Agoff (regional expert on SEA/SH and GBV), Lisa Davis (international expert advisor on SEA/SH and GBV), and Ian Greenwood (road transportation specialist). Biographies are included in Annex 4.

43. The Investigation proceeded in two parts. The first phase included extensive examination of Project documentation and individual interviews with Bank staff and consultants involved in the Project from its inception. The second phase involved a fact-finding field visit to Bolivia, September 12-29, 2023. In La Paz, the Panel team met with officials from Bolivia's *Ministerio de Planificación del Desarrollo* (Ministry of Development Planning, MPD), ABC National Office, and INRA, as well as Bank staff in the Country Office. In Santa Cruz, the Panel team met with officials from MPD and ABC National and Regional Offices, and personnel from the *Confederación de Pueblos Indígenas de Bolivia* (Confederation of Indigenous Peoples of Bolivia, CIDOB), and *Proceso*. In the field, the Panel team met with the SLIM/DNNA officials from four municipalities, the Contractor,<sup>102</sup> and the Supervision Firm.<sup>103</sup> The Panel team, together with the MPD and ABC officials, and the Supervision Firm's staff, conducted a one-day visit along the road corridor, organized by the Government. The team travelled the entire road corridor and met with the Requesters, the two representative organizations, and the leadership of the *centrales* in San José de Chiquitos, San Rafael, and San Ignacio de Velasco, as well as the separate factions claiming legitimate control of the San Miguel de Velasco *Centrale*.<sup>104</sup> The Panel team also met

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<sup>101</sup> Management Response, p. 24, para. 83.

<sup>102</sup> The Contractor is China State Construction Engineering Corporation Ltd.

<sup>103</sup> The Supervision Firm is *Asociación Accidental Eptisa - Cypla*.

<sup>104</sup> During the eligibility phase, Management informed the Panel about leadership divisions in San Ignacio de Velasco and San Miguel de Velasco *centrales*. The Panel offered to meet with all competing groups during its eligibility assessment field visit in March 2023. The Panel met with both groups of San Miguel de Velasco *Centrale*,

with affected Chiquitano community members from 14 communities in the municipalities of San José de Chiquitos, San Rafael, San Miguel de Velasco, and San Ignacio de Velasco.<sup>105</sup>

44. The Panel expresses its sincere appreciation to the Government of the Plurinational State of Bolivia for cooperating, sharing information, organizing part of the field visit, and ensuring the participation of relevant Government agencies and officials. The Panel also thanks the Requesters and their supporting organizations for logistical help and coordination prior to and during the field visits. The Panel thanks the staff of the World Bank's Country Office in La Paz for its assistance with logistical arrangements, and Bank Management and the Project team for providing materials and regular updates. Finally, the Panel team expresses gratitude to all those with whom it met, including the community members, for taking the time to share their views and information.

45. In this Report, the Panel assesses whether the Bank complied with its Operational Policies and Procedures, including:

- Environmental Assessment, OP/BP 4.01,
- Indigenous Peoples, OP/BP 4.10,
- Involuntary Resettlement, OP/BP 4.12, and
- Bank Policy on Investment Project Financing and its Directive.

46. This Report is structured as follows and describes the issues raised by the Requesters, the Bank's response to each of them, and the Panel's analyses and findings:

- Chapter 1 (this chapter) introduces the Report and briefly presents the background of the case, the Project, and the Project context. It summarizes the Request and Management's Response, and outlines the focus and design of the Panel's Investigation.
- Chapter 2 analyzes the Project's identification and assessment of its potential, induced impact in the context of the Chiquitanos and their vulnerabilities. It provides a brief history and context of the Chiquitano communities, the Bolivian Agrarian Land Law, and the background of Chiquitanos' land.
- Chapter 3 examines the process of free, prior, and informed consultation for the development of the Project safeguard documents, including the IPP. It analyzes the adequacy of the activities and mitigation measures in the original and revised IPPs, and the IPP implementation.
- Chapter 4 examines the alleged impacts from Project activities, focusing on the ROW and related resettlement and compensation issues, borrow pits, and *atajados*.
- Chapter 5 analyzes the alleged impacts from construction and operation, such as road safety and access, OHS, and labor and working conditions.

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and one group of San Ignacio de Velasco *Centrale*. The other group of San Ignacio de Velasco *Centrale* leadership did not respond to the Panel; hence no meeting took place. Prior to the September 2023 investigation field visit, the Panel was informed that the leadership contest in San Ignacio de Velasco had been resolved.

<sup>105</sup> The Panel met with community members of Quituquiña, Pozo del Cura, San Antonio, Nuevo Horizonte, La Fortuna 2, and Portoncito of San José de Chiquitos *Centrale*; Mira Flores, Villa Fátima, San Pablo, and San Fermín of San Rafael *Centrale*; Cuarrió and Sapocó of San Miguel de Velasco *Centrale*, and Medio Monte and San Rafaelito of San Ignacio de Velasco *Centrale*.

- Chapter 6 reviews the allegations of SEA/SH by Project workers raised in the Request. It provides an overview of the prevalence of GBV in Bolivia and of the Government services and policies designed to raise awareness, mitigate, and respond to GBV issues. This chapter also examines the systems put in place by Management to address GBV issues and the adequacy of Management's actions to resolve the concerns raised in the Request.
- Chapter 7 analyzes Management's supervision of the Project and the specific actions it took in response to the concerns raised in the Request, focusing on the frequency of supervision, technical expertise made available, and quality of supervision.
- Chapter 8 presents the Panel's high-level observations and conclusions stemming from this Investigation.





## Chapter 2 - The Chiquitano Context, Environmental and Social Assessment, and Free, Prior and Informed Consultation

### 2.1. Introduction

47. This chapter provides a brief history and background of the Chiquitano communities, the Bolivian Agrarian Land Law, and the Chiquitano land context. It analyzes how issues relating to adverse impacts were identified, including the claim that the Project is opening up the area to illegal activities and settlers. It also examines how the Environmental and Social Impact Assessment (ESIA) and the Social Assessment (SA) identified and evaluated these issues. It discusses how the Project conducted the process of free, prior, and informed consultation.

### 2.2. Request for Inspection

48. The Requesters claimed they recognized early on that their land and livelihoods were put at risk by the Project, because it creates new opportunities for illegal activities and settlers to encroach on their territories. The Request stated agricultural expansion, increasing deforestation, and land degradation affected the Chiquitania region; its land is contested by interest groups seeking access and disputing ownership. According to the Request, tensions in the region were high prior to the Project and it *“was clear from the time of project design that the construction would happen in a very risky context.”* The Requesters alleged that the road upgrade has accelerated illegal occupation and confiscation of indigenous lands, and has threatened indigenous land titling efforts underway or planned. They claimed that increasing rates of wildfires are exacerbated by Project activities, endangering their land and livelihoods. The Request alleged the Bank failed to prioritize preventing harm to communities from the road upgrade.

49. The Requesters claimed no appropriate, effective mitigation measures to address adverse impacts and support the Chiquitanos in protecting their territories were included in the initial IPP. The Requesters also said Chiquitanos’ participation in the design of the initial IPP was weak and ineffective, because they lacked meaningful information about the Project’s negative impacts, risks, and benefits when the initial consultation started, and this issue was raised in a letter to the World Bank in March 2018.

### 2.3. Management Response

50. According to Management’s Response, the original 2015 SA identified 17 communities in the Project area, 16 of which were Chiquitano; the revised 2022 IPP identified that there were 23 communities in the Project area.<sup>106</sup> The Response stated that, after finalizing the revised IPP, Management learned that an additional Chiquitano community would be affected by the Project due to the final alignment of the road near San Ignacio, bringing the total number of affected communities to 24.<sup>107</sup> Management stated *“[f]or the purpose of this Management Response, the Project area comprises the 17 Chiquitano communities located in 4 municipalities along the road alignment, which are directly affected by the Project.”*<sup>108</sup>

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<sup>106</sup> Management Response, p. 16, Footnote 18.

<sup>107</sup> Management Response, p. 16, Footnote 18.

<sup>108</sup> Management Response, p. 8.

51. Management stated that although it understood the Requesters' concerns regarding the economic and demographic changes occurring in the Chiquitania region, such impacts on land, land titling, and livelihoods resulting from expanding agribusiness, logging, and wildfires cannot be attributed to the Project.<sup>109</sup> Management noted that the works began in September 2019 and progress stood at 37 percent at the time of the Response.<sup>110</sup> Management was of the "firm view"<sup>111</sup> that the Project did not the cause the alleged harm and it noted that the issues raised concerned long-standing agrarian policies, plans, and legislation unrelated to the Project.<sup>112</sup> According to Management, these were, rather, part of a broader national effort to increase agricultural development that has facilitated migration to the Chiquitania region.<sup>113</sup> The Response added that the Santa Cruz region has some of the country's most productive farmlands.<sup>114</sup>

52. Management attributed the influx of population to the Chiquitania region to the creation of national policies, plans, and laws that "*support agricultural expansion, encourage land clearing and provide incentives for agricultural production.*"<sup>115</sup> Management stated logging and land conversion processes in the Chiquitania region began in the late 1970s, and livestock, agriculture, and forestry activities grew as the population increased in what is now the Project area.<sup>116</sup> According to Management, these laws and policies were unrelated to the Project and there was "*no evidence*"<sup>117</sup> that the road upgrading had increased the rate of population influx. Management added that these developments also reflected land regularization and distribution processes carried out by *Instituto Nacional de Reforma Agraria* (National Institute of Agrarian Reform, INRA) under the Agrarian Law.<sup>118</sup> Furthermore, the Response noted that before the Project, the existing regional road network had already facilitated access to the region.<sup>119</sup>

53. Management stated that the ESIA identified Project-related impacts for all Project phases, including the "*induced future.*"<sup>120</sup> According to Management, "induced future" considers the Project's potential contribution to the ongoing expansion of the agricultural and livestock frontier, logging, growth of settlements, and increased commercial and tourism activities.<sup>121</sup> Management noted that a potential future impacts from road upgrading on these developments would be "*minor.*"<sup>122</sup> While Management found the ESIA of "*acceptable quality,*"<sup>123</sup> it acknowledged that it lacked in-depth analysis of the broader economic and demographic developments in the Project area and Chiquitania region. According to Management, the ESIA concluded that mitigating these

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<sup>109</sup> Management Response, p. 11, paras. 29 and 30.

<sup>110</sup> Management Response, p. 11, para. 31.

<sup>111</sup> Management Response, p. 11, para. 30.

<sup>112</sup> Management Response, p. 11, para. 30.

<sup>113</sup> Management Response, p. 11, para 30 and p. 29.

<sup>114</sup> Management Response, p. 9, para. 22.

<sup>115</sup> Management Response, p. 13, para. 37.

<sup>116</sup> Management Response, p. 13, para. 40.

<sup>117</sup> Management Response, p. 13, para. 37.

<sup>118</sup> Management Response, p. 13, para. 38.

<sup>119</sup> Management Response, p. 13, para. 39.

<sup>120</sup> Management Response, p. 15, para. 45.

<sup>121</sup> Management Response, p. 15, para. 45.

<sup>122</sup> Management Response, pp. 15 and 16, para. 46.

<sup>123</sup> Management Response, p. 15, para. 45.

impacts fell outside the scope of the Project, which Management found “reasonable”<sup>124</sup> since doing so required national policy and legislative action.<sup>125</sup> Management noted that the Bank had recognized the significant, potential impacts of these developments, but that its analytical work beyond this Project, focused on forest governance, ecosystem services, and sustainable land management in the Chiquitania region.<sup>126</sup> Management claimed that “nevertheless”<sup>127</sup> the IPP included measures to address potential impacts on culture and identity of the indigenous communities and to strengthen the institutional capacity of indigenous organizations to mobilize and represent communities in national, departmental, and municipal processes.<sup>128</sup>

54. Management said it was unaware of land confiscation in the Project area and/or redistribution to other population groups, or other Project-related titling issues.<sup>129</sup> Management understood that 174 Chiquitano communities are seeking land titles, but noted that these are in the wider Chiquitania region; only one Chiquitano community among the 24 communities in the Project area has a pending, land title issue.<sup>130</sup> Management claimed the Project has no part in – or impact on – land titling processes, which are led by INRA.<sup>131</sup> Management acknowledged that while the revised IPP supports capacity building of Indigenous People, assisting them with land titling was beyond the Project’s scope.<sup>132</sup>

55. Management stated that the original 2016 IPP is fully consistent with all the requirements in OP 4.10, and is “*the result of free, prior, and informed consultation with the four ‘Centrales Chiquitanas’ in the Project area and that process of consultation resulted in broad community support for the Project.*”<sup>133</sup> Management stated the revised IPP “*is also fully consistent with all the requirements set out in OP 4.10*”<sup>134</sup> and is “*also the result of a meaningful consultation process.*”<sup>135</sup> Management stated the participation of the Chiquitano organizations and communities in the preparation of the SA, and the initial and revised IPPs, was “*inclusive and robust, meeting the requirements of the Bank policy.*”<sup>136</sup> Management explained that while these documents were extensively discussed with these communities, the Chiquitano organizations, and NGO representatives, the issues raised in the Request were not specifically articulated by the Indigenous Peoples’ organizations or communities during the consultation meetings;<sup>137</sup> rather, the participants expressed support for the Project, and reiterated such support in 2018 when the IPP revision began.<sup>138</sup> Management stated that during the preparation of the ESIA, Project area local

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<sup>124</sup> Management Response, p. 16, para. 47.

<sup>125</sup> Management Response, p. 16, para. 47.

<sup>126</sup> Management Response, p. 16, para. 48.

<sup>127</sup> Management Response, p. 18, para. 58

<sup>128</sup> Management Response, p. 18, para. 58.

<sup>129</sup> Management Response, p. 16, para. 49.

<sup>130</sup> Management Response, pp. 16 and 17, para. 50.

<sup>131</sup> Management Response, p. 17, para. 51.

<sup>132</sup> Management Response, p. 17, para. 52.

<sup>133</sup> Management Response, p. 17, para. 54.

<sup>134</sup> Management Response, p. 19, para. 61.

<sup>135</sup> Management Response, p. 18, para. 56.

<sup>136</sup> Management Response, p. 20, para. 67.

<sup>137</sup> Management Response, p. 21, para. 70.

<sup>138</sup> Management Response, p. 21, par. 69.

authorities and representatives, Indigenous Peoples' organizations, and community members in general were consulted.<sup>139</sup>

## 2.4. Bank Policies

56. Bank Policy on Environmental Assessment (OP 4.01) requires the EA to evaluate a project's potential environment risks and impacts in its area of influence, including the process of mitigating and managing adverse, environmental impacts throughout project implementation.<sup>140</sup> Annex A of the Policy defines the "project area of influence" as the area likely to be affected by the project, including all its ancillary activities and unplanned developments induced by the project.<sup>141</sup> OP 4.01 stipulates that the EA is a process whose breadth, depth, and type of analysis depend on the nature, scale, and potential environmental impact of the proposed project.<sup>142</sup> It requires the EA to consider natural and social aspects in an integrated way.<sup>143</sup>

57. Bank Policy on Indigenous Peoples (OP 4.10) recognizes that Indigenous Peoples' identities and cultures are inextricably linked to the lands on which they live and the natural resources on which they depend. The Policy recognizes this exposes Indigenous Peoples to different types of risks and levels of project impacts – including loss of identity, culture, and customary livelihoods. The Policy recognizes that the economic, social, and legal status of Indigenous Peoples often limits their capacity to defend their interests in – and rights to – lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development.<sup>144</sup>

58. OP 4.10 requires that if the Bank concludes that Indigenous Peoples are present in the project area, the SA must evaluate the project's potential positive and adverse effects on them, and examine project alternatives where adverse effects may be significant. The Policy requires the SA's breadth, depth, and type of analysis correspond to the nature and scale of the project's positive and adverse effects on the Indigenous Peoples.<sup>145</sup> Annex A of OP 4.10 states the SA must include, as needed, baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.<sup>146</sup> OP 4.10 requires the SA and IPP pay particular attention to the customary individual and collective rights of the Indigenous Peoples pertaining to lands or territories they traditionally owned, used, or occupied, or where access to natural resources is vital to the sustainability of their cultures and livelihoods, and the need to protect such lands and resources against illegal intrusion or encroachment.<sup>147</sup>

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<sup>139</sup> Management Response, p. 21, p. 72.

<sup>140</sup> OP 4.01, para. 2.

<sup>141</sup> OP 4.01, Annex A, para. 6.

<sup>142</sup> OP 4.01, para. 2.

<sup>143</sup> OP 4.01, para. 3.

<sup>144</sup> OP 4.10, para. 2.

<sup>145</sup> OP 4.10, para. 9.

<sup>146</sup> OP 4.10, Annex A, para. 2 (b).

<sup>147</sup> OP 4.10, para. 16 (a) and (b).

59. OP 4.10 requires a project that is proposed for Bank financing that affects Indigenous Peoples to engage in a process of free, prior, and informed consultation during each stage of the project.<sup>148</sup> The Policy requires the engagement of free, prior, and informed consultation with Indigenous Peoples where the project affects them, providing them with all relevant information about the project in a culturally appropriate manner at each stage of project preparation and implementation.<sup>149</sup> Annex B of the Policy requires that the IPP include a framework for ensuring free, prior, and informed consultation takes place with the affected Indigenous Peoples' communities during project implementation.<sup>150</sup>

60. OP 4.01 requires all Category A and B projects proposed for IBRD or IDA financing, during the EA process, the borrower consults project-affected groups and local nongovernmental organizations (NGOs) about the project's environmental aspects and takes their views into account.<sup>151</sup>

## **2.5. History and Background of the Chiquitano Communities, Bolivian Agrarian Land Law, and Chiquitanos' Land Context**

61. **Chiquitano Communities.** The following overview of the social context of the Chiquitano communities, particularly those along the Project's road corridor, is based on information shared by the Chiquitano leaders and community members, Panel observations during its missions, the Project's safeguard documents, and academic research. This social context is relevant to understanding the Request and its allegations of harm, the Management Response to these allegations, and the application of Bank safeguard policies relevant to the Project.

62. The 2015 SA explained that the Chiquitanos have inhabited the Project area since the 1600s, which coincides with the Jesuit mission period in what is now the Department of Santa Cruz.<sup>152</sup> According to studies cited in the SA, although other Indigenous Peoples resisted the Jesuits, the Chiquitanos accepted to be evangelized embracing their promises of greater freedom.<sup>153</sup>

63. The 2012 Bolivian census stated the Chiquitanos constitute the second largest indigenous group in the Department of Santa Cruz (142,822 people), following the Quechuas (180,452 people).<sup>154</sup> The census data indicated that more than 59 percent of all inhabitants of the four municipalities within the Project area, in both the rural communities and municipal centers, identify themselves as indigenous Chiquitanos.

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<sup>148</sup> OP 4.10, para. 6 (c).

<sup>149</sup> OP 4.10, para. 10 (c).

<sup>150</sup> OP 4.10, Annex B, para. 2 (d).

<sup>151</sup> OP 4.01, para. 14.

<sup>152</sup> *Administradora Boliviana de Carreteras, Evaluación Social Comunidades Indígenas Chiquitanas y Ayoreode del Área de Influencia del Proyecto* (2015 SA), August 2015, p. 22.

<sup>153</sup> 2015 SA, p. 22.

<sup>154</sup> *Instituto Nacional de Estadística, Censo Nacional de Población y Vivienda 2012, Fichas por comunidad, Pertenencia a algún Pueblo.*

64. Political governance is conducted by *Caciques* (chiefs), who are the indigenous leaders of their communities.<sup>155</sup> The Panel understands that the Chiquitanos are represented at the community level by community *Caciques*, at the district level by district *Caciques*, and at the municipal level by *centrales* – indigenous leadership entities headed by *Gran Caciques* (big chiefs). The Panel understands *Caciques* are elected. During its field visit, the Panel learned that a *centrale* comprises at least one community-level *Cacique* and a district *Cacique*, and is headed by a *Gran Cacique*. There are twelve *centrales* affiliated with the *Organización Indígena Chiquitana* – Chiquitania Indigenous Organization, OICH – which is part of the national indigenous organization, CIDOB.<sup>156</sup>

65. According to the Chiquitano community members with whom the Panel met, the Chiquitanos predominately engage in small-scale agriculture – cultivating yucca, corn, plantain, rice, beans, fruit trees, and keeping small livestock – and cattle ranching for subsistence and commercial purposes. The Panel heard that most people also fish in local streams and ponds, and hunt and gather food and medicine in the forest. Community members supplement their incomes with paid, manual labor. Furthermore, the Panel learned that some Chiquitanos work in artisanal crafts such as brick making, wood carving, and basket weaving.

66. The Panel observed that many community members choose to leave their villages for long periods and live in the municipal capitals or as far away as Santa Cruz for employment and/or access to services such as schooling. Some of them regularly return to their communities to farm or visit family members, while others return permanently after years at the municipal capital.

67. **Bolivian Agrarian Land Law.** Land ownership, regularization, and distribution processes in Bolivia were consolidated in the Law of National Service for Agrarian Reform No. 1715 (the “Agrarian Land Law”) on October 18, 1996. The Agrarian Land Law superseded the 1953 Agrarian Law, and established the regime for land distribution, guaranteed property rights over land, and put in place the rules for regulating agrarian property throughout the country. It also created the key institutions for agrarian reform, including INRA.

68. The Agrarian Land Law defines agrarian property types, such as individual and collective property. Individual property includes the *solar campesino* (an individual peasant’s residence), small property, medium property, and agribusiness property.<sup>157</sup> Collective property includes *Tierras Comunitarias de Origen* (Community Lands of Origin, TCOs) – renamed *Territorio Indígena Originario Campesino* (Original Indigenous Peasant Territory, TIOCs) in 2009 – and *Propiedad Comunal* (Communal Property).<sup>158</sup>

69. According to the Agrarian Land Law, both individual and collective properties must fulfil different forms of “social” or “socioeconomic” functions. Individual peasants’ properties, small properties, communal properties, and TCOs/TIOCs have the “social” function of establishing and

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<sup>155</sup> 2015 SA, p. 26; [Actualización de la Evaluación Social y Plan del Pueblo Indígenas Chiquitano, Organizaciones Indígenas Chiquitanas del Área de Influencia del Proyecto](#) (2022 SA), January 2022, pp. 46

<sup>156</sup> 2022 SA, p. 46.

<sup>157</sup> The Plurinational State of Bolivia, [Ley del Servicio Nacional de Reforma Agraria No. 1715](#), Article 41, Section I, Clauses 1, 2, and 3.

<sup>158</sup> The Plurinational State of Bolivia, [Ley del Servicio Nacional de Reforma Agraria No. 1715](#), Article 41, Section I, Clauses 5 and 6.

maintaining the family’s wellbeing and the economic development of the properties’ individual or collective owners.<sup>159</sup> The “socioeconomic functions” assigned to medium properties and agribusiness enterprises are to achieve sustainable use of the land by developing agribusiness, forestry, and other productive activities, as well as to conserve and protect biodiversity, research, and ecotourism.<sup>160</sup> The Constitutional reform of 2009 enshrined the concept that land has a socioeconomic function, which was intended to ensure that land is productively used to the fullest extent and for the broader, social good.<sup>161</sup>

70. TCOs/TIOCs and Communal Property titles are the collective property types relevant to the Request. TCOs/TIOCs are forms of communal agrarian property exclusively recognized for Indigenous Peoples. According to the Agrarian Land Law, TCOs confirm the concept of Indigenous Territory, and Bolivia’s Constitution (2009) cites them as bases for delineating indigenous territories. TCOs usually involve large tracts of land, which can include several communities.<sup>162</sup>

71. According to the Requesters, as well as the INRA Technical Analysis shared with the Panel, there are no TCOs/TIOCs in the immediate vicinity of the road – i.e., in the Project’s area of direct influence – and none of the four *centrales* relevant to the Project hold titles to a TCO/TIOC. According to the updated 2016 ESIA and the 2015 SA, the TCO/TIOC nearest the road is the Ayoreo<sup>163</sup> Santa Teresita TCO, which is about 60 kilometers away.<sup>164</sup> According to the updated 2022 SA, the Chiquitano Indigenous People have only four TCOs in the Chiquitania region, and none in the Project area.<sup>165</sup> According to the *centrales* – most Chiquitanos in the Project area hold only Communal Property titles. The *centrales* told the Panel that two *centrales* in the Project area have submitted requests for TCOs.

72. A Communal Property is a form of agrarian collective property available to indigenous and other types of communities in Bolivia, such as *comunidades campesinas* (peasant farmer communities) and *comunidades interculturales* (intercultural communities).<sup>166</sup> These property titles delineate the land on which a community is situated, and surrounding lands used for agricultural purposes. According to the INRA February 2023 Technical Analysis, of the 17 Chiquitano communities directly beside the road (from San José de Chiquitos to San Ignacio de Velasco), 16 hold collective Communal Property titles and one *campesina* community (La Fortuna) is in the process of acquiring one.

73. The Agrarian Land Law established a process called the “*saneamiento*,” carried out by INRA, for agrarian land regularization and titling. The *saneamiento* facilitates issuance of land

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<sup>159</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Article 2, Section I.

<sup>160</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Article 2, Section II.

<sup>161</sup> The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 397, Section I.

<sup>162</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Article 41, Section I, Clause 5; The Plurinational State of Bolivia, *Constitución Política del Estado*, Transitory Provision Number 7.

<sup>163</sup> The Ayoreo is another indigenous group located in the Project area, and is one of the two Project-affected Indigenous Peoples.

<sup>164</sup> 2016 ESIA, p. 181; 2015 SA, p. 12.

<sup>165</sup> 2022 SA, p. 46.

<sup>166</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Article 41, Section I, Clause 5; The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 394, Section III.

titles to those whose land fulfills the social and socioeconomic functions of agrarian property, resolves conflicts over agrarian property and possession,<sup>167</sup> and returns some agrarian property to the State. As of 2020, INRA claims to have concluded the *saneamiento* for 91.3 percent of the relevant land in the Department of Santa Cruz. The process enables INRA to identify “available public land” (called “*tierras fiscales disponibles*”),<sup>168</sup> which it can distribute free-of-charge to indigenous and other communities (such as peasant farmers, intercultural communities, and Afro-Bolivians).<sup>169</sup>

74. **Chiquitano Land Context.** Chiquitano land rights are complex. The Chiquitano are recognized within Bolivia as an Indigenous People who live in a region called the Chiquitania. According to the 2022 SA, this region – which includes 19 municipalities in the eastern section of the Department of Santa Cruz – is a patchwork of different types of land titles; fiscal lands (i.e., state-owned lands) make up around 56 percent of the total area, individual land titles account for 23 percent, TCO/TIOCs 15 percent, and Communal Property titles four percent.<sup>170</sup> The road Project area contains indigenous and campesino community properties, fiscal lands, cattle ranching properties, agro-industrial properties, Mennonite colonies, and the capitals of the four municipalities.<sup>171</sup>

75. As mentioned in the 2022 SA and explained by the *centrales*’ leaders themselves, when the Chiquitanos refer to “their territory” they mean the lands in the Chiquitania region that they have historically used and occupied, which are more extensive than the Communal Property titles held by each community and mostly not titled as TCOs/TIOCs. The 2022 SA and the Requesters both mentioned that the Chiquitanos have traditionally used the forests for hunting and gathering plants.<sup>172</sup> Chiquitano community members told the Panel that they use water sources outside their community properties for fishing or for their cattle to drink. Some of these forests and water sources are on fiscal lands. However, as the region has undergone an influx of people and the expansion of agricultural properties and activities, forests have increasingly been converted to pasture or agriculture, and fiscal lands have become individual or collective properties for new settlers, thus further curtailing Chiquitano peoples’ access to these resources. This situation is described in the 2015 and 2022 SAs as a contextual vulnerability for the Chiquitanos, reducing their territories and surrounding them with cattle ranching properties, limiting their access to land and natural resources.<sup>173</sup> One *Gran Cacique* told the Panel team “[o]ur communities are becoming like islands in our territories.”

## 2.6. Panel Analysis and Observations

### 2.6.1. Identification of Impacts in Project Documents

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<sup>167</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Articles 64 and 66. Section I, Clauses 1 and 3.

<sup>168</sup> The Plurinational State of Bolivia, *Ley del Servicio Nacional de Reforma Agraria No. 1715*, Article 18, Section I, Clause 5.

<sup>169</sup> The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 395, Section I.

<sup>170</sup> 2022 SA, p. 62.

<sup>171</sup> 2022 SA, p. 62.

<sup>172</sup> 2022 SA, p. 66.

<sup>173</sup> 2015 SA p. 79; 2022 SA, p. 115.



76. Below is a summary of how the Project’s safeguard documents identified the Project’s impacts and proposed mitigation measures, and the Panel’s analysis of these measures. The details on the resettlement documents are discussed in Chapter 4.

77. **2010 ESIA.** The Panel notes the 2010 ESIA was prepared seven years before Project approval. The Panel has not received this ESIA because its 2016 update became the applicable document.

78. **2015 Social Assessment.** The 2015 SA assessed the Project impacts on two Indigenous Peoples’ groups in the Project area – the Chiquitanos and the Ayoreos.<sup>174</sup> It stated the Ayoreos obtained the Santa Teresita TCO title in 1999, which consolidated and secured their traditional territories.<sup>175</sup> It added that the Ayoreos have a differentiated and more favorable situation compared to the Chiquitanos, as they received land titles to all the areas they requested and more, which is an exception among the lowland Indigenous Peoples.<sup>176</sup>

79. The 2015 SA described the areas of contextual vulnerability for the indigenous communities in the Project area as a whole, whether such areas could be affected by the Project, and the benefit projects recommended to mitigate these vulnerabilities.<sup>177</sup> The SA did not include an assessment of the Project impacts identified by the ESIA – including any construction-related effects, or how these impacts might affect the Chiquitano. The 2015 SA characterized the vulnerabilities of the Chiquitanos and the Ayoreo communities as falling into four thematic areas: loss of culture and social structure, physical and cultural aggression, the physical environment, and effects on demographics.<sup>178</sup> It stated that the “*current situation in relation to land and territory is more favorable to the Ayoreos than [to] the Chiquitanos.*”<sup>179</sup> The 2015 SA stated the Chiquitano communities’ territories “*are reduced, located in between cattle ranches, [and] they cannot access lands nor do they hold any sovereignty over their natural resources (wood and minerals).*”<sup>180</sup> The Panel notes that despite providing some information about land rights and tenancy, the SA lacked a more comprehensive analysis of the lands and territory of the Chiquitano people, such as a description of the types of property titles they hold, how these titles correlate to their customary land use, their territorial aspirations and claims, and the wider context of increasing land pressure in the Project area.

80. The 2015 SA identified that the Project was likely to increase population density and agro-industrial activities in the Project area, but stated mitigation measures for these impacts were beyond the scope of the Project.<sup>181</sup> The Panel notes that while these impacts on the Chiquitanos were mentioned in the SA, there were no detailed assessments of the potential, adverse impacts of the Project.

81. **2016 ESIA.** The 2016 ESIA updated the 2010 ESIA. The socioeconomic baseline in the

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<sup>174</sup> 2015 SA, p. 1.

<sup>175</sup> 2015 SA, p. 63.

<sup>176</sup> 2015 SA, pp. 62-64.

<sup>177</sup> 2015 SA, pp. 70-85.

<sup>178</sup> 2015 SA, pp. 36-56, and 60-75.

<sup>179</sup> 2015 SA, p. 62.

<sup>180</sup> 2015 SA, p. 79.

<sup>181</sup> 2015 SA, p. 79.

2016 ESIA principally used high-level, socioeconomic indicators.<sup>182</sup> The Panel notes that this socioeconomic baseline provided limited information about the Chiquitano or other populations in the area, and no information about land tenancy and rights. It appears no primary social data was collected for the 2016 ESIA, and that the social baseline was based on data from secondary sources. The 2016 ESIA did not describe its methodology.

82. The 2016 ESIA stated that upgrading the road, thereby improving road access, will lead to potential, future, induced impacts.<sup>183</sup> These impacts include greater agricultural production, expanded cattle ranching, increased logging, enhanced tourist activities, growth of human settlements, more commercial activities, and accelerated “*colonization of the area.*”<sup>184</sup> As a mitigation measure it proposed an environmental education program to raise local awareness about the appropriate use of the natural resources and the road.<sup>185</sup>

83. As for direct Project impacts, the Panel notes that although the 2016 ESIA covered the potential environmental impacts of developing borrow pits<sup>186</sup> and specified that an EMP with a closure plan was required for each borrow pit,<sup>187</sup> it omitted descriptions of potential, negative social impacts. The Panel notes the 2016 ESIA covered closure of borrow pits from an environmental perspective, but not from a social perspective. The Panel understands from Management that the ESIA did not include a detailed analysis of all potential Project impacts on *atajados*, even though it listed the *atajados* as assets potentially affected by land acquisition in the ROW.<sup>188</sup> The 2016 ESIA identified road safety as a risk associated with Project construction and operation and proposed a Road Safety Program to reduce the chance of accidents.<sup>189</sup> These impacts are discussed further in Chapters 4 and 5.

84. **2019 Social Management Plan.** The Contractor developed the Social Management Plan (SMP) in September 2019, comprising three programs for managing the Project’s social impact, for which the Contractor is responsible. These included the development and implementation of (i) a community relations engagement and communication program (including a Code of Conduct and GRM), (ii) a conflict prevention and management program, and (iii) an information and training plan for preventing gender-based violence and sexually transmitted diseases. The SMP also mentioned Contractor responsibility for implementing the construction elements of the RAP and the IPP projects, but provided no details about these activities.<sup>190</sup>

85. **2022 SA/IPP.** The Panel notes the revised 2022 SA and IPP that are publicly available on the World Bank’s website are combined into one document. The Panel notes the revised 2022 SA addressed the growing in-migration to the Project area and the concomitant establishment of new communities, leading to expansion of the agricultural frontier, land pressure, and reduction of

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<sup>182</sup> 2016 ESIA, pp. 97-107.

<sup>183</sup> 2016 ESIA, p. 120.

<sup>184</sup> 2016 ESIA, p. 156.

<sup>185</sup> 2016 ESIA, pp. 178, and 320-321.

<sup>186</sup> 2016 ESIA, pp. 170 and 176.

<sup>187</sup> 2016 ESIA, pp. 312 and 313.

<sup>188</sup> 2016 ESIA, p. 344.

<sup>189</sup> 2016 ESIA, pp. 177 and 228-247.

<sup>190</sup> Gender Violence Prevention Program attached to the Social Management Plan, p. 18.

Chiquitanos' territories and access to natural resources.<sup>191</sup> The 2022 SA reiterated that all land-related, direct Project impacts were addressed through the RAP, and that the IPP does not have the scope to address wider questions of Chiquitano land security or sufficiency.<sup>192</sup>

86. The Panel notes the inconsistent approach in the Project documents with respect to the Project's potential, induced impacts. The 2015 SA and 2016 ESIA identified the Project's likely future induced impacts of contributing to population growth, further expansion of the agricultural frontier, and land pressure increases in the Project area.<sup>193</sup> Yet the updated 2022 SA concluded that these issues were solely due to the Government agricultural policy and that the Project impact on them would be mostly beneficial as it is improving an existing road.<sup>194</sup> According to the 2022 SA, these were contextual issues occurring irrespective of the Project.<sup>195</sup>

87. The Panel notes, that many positive impacts – such as improved connectivity and widespread, enhanced economic development – were considered attributable to the Project, and the PAD extensively described them.<sup>196</sup> The Panel observes the Project has an inconsistent approach when evaluating its potential positive and adverse impacts and developing mitigation measures for the potential, Project-induced impacts it identified.

88. The Panel notes that the Project has allocated a significant budget of USD 225.05 million to upgrade 208 kilometers of existing, unpaved gravel road to asphalt.<sup>197</sup> The Panel observed during its missions that there were unpaved dirt sections as part of the road corridor. The Panel heard from Government officials, ABC, the Supervision Firm, and community members that the original San Ignacio de Velasco to San José de Chiquitos road that was built in the 1970s had sections that were difficult to access year-round, especially during the rainy season. The Panel acknowledges that the magnitude of adverse impacts of a road upgrade may differ from those of new road construction. However, the Panel notes that the Project is financing a significant road upgrade where indigenous communities face land pressures due to population growth and agrobusiness expansion. As a result, and as identified by the 2015 SA and 2016 ESIA, the Project's potential to exacerbate these trends cannot be overlooked.

89. The 2016 ESIA included an environmental education program to mitigate the Project's potential, induced impacts.<sup>198</sup> According to Management's Response, since population migration, agricultural expansion, logging, and land titling impacts do not stem from the Project, they could not be addressed by the Project.<sup>199</sup> Nevertheless, according to Management the original and revised IPPs included measures to address potential impacts on the culture and identity of the indigenous communities and to strengthen the institutional capacity of indigenous organizations to mobilize and represent these communities in national, departmental, and municipal processes.<sup>200</sup>

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<sup>191</sup> 2022 SA, pp. 20 and 21.

<sup>192</sup> 2022 SA, p. 115.

<sup>193</sup> 2015 SA, pp. 76 and 79; 2016 ESIA, pp. 135 and 136.

<sup>194</sup> 2022 SA, pp. 50 and 51.

<sup>195</sup> 2022 SA, pp. 20 and 53.

<sup>196</sup> PAD, p. 4, para. 14.

<sup>197</sup> PAD, p. 4, para. 14, p. 6, para. 23.

<sup>198</sup> 2016 ESIA, pp. 320-323.

<sup>199</sup> Management Response, p. v, para. Vi, p. 18, para. 57.

<sup>200</sup> Management Response, p. 18, para. 58.

The IPP and the benefit projects included therein are analyzed in Chapter 3 of this Report.

90. The Panel notes the contextual complexities of the Chiquitano lands and recognizes that they relate to wider policies and processes and do not stem from the Project. However, the Panel notes this does not preclude the road upgrade's potential to contribute to and/or exacerbate the issues confronting the Chiquitano community in the Project area and the need for the Project to assess adequately, consult meaningfully, and consider fully mitigation measures for these potential induced impacts.

91. The Panel agrees with Management that the Project cannot solely be expected to solve or mitigate these broader impacts. However, the Panel does not agree with Management's view (which Management told to the Panel during its meetings), that while the social impacts of the road upgrade will be "largely positive", such as improved connectivity, access to jobs and services, and development of local markets, agricultural productivity, and business activity,<sup>201</sup> the Project will not contribute to any ongoing, economic and demographic changes that might adversely affect the Chiquitano communities. Given the significance of the road upgrade, and the potential vulnerability of the Chiquitanos' access to land, water, and resources, the Panel notes that the Project's potential induced impacts should have been assessed more thoroughly by the Project.

## 2.6.2. Free, Prior, and Informed Consultation

92. Bank Policy on Indigenous Peoples (OP 4.10) requires free, prior, and informed consultation with Indigenous Peoples where the project affects them. The Policy defines the elements of such consultation as (a) providing a gender- and intergenerationally-inclusive framework for consultation at each stage of the project, (b) using methods appropriate to the social and cultural values of the affected indigenous communities and their local conditions with special attention to indigenous women, youth, and children and their access to development opportunities and benefits, and (c) affording affected indigenous communities all relevant information about the project (including an assessment of its potential, adverse effects on Indigenous Peoples' communities) in a culturally appropriate manner at each stage of the project.<sup>202</sup>

93. According to Bolivia's national legislation, two types of consultation can take place in projects affecting Indigenous Peoples – *consulta publica* (public consultation)<sup>203</sup> and *consulta previa, libre e informada* (free, prior, and informed consultation).<sup>204</sup> The *consulta publica* must be carried out during the ESIA's impact identification phase, and should consider the observations, suggestions, and recommendations of people who may be affected by the implementation of the project, and its related work, or activity.<sup>205</sup>

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<sup>201</sup> PAD, p. 15, para. 60.

<sup>202</sup> OP 4.10, para. 10.

<sup>203</sup> The *consulta publica* was legally established by the *Reglamentación de la Ley No. 1333 del Medio Ambiente, Reglamento de Prevención y Control Ambiental*. The Plurinational State of Bolivia, *Reglamentación de la Ley No. 1333 del Medio Ambiente, Reglamento de Prevención y Control Ambiental*, Article 162.

<sup>204</sup> The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 30, Section II, Clause 15, and Article 304, Section I, Clause 21.

<sup>205</sup> The Plurinational State of Bolivia, *Reglamentación de la Ley No. 1333 del Medio Ambiente, Reglamento de Prevención y Control Ambiental*, Article 162.

94. If the ESIA does not anticipate a *consulta publica*, the competent environmental authority should conduct such consultation to collect views before issuing an Environmental Impact Statement.<sup>206</sup> According to the ESIA, and confirmed by the leaders of the Chiquitano *centrales* and ABC, this type of consultation usually involves meetings at the municipal level to which representatives of different stakeholder organizations are invited, sometimes followed by meetings in affected communities. The *consulta publica* is not specifically aimed at or tailored for project-affected Indigenous Peoples.<sup>207</sup>

95. The *consulta previa, libre e informada* is a consultation process that applies specifically to Indigenous Peoples regarding the exploitation of nonrenewable, natural resources in their territories, as recognized by the 2009 Bolivian Constitution. According to the Constitution, indigenous *campesinos* (peasants) have the right “*to be consulted by appropriate procedures, in particular through their institutions, each time legislative or administrative measures may be foreseen to affect them. In this framework, the right to prior obligatory consultation by the State with respect to the exploitation of nonrenewable natural resources in the territory they inhabit shall be respected and guaranteed, in good faith and upon agreement.*”<sup>208</sup>

96. The following section summarizes the meetings that took place as part of the consultation process on the various safeguard documents.

97. **2010 ESIA.** The updated 2016 ESIA outlined the public consultation process that took place in 2010 to develop the original ESIA. This public consultation process took place in two phases, in August and December. In the first phase, one meeting was held per municipality, attended by 38-100 participants comprising local citizens, municipal officials, business associations, religious groups, et al.<sup>209</sup> Although the 2016 ESIA reported that eight indigenous leaders attended the four meetings, it did not specify which communities they represented. The 2016 ESIA stated the meetings described the Project and recorded the concerns raised by the participants.<sup>210</sup>

98. According to the 2016 ESIA, these concerns included:

- the direct impact of construction (placing labor camps sufficiently far from local populations, creating a Code of Conduct for construction personnel, establishing alternative access routes to borrow pits, a road safety education program, etc.),
- resettlement and compensation (conducting a joint assessment with the municipality on the effective use of the ROW in San Ignacio de Velasco, ensuring all affected, private property is compensated),
- monitoring and managing impacts of the Project (ensuring the municipality is involved in follow-up monitoring of the Project, guaranteeing that all environmental, economic, and

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<sup>206</sup> The Plurinational State of Bolivia, *Reglamentación de la Ley No. 1333 del Medio Ambiente, Reglamento de Prevención y Control Ambiental*, Article 162.

<sup>207</sup> The Plurinational State of Bolivia, *Reglamentación de la Ley No. 1333 del Medio Ambiente, Reglamento de Prevención y Control Ambiental*, Article 162.

<sup>208</sup> The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 30, Section II, Clause 15.

<sup>209</sup> 2016 ESIA, pp. 187-191.

<sup>210</sup> 2016 ESIA, pp. 187-191.

sociocultural impacts from the Project are managed, giving consideration to forming a special commission to monitor the Project), and

- local employment and conditions.<sup>211</sup>

99. The ESIA stated that the second phase of public consultation, in December 2010, included nine meetings attended by a total of 200 participants<sup>212</sup> in the four municipalities. Six of these meetings were held in communities located along the road, and three were held in the municipal capitals.<sup>213</sup> The Panel notes the ESIA explained that the objectives of the meetings were to present an overview of the *Programa de Reposición de Pérdidas* (the compensation program), a technical presentation of the road upgrade's final design. The Panel also notes the Environment Management Plan (EMP) was presented to describe project design alternatives developed in response to stakeholders' observations in the first phase. Further, the 2016 ESIA stated that some of the communities' concerns raised in the public consultations that were not identified in the EMP, and need to be analyzed.<sup>214</sup> The Panel observes that consultation meeting records were signed by those present at the meetings.

100. **2015 SA.** The 2015 SA stated that a process of free, prior, and informed consultation was conducted with the Indigenous Peoples affected by the road Project in order to comply with OP 4.10 and to ensure that Indigenous Peoples obtain culturally appropriate benefits from the Project.<sup>215</sup> According to the SA, the consultation had two phases. The first involved a process of self-evaluation to prioritize the overall IPP strategic objectives.<sup>216</sup> A needs assessment was carried out with each Chiquitano *centrale*.<sup>217</sup> The Panel notes that, while the 2015 SA stated a meeting took place with each of the four Chiquitano *centrales*, it did not specify the dates or total number of consultations that occurred, nor list the names of the participants.

101. The second phase of the 2015 SA and IPP consultation process was conducted in September and October 2015 through workshops with the four *centrales*. The 2015 SA stated that this phase aimed to help the Indigenous Peoples exercise their right to participate in decision-making and give their consent for the IPP projects.<sup>218</sup> Five meetings took place with the four *centrale* representatives during this phase (two with the San José de Chiquitos *Centrale*, and one each with the other three *centrales*).<sup>219</sup> The SA was posted on the Bank's external website on February 4, 2016, and published by ABC on January 21, 2016.

102. **2016 ESIA.** The Panel notes that the 2016 ESIA document summarized the public consultation for the original 2010 ESIA and made no mention of consultations held after 2010. The Panel notes from records provided by Management that three consultation meetings took place in October 2016, ten months after disclosure of the 2016 ESIA, to discuss the scope of the ESIA,

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<sup>211</sup> 2016 ESIA, pp. 189-191.

<sup>212</sup> 2016 ESIA, p. 194, Table 125.

<sup>213</sup> 2016 ESIA, pp. 195-200.

<sup>214</sup> 2016 ESIA, p. 201.

<sup>215</sup> 2015 SA, p. 95.

<sup>216</sup> 2015 SA, p. 95.

<sup>217</sup> 2015 SA, p. 97.

<sup>218</sup> 2015 SA, p. 99.

<sup>219</sup> 2015 SA, pp. 101-104.

the IPP, and the resettlement program. The Panel notes that meetings conducted after finalizing the 2016 ESIA cannot be considered consultation on the ESIA itself.

103. **RAP Consultation.** Six meetings were conducted in October 2015 (in four municipal capitals and with two communities) regarding the original RAP development.<sup>220</sup> The Panel notes the updated 2020 RAP stated 29 consultation meetings occurred between June and October 2019 – 21 of which were with 17 indigenous and non-indigenous communities, six with cattle ranchers and livestock associations, and one with both the San Miguel de Velasco *Centrale* and the San Rafael Municipal Government respectively.<sup>221</sup>

104. **2022 SA/IPP.** The revised 2022 SA/IPP stated the consultation process for updating the IPP had five phases. During the first phase (September-October 2020), six virtual or in-person coordination and preparation meetings were conducted with the four *centrales*.<sup>222</sup> During the second phase (October-November 2020), six meetings were held with the *centrales* to present the results of the revised SA and receive feedback for the IPP projects.<sup>223</sup> In the third phase (February and May 2021), which was postponed due to the presidential elections, five one-day meetings with the four *centrales* and their respective community representatives took place.<sup>224</sup> During the fourth phase (October 2021), a technical workshop with each of the four *centrales* and community representatives was held to consolidate the IPP.<sup>225</sup> The fifth and last phase (December 2021) consisted of a workshop with ABC, the Bank, and the Chiquitanos to discuss the agreements reached regarding the projects approved in the deliberative consultation and the budgets assigned to them.<sup>226</sup> The Panel notes that the revised SA/IPP document reported a total of 22 consultation meetings during the IPP revision.

105. Management's Response stated consultations were held regularly to update the SA and revise the IPP, including 50 meetings between July 2018 and December 2021.<sup>227</sup> Management said these meetings included the four Chiquitano organizations representing the communities in the Project area, along with members of all communities in the Project area and from other communities nearby. Management stated NGO representatives joined most consultation meetings.<sup>228</sup>

106. The Requesters and various Chiquitano community members repeatedly told the Panel they were never properly informed of the Project's negative impacts. They added that neither the original SA nor its revised version were shared with the *centrales* or the communities in the Project area. Furthermore – according to the Chiquitano community members involved in the consultation process – ABC, its consultant firm, and the Bank deemed discussions on induced impacts on the Chiquitano territory “off the table.” The Requesters told the Panel they tried raising these concerns

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<sup>220</sup> 2015 RAP, pp. 75-79.

<sup>221</sup> 2020 RAP, pp. 100-106.

<sup>222</sup> 2022 IPP, pp. 125 and 126.

<sup>223</sup> 2022 IPP, pp. 127-130.

<sup>224</sup> 2022 IPP, pp. 133, 135-139.

<sup>225</sup> 2022 IPP, pp. 143 and 144.

<sup>226</sup> 2022 IPP, p. 152.

<sup>227</sup> Management Response, p. 38.

<sup>228</sup> Management Response, pp. 38 and 39.

again when they requested that the IPP be revised, but they claim this issue was not taken up and discussed, as they were told that such induced impacts were beyond the Project's scope.

107. During the September 2023 investigation mission, the Requesters, various Chiquitano community members, and CIDOB leaders told the Panel team that a process of free, prior, and informed consultation was never implemented for the Project. They acknowledged there were various Project consultation meetings, but claimed these did not involve free, prior, and informed consultation about all potential, negative Project impacts on the Chiquitano community or discussion of mitigation measures for these impacts.

108. The Bank staff interviewed by the Panel said ABC carried out adequate consultation with Project-affected Indigenous Peoples to ensure free, prior, and informed consultation for the Project and the revision of the IPP, and that the Bank ensured the consultation was done correctly. The staff involved in the Project during the IPP revision claimed Chiquitano representatives never mentioned road upgrade-induced impacts on Chiquitano territory. The interviewed staff acknowledged that, while consultation with the Chiquitano communities might not have been robust during the initial stages of Project design and development, it was more comprehensive during the IPP revision process.

109. Management is of the view that both the original and the revised SA/IPP laid out how potential, adverse impacts on Indigenous Peoples would be avoided, minimized, mitigated, or compensated, and how mitigation measures were developed with and approved by the affected Indigenous Peoples. The Response stated that free, prior, and informed consultation with the four *centrales* in the Project area resulted in broad community support for the Project,<sup>229</sup> and that the original and revised IPPs were fully consistent with all the requirements of OP 4.10.<sup>230</sup>

110. ABC officials informed the Panel that a process of free, prior, and informed consultation was not considered a requirement for the Project – an upgrade of an existing road – but applied only to projects involving new roads. According to ABC's draft 2020 Community Relations and Communication Manual, "*The population that inhabits the original indigenous peasant territory is consulted when it is affected by the implementation of works related to the exploitation of natural resources that involve the opening of new roads. [...] They should be consulted on regarding the implementation of any activity, work or project that affects the territory of the native indigenous peasant nations and peoples when the opening of a new road takes place.*"<sup>231</sup>

111. The Panel notes that consultation meetings took place with indigenous Chiquitano representatives and in some Project-affected, Chiquitano communities several times during the development of the various safeguard Project documents at different stages of the Project. The Panel notes that these consultation meetings can be broadly grouped into three categories: (i) the public consultations for the original ESIA in 2010 – open to all Project-affected stakeholders – and consultation meetings after the 2016 ESIA was publicly disclosed, (ii) the consultations with displaced persons relating to resettlement impacts and the development of the RAP in 2016 and

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<sup>229</sup> Management Response, pp. 17 and 54.

<sup>230</sup> Management Response, pp. 17 and 54.

<sup>231</sup> *Administradora Boliviana de Carreteras, Manual de Relacionamento Comunitario y Comunicación*, August 10, 2020, p. 57.



2019, and (iii) the consultations specifically aimed at the Chiquitanos for developing the SA and IPP in 2015, and between 2020 and 2021 for the SA/IPP update.

112. The Panel notes that the 2010 ESIA consultations were open, public consultation meetings attended by some Chiquitano representatives and community members, among other stakeholders. The resettlement-related consultations which, for the most part, took place in the areas of the affected communities, primarily involved the displaced persons. The Panel notes that the only consultation processes specifically implemented for the Chiquitano Indigenous People that were described as *free, prior, and informed consultation* were those carried out for the original SA and IPP in 2015 and the consultations that took place between 2020 and 2021 as part of updating these documents.<sup>232</sup> The Panel notes that – according to both the original and revised versions of the SA and IPP, and feedback from ABC, Bank staff, and the Chiquitano representatives who participated in these meetings – discussions focused mainly on IPP benefit projects; in other words, the Panel notes that the consultation processes described in both versions of the SA were explicitly aimed at getting feedback from the Chiquitano representatives on the projects to be included in the IPP.

113. Both the original and revised versions of the SA and IPP stated that the objective of these documents was to assess the possible positive and negative impacts on the Chiquitano Indigenous Peoples resulting from the road upgrade, and to put forward culturally appropriate, mitigation measures.<sup>233</sup> However, as noted above in Section 2.6.1., neither the 2015 SA nor the 2022 SA assessed all of the Project’s identified potential adverse impacts on the Chiquitanos. Management told the Panel that the Project’s direct, adverse impacts were addressed in other safeguard documents – such as the ESIA, the RAP, and the Social and Environmental Impact Management Plans. The Panel notes that there was a lack of consultation framework that ensures free, prior, and informed consultation with the affected indigenous communities, which the Policy calls for. The Panel notes that the public consultation for the 2010 ESIA was neither designed for nor specifically aimed at the Chiquitanos, and therefore, did not correspond to a process of free, prior, and informed consultation. The Panel also notes that public consultation meetings took place seven years before Project approval. The Panel notes that consultations targeting the Chiquitano representatives that took place in 2015 and between 2020 and 2021 were explicitly focused on getting feedback on possible benefit projects to be included in the original and revised IPPs, not on discussing potential, direct and indirect, adverse impacts of the Project on Indigenous Peoples.

## **2.7. Panel Findings**

114. Because the Project is being implemented where Indigenous Peoples are facing land pressures, insecurities, and vulnerabilities, the Project documents should therefore include an analysis of the Project’s risks and potential, adverse impacts on Indigenous Peoples and their land. The Panel notes the Project documents’ inconsistent approach and lack of adequate analysis of the Project’s potential contribution to adverse, future, induced impacts on the Chiquitano, as well as how the Project’s direct, negative impacts could affect the Chiquitanos in a differentiated manner commensurate with their identified vulnerabilities. While the 2015 SA and 2016 ESIA referred to the Project’s potential, adverse, induced impacts, they lacked adequate analysis of these impacts. The updated 2022 SA/IPP only considered these induced impacts as contextual and unrelated to

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<sup>232</sup> 2022 SA, p. 123.

<sup>233</sup> 2022 SA, p. 7.

the Project. Consequently, mitigation measures for these adverse impacts were considered beyond the scope of the Project.

115. The Panel notes that Management did not ensure that there was adequate consideration of the wider implications of upgrading the road, thereby improving access to an area where Indigenous Peoples had unresolved territorial land claims and identified vulnerabilities relating to land and natural resources. Furthermore, the Panel notes that the SA did not adequately assess the Project's direct, negative impacts on the Chiquitanos, and how it may affect them in a differentiated manner. **The Panel finds Management did not ensure that the 2015 and 2022 Social Assessments had adequate breadth and depth of analysis of the Project's potential, adverse effects on the Chiquitano communities in the Project area, given the complexity, risks, and challenges facing them. The Panel therefore finds Management in non-compliance with OP 4.01, paras. 2 and 3, and OP 4.10, para. 9 and its Annex A, para. 2(b).**

116. The Panel notes that the only consultation processes described as “free, prior, and informed” specifically implemented for the Chiquitano Indigenous People were those carried out for the original SA and IPP in 2015, and the consultations that took place between 2020 and 2021 as part of revising these documents.<sup>234</sup> As noted above, these documents did not adequately assess the Project's direct or induced, adverse impacts. The Panel notes that, according to both versions of the SA and IPP, and feedback from ABC, Bank staff, and the Chiquitano representatives who participated in these meetings, the discussions focused on the IPP benefit projects.

117. The Panel notes that OP 4.10 requires that assessment of potential, adverse effects of the project on the affected Indigenous Peoples ensure free, prior, and informed consultation with them. The Panel also notes the absence of a framework for ensuring free, prior, and informed consultation with the affected indigenous communities during the Project implementation, as per the Policy requirement. **The Panel finds Management did not ensure the provision of an assessment of the Project's potential, adverse impacts on the Chiquitano communities and consequently did not ensure an adequate process of free, prior, and informed consultation with them in non-compliance with OP 4.01, para. 14, OP 4.10, paras. 6(c) and 10(c) and its Annex B, para. 2(d).**

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<sup>234</sup> 2022 SA, p. 123.

## Chapter 3 - The Indigenous Peoples Plan and the Grievance Redress Mechanism

### 3.1. Introduction

118. This chapter discusses the concerns raised in the Request regarding the adequacy of the activities and mitigation measures in the original 2016 and revised 2022 IPPs, and the implementation of the IPP. It also analyzes the Grievance Redress Mechanism (GRM) set up by the Project, and the process of raising grievances.

### 3.2. Request for Inspection

119. The Request claimed the Chiquitanos were neither meaningfully consulted during development of the original IPP nor informed about the negative impacts, risks, and benefits of the Project during initial consultation. It stated the original IPP did not sufficiently identify and include appropriate mitigations of Project impacts, nor did it guarantee access to Project benefits. The Requesters claimed that since 2018 they have repeatedly informed Bank Management about shortcomings and the need to improve the original IPP.

120. The Request stated that, following three years of dialogue and negotiations with the Bank team and the ABC, their inputs were included in the revised IPP approved in January 2022. The Requesters considered this document “*relatively strong*” and “*much improved*” compared to the original version. However, they claimed the revised IPP still lacks mitigation measures to address “*land insecurity and settler invasion.*” The Request stated that the revised IPP “*exists only on paper and has not been implemented [ , which] makes it worthless in preventing harm resulting to the community from the project.*” The Request alleged that although road construction started in 2019, most of the measures intended to avoid, minimize, mitigate, or compensate for adverse impacts and provide social and economic benefits to the Indigenous Peoples have yet to be implemented four years later. They believe the Bank Policy on Indigenous Peoples is being “*violated.*”

### 3.3. Management Response

121. Management’s Response stated the original 2016 IPP was “*fully consistent*”<sup>235</sup> with all requirements in OP 4.10. Management claimed the original IPP was “*the result of a process of free, prior, and informed consultation with the four ‘Centrales Chiquitanas’ in the Project area,*”<sup>236</sup> which represent the “*indigenous peoples communities,*”<sup>237</sup> and the consultation process resulted in broad community support for the Project. Management stated the original IPP set out the measures through which the Indigenous Peoples would receive culturally appropriate, social and economic benefits, and described how potential, adverse impacts on Indigenous Peoples would be avoided, minimized, mitigated, or compensated.<sup>238</sup> Management stated the measures in the original IPP sought to enhance Indigenous Peoples’ access to Project benefits – such as strengthened

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<sup>235</sup> Management Response, p. 17, para. 54.

<sup>236</sup> Management Response, p. 17, para. 54.

<sup>237</sup> Management Response, p. 17, Footnote 20.

<sup>238</sup> Management Response, p. 17, para. 53.

livelihoods and participation in economic opportunities, respond to the priorities and concerns raised through the consultation process, and build on the SA.<sup>239</sup>

122. Management stated that in 2018, at the request of the indigenous communities, a process to update the IPP began. Management explained this was necessary in part due to the time that had passed since finalizing the original IPP, and changes in the leadership of the Chiquitano organizations.<sup>240</sup> The Response acknowledged that the IPP revision process was delayed by several factors.<sup>241</sup> Management stated the revised IPP was finalized in December 2021, and approved by the Bank in February 2022.<sup>242</sup>

123. The Management Response stated that the revised IPP and SA took into consideration the consultations with the four Chiquitano organizations and the community members in the Project area and others in the vicinity.<sup>243</sup> Management stated the updated SA and the revised IPP identified medium- and long-term impacts and mitigation measures to address the concerns raised.<sup>244</sup> According to the Response, these measures enable the Chiquitano communities to deal with long-term, negative risks, such as the influx of people to the area, the potential for acculturation and consequent dilution of identity, dislocation, and loss of social cohesion.<sup>245</sup> Management stated that these measures fall into two groups: (i) local economic development projects intended to revalue the identity of the Chiquitanos, and (ii) organizational strengthening projects to promote spaces for participation, deliberation, and decision-making by the Chiquitano indigenous organizations.<sup>246</sup> The Response stated that “[t]he revised IPP [...] is also the result of a meaningful consultation process, inclusive of the four Chiquitano organizations and members of the communities in the Project area.”<sup>247</sup> Management added that the Chiquitano communities reiterated their support for the Project and for the IPP.<sup>248</sup>

124. Management stated there appears to be confusion in the Request for Inspection as to whether the IPP would be able to address issues related to population migration, expansion of agricultural areas, logging, and land titling – all of which Management considers outside the scope of the IPP.<sup>249</sup> Management stated the IPP provided programs and activities to help address some potential, negative impacts of these changes on the indigenous communities, and it included measures to strengthen their institutional capacity to advocate for their rights.<sup>250</sup> The Management Response noted that the IPP does not contain measures to help regulate or intervene in the land

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<sup>239</sup> Management Response, p. 17, para. 55.

<sup>240</sup> Management Response, p. 18, para. 56.

<sup>241</sup> Management cited the slow recruitment of the Supervision Consultant responsible for updating the SA needed for the IPP, wildfires, civil unrest, the COVID-19 pandemic, ABC staff turnover, a lengthy participation process, divisions among Chiquitano leadership, and delays in the civil works. Management Response, p. 19, para. 63.

<sup>242</sup> Management Response, p. 19, para. 62.

<sup>243</sup> Management Response, p. 38.

<sup>244</sup> Management Response, p. 41.

<sup>245</sup> Management Response, p. 41.

<sup>246</sup> Management Response, p. 41.

<sup>247</sup> Management Response, p. 18, para. 56.

<sup>248</sup> Management Response, p. 18, para. 56.

<sup>249</sup> Management Response, p. 18, para. 57.

<sup>250</sup> Management Response, pp. 28 and 42.

titling process, as that is “*beyond the remit of the Project.*”<sup>251</sup> Management views the revised IPP as “*fully consistent with all requirements set out in OP 4.10.*”<sup>252</sup>

125. The Response stated the implementation of the revised IPP begun in October 2022 has “*proceeded rapidly,*”<sup>253</sup> and was expected to conclude in December 2023.<sup>254</sup> Management acknowledged that “[the] *IPP implementation was delayed – as was Project implementation altogether – by almost two years.*”<sup>255</sup> Management stated the delay was due to the lead time needed to amend the contracts of the Contractor and the Supervision Firm to reflect the new budget and the revised IPP, COVID-19, political developments in the country, severe wildfires, staff turnover at the implementing agency, and a division among the Chiquitano organizations that became more complex for the IPP implementation.<sup>256</sup> Management claimed no measures directly relevant to mitigating road construction impacts have been delayed.<sup>257</sup> It expressed its view that since OP 4.10 does not tie provision of benefits to a specific project implementation timeline “*these delays do not amount to policy non-compliance.*”<sup>258</sup>

### **3.4. Bank Policies**

126. The Policy on Indigenous Peoples (OP 4.10) requires Bank projects to include measures to “*avoid potentially adverse effects on the Indigenous Peoples’ communities,*”<sup>259</sup> and, when avoidance is not feasible, to “*minimize, mitigate, or compensate for such effects.*”<sup>260</sup> It requires Bank projects to be designed to ensure Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender- and intergenerationally-inclusive.<sup>261</sup> OP 4.10 also requires an IPP – based on the Social Assessment (SA) and consultations with the project-affected Indigenous Peoples – that sets out measures to ensure culturally appropriate, social and economic benefits for them, and an action plan to avoid, minimize, mitigate, or compensate the potential, adverse effects on Indigenous Peoples.<sup>262</sup>

127. OP 4.10 Annex B requires accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples’ communities arising from project implementation. It stipulates that the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples be taken into account when designing the grievance procedures.<sup>263</sup>

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<sup>251</sup> Management Response, p. 19, para. 61.

<sup>252</sup> Management Response, p. 19, para. 61.

<sup>253</sup> Management Response, p. 19, para. 62.

<sup>254</sup> Management Response, p. 19, para. 62.

<sup>255</sup> Management Response, p. 12, para. 32.

<sup>256</sup> Management Response, p. 12, para. 32, and pp. 39 and 40.

<sup>257</sup> Management Response, p. 20, para. 64.

<sup>258</sup> Management Response, p. 20, para. 64.

<sup>259</sup> OP 4.10, para. 1.

<sup>260</sup> OP 4.10, para. 1.

<sup>261</sup> OP 4.10, para. 1.

<sup>262</sup> OP 4.10, para. 12, and OP 4.10, Annex B, para. 2 (f).

<sup>263</sup> OP 4.10, Annex B, para. 2 (h).

### 3.5. Panel Analysis and Observations

128. The following Panel observations and analyses are in three sections: (i) the adequacy of the activities and mitigation measures in the original and revised IPPs to achieve their objectives, (ii) the implementation of the IPP, and (iii) the adequacy of the Project’s grievance redress mechanism.

#### 3.5.1. The Original 2016 and Revised 2022 IPP

129. As mentioned above, the development and the consultation for the original IPP was informed by the 2015 SA, took place between September and October 2015, and was approved by the Bank in 2016. The Requesters claimed they had repeatedly informed Management about the shortcomings of the original 2016 IPP and the need to improve it. The Request stated the original IPP was “*inadequate to guarantee access to project benefits and effectively address the project’s adverse impacts.*” The Request added that “*the Chiquitanos raised that their participation in the design of the initial IPP was weak and ineffective because they didn’t have meaningful information about the negative impacts, risks, and project benefits when initial consultations started.*”

130. Management’s Response explained that in 2018 ABC began to revise and update the IPP at “*the request of the indigenous communities.*”<sup>264</sup> The Response maintained that while the consultation process for the original IPP had been inclusive and robust, ABC accepted the request for update since (i) several years had elapsed between the preparation and implementation of the IPP, (ii) some activities included in the IPP were no longer valid (e.g., some infrastructure had already been built), (iii) the IPP budget needed revision, and (iv) in the interim there had been changes in the leadership of some local organizations and difficulties building community consensus.<sup>265</sup> Management stated the decision to revise the IPP was agreed during its July 2018 supervision mission with the indigenous organizations, ABC, and the Bank; in December 2021 the revised IPP reached an agreement, which was finalized and published by the Bank in February 2022.<sup>266</sup>

131. The projects and the budget amounts included in the original 2016 and revised 2022 IPP are listed in the table below.

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<sup>264</sup> Management Response, p. 18, para. 56.

<sup>265</sup> Management Response, p. 38.

<sup>266</sup> Management Response, pp. 38 and 50.

Chiquitano Centrales	IPP Project	IPP Project Components	Budget (BOB)		
			2016 IPP	2022 IPP	Difference
<i>Asociación de Cabildos Indígenas de San Ignacio de Velasco (ACISIV)</i>	Organisational strengthening through the construction of a <i>Casa Grande</i> to benefit all communities (105) affiliated to ACISIV	Construction of a communal centre ( <i>Casa Grande</i> ) with adequate equipment	1,214,400.00	1,725,000.00	+ 510,600.00
		Institutional strengthening projects		480,000.00	+ 480,000.00
	<b>Total Budget - ACISIV</b>		1,214,400.00	2,205,000.00	+ 990,600.00
<i>Comunidades Indígena de San Miguel (CCISM)</i>	Organisational and economic strengthening with a focus on gender-based equality and equity through the construction of a <i>Casa Sombra Grande</i> , to benefit all communities affiliated to CCISM (45)	Economic program for Chiquitano women	142,450.00	Cancelled	- 142,450.00
		Social development project (Infrastructure of a communal house)		1,500,000.00	+ 1,500,000.00
		Institutional strengthening projects		400,000.00	+ 400,000.00
	<b>Total Budget - CCISM</b>		142,450.00	1,900,000.00	+1,757,550.00
<i>Asociación de Comunidades Indígenas de San Rafael de Velasco (ACISARV) + Organización de Mujeres Indígenas Rafeleñas de Velasco (OMIRV)</i>	Organisational strengthening with a focus on gender-based equality and equity, with the objective to benefit all the communities (20) of the San Rafael de Velasco Centrale and the OMIRV	Technical equipment for technical workshop training	556,600.00	Cancelled	- 556,600.00
		Construction of a communal centre ( <i>Sede Productivo</i> )		1,500,000.00	+ 1,500,000.00
		Institutional strengthening projects		400,000.00	+ 400,000.00
	<b>Total Budget - ACISARV+OMIRV</b>		556,600.00	1,900,000.00	+1,343,400.00
<i>Comunidades Indígena Chiquitana Turubó de San José de Chiquitos (CCICH-TURUBO)</i>	Revitalisation of the local economy for the communities of Quituquiña, San Antonio, and Portoncito, and support for institutional strengthening for all the population of the CCICH Centrale, free from GBV	Cattle ranching project (Portoncito, Quituquiña & San Antonio)	1,034,338.80	1,584,338.80	+ 550,000.00
		Chiquitana artisanal craft project (Portoncito, Quituquiña & San Antonio)	424,600.00	539,528.43	+ 114,928.43
		Drilling of water wells (Portoncito, Quituquiña & San Antonio) <sup>267</sup>	664,928.44	These commitments moved to WRMP	- 664,928.44
		Institutional strengthening projects		400,000.00	+ 400,000.00
	<b>Total Budget - CCICH-TURUBO</b>		2,123,867.24	2,523,867.23	+ 399,999.99
All four centrales	Ethno-historical and archaeological research project on the <i>Interoceanico Peabirú Camino</i> , with the objective of recuperating and revaluing the pre-colonial Chiquitano indigenous patrimony of the region		362,800.00	Cancelled	- 362,800.00
<b>TOTAL IPP BUDGET (BOB)</b>			<b>4,400,117.24</b>	<b>8,528,867.23</b>	<b>+ 4,128,749.99</b>
<b>TOTAL IPP BUDGET (USD equivalent)</b>			<b>637,066.13</b>	<b>1,234,842.66</b>	<b>+ 597,776.53</b>

Table 1: Chiquitanos IPP Projects and Budget from 2015 and 2022 IPPs<sup>268</sup>

<sup>267</sup> The water well project was shifted to the Water Management Plan.

<sup>268</sup> 2022 IPP, Table 41. USD equivalent figures calculated with foreign exchange rate as of February 2, 2024 (1 USD = 6.91 BOB).

132. The original 2016 IPP’s projects can be categorized into the following main activities:<sup>269</sup>

- San Ignacio de Velasco *Centrale*: Construction of a communal building (*casa grande*) for the *centrale* – a multipurpose facility for meetings, gatherings, training, capacity building, vocational workshops, and recreational activities for Chiquitano families – thereby contributing to institutional strengthening and economic empowerment.
- San Miguel de Velasco *Centrale*: An economic development project to help Chiquitano women set up micro-enterprises.
- San Rafael *Centrale*: Equipment for a local education center to support technical training programs for young Chiquitanos.
- Three communities (San Antonio, Portoncito, and Quitoquiña) of San José de Chiquitos *Centrale*: A cattle-ranching project and an artisanal craft project to improve the capacities and economic incomes of indigenous families, and a water well project to provide water for domestic consumption.
- All four *centrales*: An ethno-historical and archaeological research project to identify possible archeological and historical sites in the Chiquitania region, to document pre-Hispanic and colonial cultural occupation, and to systematize the archaeological and historical data collected in the region. The project aims to promote community-based tourism, enrich local cultural history, and strengthen local identity.

133. The Panel observes significant budget differences among the four *centrales* in the original IPP. The San José de Chiquitos *Centrale* (CCICH-TURUBO) IPP’s budget – BOB 2,123,866 – was nearly double that of San Ignacio de Velasco *Centrale* (ACISIV), nearly quadruple that of San Rafael *Centrale* (ACISARV), and nearly 15 times the San Miguel de Velasco *Centrale* (ACISM) budget. *Centrale* leaders told the Panel that the basis and justification of these budget allocations were not explained to them – the original IPP did not do so. The Chiquitano *centrales*’ representatives involved in the IPP revision informed the Panel that renegotiating the budgets was one of the difficult topics discussed with ABC, and that they only reached agreement when the Bank became involved in the process at the end of 2021.

134. Bank staff told the Panel that the revised IPP essentially comprised four separate IPPs, one for each of the *centrales*, with a somewhat equally divided budget. The Panel notes the total budget for the 2022 IPP is almost twice that of the original 2016 IPP. According to Management, the revised IPP includes actions to benefit the communities in five strategic areas: (i) organizational strengthening, (ii) local economic development through strengthening of community productive initiatives for the revaluation of Chiquitano culture, (iii) education and training with a gender, generational, and intercultural approach to economic productivity, and prevention of gender-based violence, (iv) fighting gender and generational violence through *promotoras*, and (v) access to water and food security.<sup>270</sup> According to Management, the IPP measures to strengthen the institutional capacity of indigenous communities, could be used by the *centrales* “to support their processes to advocate for their rights.”<sup>271</sup>

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<sup>269</sup> 2016 IPP, pp. 66-68.

<sup>270</sup> Management Response, p. 41.

<sup>271</sup> Management Response, p. 42.



135. According to the revised 2022 IPP, the overall strategic objectives of the organizational strengthening component across all four *centrales* was to provide support to: enable them to monitor the road upgrade project, strengthen gender equity and prevent GBV, access different types of training (e.g. IT), manage inter-institutional issues they are facing (such as land issues, forest fires, water issues), promote ancestral and cultural knowledge and practices related to natural medicine, and acquire technical and office equipment, as well as financial support for the running of the *centrales*.<sup>272</sup>

136. The IPP does not include details on specific activities or indicators, however feedback from stakeholder interviews during the Panel visit and the IPP detailed that the following specific activities were included in the organizational strengthening component:

- A travel and accommodation budget for leaders to meet with Government entities and attend training programs (e.g., basic administration, local development, fire management, computer training, etc.),
- A budget for equipment for the *centrales* (e.g. motorbikes and computers),
- IT training for young Chiquitano women and men,
- A budget for monitoring programs, and
- A budget to support *promotoras*' work on GBV, including training and support for the network of *promotoras* in the *centrale*.<sup>273</sup>

137. ABC and Management informed the Panel that the 2016 IPP water well projects in the three communities of San José de Chiquitos were removed from the revised 2022 IPP and placed under the Project's Water Resource Management Plan. The Panel could not ascertain the reason for this transfer.

### 3.5.2. IPP Implementation

138. Management stated the implementation of the revised IPP began in October 2022, has “*proceeded rapidly*,”<sup>274</sup> and was expected to conclude in December 2023. According to the Response, Bank staff, and ABC, the IPP implementation was delayed and commenced approximately eight months after its approval in February 2022.<sup>275</sup> Management attributed this to the time required to amend the Contractor and the Supervision Firm contracts to reflect the new budget and the revised IPP, COVID-19, political developments in the country, severe wildfires, staff turnover at the implementing agency, and a division among the Chiquitano organizations that became more complex for the IPP implementation.<sup>276</sup>

139. During the Panel's investigation mission in September 2023, communities in the four municipalities and the *centrales* themselves articulated several concerns relating to the implementation of the IPP activities. As these activities differed in each *centrale*, the concerns varied.

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<sup>272</sup> 2022 IPP, pp. 154-158.

<sup>273</sup> 2022 IPP, pp. 77, 170, 176, 177, 180, 181 and 184.

<sup>274</sup> Management Response, p. 19, para. 62.

<sup>275</sup> Management Response, p. vi, para. x, p. 19, para. 62.

<sup>276</sup> Management Response, p. 12, para. 32, and pp. 39 and 40.

140. The members of three indigenous communities in San José de Chiquitos told the Panel their main concern was water scarcity and not receiving their water projects. They showed the Panel non-functioning wells drilled by the Contractor (see picture below), and said the Contractor had sealed them due to insufficient water flow, poor quality, or salinized water. A village community leader reminded the Panel that the objective of the IPP water well program was to provide “*a solution for the water problem, and for human consumption,*” not just to drill a hole. The Panel notes that the process for drilling wells is explained in the April 2023 WRMP, which states the following:

- Contact with the authorities of the San Antonio, Portoncito, Quituquiña, and Saint Theresa to socialize the well drilling activity with communities,
- Make contact with companies that carry out well drilling studies,
- Conduct meetings and field visits with each community to define the sites for the vertical electrical sounding (VES) studies that confirms the presence of groundwater, and sign minutes with the communities to agree on the well drilling sites,
- Share the results of the VES studies with the communities, which will be recorded in the minutes,
- Monitor the well drilling activities,
- Implement safety and environmental management measures in each work area,
- Deliver the wells to the community, which should include a water tank and generator, through an *acta* (a formal, signed agreement).

The Panel notes the communities were not aware of the contents of the WRMP. Based on its meetings with the communities and what it observed in the field, the Panel notes that the process described in the WRMP has not been implemented.



Picture 1: Sealed well in Portoncito, San José de Chiquitos drilled by the Contractor according to the community.

141. The Government said that accessing clean water in these areas is an engineering challenge, and that it is exploring other options for these communities, such as creating rainwater catchment and/or a single, large community reservoir. The Government told the Panel that this work is in progress, and it understands the urgency of the situation. One community informed the Panel that it organized road blockades to protest against the Contractor for the lack of water. Since then, they

said the Contractor brings water trucks to the communities every 15 days although, according to the community, the water quality varies. The Panel heard that the municipality of San José de Chiquitos provides another community with water, but only at four- or five-month intervals. The Panel noted that in general, members of these three communities were unaware of the outcomes of the water well program and the next steps. They told the Panel they received little information about water flow or the results of water quality tests of the wells drilled; some remain uninformed while others received information only after their protests and blockades.

142. The same three communities in San José de Chiquitos expressed frustration with lack of progress and deficiencies in the design and the implementation of the artisanal projects. They told the Panel that, after its eligibility visit in March 2023, the Project rushed to construct artisanal workshops in each of the villages. During its investigation mission in September 2023, the Panel visited the artisanal workshops and observed that they were rather small – approximately 3.5 square meters (see picture below). The Panel was told such workshops could accommodate only two or three looms, and that the buildings were too small to house worktables. In one community, the Panel was told a part of the worktable had to be cut in order to fit inside the workshop. The Panel heard that the artisanal workshops could neither accommodate the number of people who could benefit from the artisanal program nor store their equipment. The Panel heard that when one community inquired about this, the Project responded that the IPP provided workshops of only one size, and that no modifications could be made. During the Panel’s September 2023 visit, the workshops were empty and unused; however, the Panel understands equipment and machines will be provided. The Panel also observed electrical outlets and lightbulb sockets in the structures, but no connections to the electric grid, generators, or other energy sources. Communities told the Panel that when they asked the Project to provide a source of electricity to power their equipment, they were told it was beyond the IPP’s scope. The Panel understands from the community members that no training has taken place yet under the IPP artisanal project.



Picture 2: Artisanal workshop in Quituquiña, San José de Chiquitos.

143. During its September 2023 investigation visit, the Panel observed that in the three *centrales* of San Ignacio de Velasco, San Miguel de Velasco, and San Rafael construction had not commenced on the *casas grandes*, the major project of the revised 2022 IPP. The Panel notes the concern of one *central*e that there seems to be neither a budget nor a financial plan to operate these communal buildings after their construction.

144. The San Ignacio de Velasco *Centrale* leaders expressed concern that their *casa grande* will be built on municipal rather than communal land and, therefore, the Municipality could acquire it in the future. They told the Panel that in 2015, when the original IPP was being developed, they requested that all 150 communities of the *centrale* participate in the consultation process, but ABC responded that only the three communities directly affected by the Project would be consulted. As a result, the IPP was only signed by the *caciques* of the three affected communities. The San Ignacio de Velasco *Centrale* leaders claimed that, in order to approve the construction of the *casa grande*, the Bank now requested sign-off by all 150 communities. The leadership of San Ignacio *Centrale* is concerned about how this sign-off can be achieved without any prior consultation on this project, since most of the 150 communities were excluded from the original consultation process.

145. The leaders from three *centrales* – San José de Chiquitos, San Rafael, and San Ignacio de Velasco – told the Panel that while capacity building and organizational strengthening for IPP organizations were key IPP objectives, when they requested funds from ABC to hire indigenous rights lawyers or to travel to La Paz to advocate for their rights, they were told such expenditures could not be provided through the IPP. They also told the Panel that, based on the current budget allocation, there is little they can do to achieve the IPP objective of capacity building and organizational strengthening.

146. The Panel understands that *centrale* leadership has been contested in San Miguel de Velasco. The Panel met with two organizations professing to lead the *centrale*. A member of one of them claimed to be involved in the current implementation of the IPP projects. This person showed the Panel the *casa grande* blueprint and the budget, and stated that the design was approved in early September 2023, that construction would start in early October 2023, and expressed overall satisfaction with the IPP projects and pace of implementation. The other organization told the Panel about their involvement in developing the concept of the *casa grande*.

147. The Panel notes that determining the legitimacy of either candidate is beyond the Panel’s purview, and therefore it makes no comment or finding on it. Reference herein to the contested leadership is limited to a description of the extent of the information provided on the status of IPP implementation.

148. The Panel understands the Supervision Firm is managing the budget and disbursing finance for the IPP activities. The three *centrales’* leaders told the Panel that the Project has not responded to their query about how IPP funds are being used. The San Rafael *Centrale* leader said that approximately two weeks prior to the Panel’s September investigation mission, the Supervision Firm sent letters to the *Caciques* of the communities having issues with the Project (“hotspot areas”) announcing it would conduct an inspection in all four *centrales* on a specified schedule. According to the *Caciques*, the letter detailed the contents of the inspection and stated that its cost would be covered by the IPP budget. The *Caciques* claim that the monitoring and inspection budget in the IPP should be used to fund supervision by the Indigenous Peoples, not cover the cost of Supervision Firm inspections.

149. The Panel understands from the original and the revised IPPs that the Contractor is responsible for the IPP implementation involving building of infrastructure, while the Supervision Firm implements the institutional strengthening component of the IPP.<sup>277</sup> The Panel notes the Supervision Firm oversees the budget management and disbursement of the financing.

150. The Panel notes that the wording in the revised IPP on its project objectives is vague. For example, the Panel noted the non-functioning wells drilled by the Contractor which had been sealed due to insufficient water flow, poor quality or salinized water. Furthermore, the Panel notes that while the equipment in the artisanal workshops require power, access to electricity is not provided under the IPP. Moreover, while these workshops are intended to provide cooperative workspaces for indigenous women’s empowerment, support knowledge sharing and training in traditional handicraft skills, and support women to market their handicrafts, none of these objectives can be accomplished in buildings that are too small to accommodate the women, their worktables, and their equipment. The Panel notes the IPP focuses on “outputs” than “outcomes.” As a result, the Panel has serious concerns that some IPP commitments are being implemented without creating meaningful or sustainable outcomes for their intended beneficiaries. The Panel observes that the IPP seems to lack details on what is needed to deliver such outcomes and the indicators that could be used to judge their achievement.

151. Management acknowledged that, while IPP implementation was delayed, it is “*proceeding rapidly*”<sup>278</sup> since commencing in October 2022, and was expected to conclude in December 2023.<sup>279</sup> Management also claimed no measures directly related to mitigating road construction impacts have been delayed.<sup>280</sup> Management reiterated that OP 4.10 does not tie benefits of the IPP to a specific project implementation timeline, and hence it views “*these delays do not amount to policy non-compliance.*”<sup>281</sup> The Panel notes all measures included in the IPP are “benefit” projects intended to help the Chiquitanos address the wider challenges affecting them.

### 3.5.3. Grievance Redress Mechanism (GRM)

152. The 2022 IPP outlined the process for requesting information, raising complaints, and managing grievances during project implementation.<sup>282</sup> The GRM process relating to SEA/SH is covered in Chapter 6. According to the 2022 IPP, the procedure for requesting information and the Project’s grievance management system are responsibilities of the Contractor, with oversight by the Supervision Firm, and ultimate oversight from ABC.<sup>283</sup> Community members can request information or raise complaints by:

- visiting the Community Relations Office in either San Rafael or the La Fortuna Contractor camp,<sup>284</sup>

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<sup>277</sup> 2016 IPP, pp. 111 and 112; 2022 IPP, pp. 189-192.

<sup>278</sup> Management Response, p. 19, para. 62.

<sup>279</sup> Management Response, p. 12, para. 32, and p. 19, para. 62.

<sup>280</sup> Management Response, p. 20, para. 64.

<sup>281</sup> Management Response, p. 20, para. 64.

<sup>282</sup> 2022 IPP, pp. 196-203.

<sup>283</sup> 2022 IPP, p. 196.

<sup>284</sup> 2022 IPP, p. 196.

- calling or texting through WhatsApp,<sup>285</sup>
- placing comments in the designated complaints boxes in San Rafaelito, Medio Monte, Pasiviqui, Sapocó, Cuarrio, Villa Fátima, Miraflores, La Fortuna I, Portoncito, and Quituquiña,<sup>286</sup> or
- directly raising concerns to the World Bank’s Grievance Redress Services (GRS) online, by post, or email.<sup>287</sup>

153. During its investigation visit, the Panel observed complaints boxes in the community meeting centers of three villages. The communities in all villages visited told the Panel that these boxes were never used and/or were removed. They explained that, as predominantly oral societies, they are not in the habit of writing things down. Several Chiquitano community members told the Panel that the Chiquitanos are an indigenous group that mostly relies on their customary dispute settlement process, which is overseen by the *Caciques*, to resolve community disputes or personal complaints. *Caciques* also told the Panel that neither they, nor the *centrales* are formally involved in the GRM structure or process. The Panel observes that these communities are culturally unaccustomed to using complaint boxes. The Panel noticed nearly all the boxes were broken and/or lacked locks, were basically non-operational, and that some were simply missing. During the Panel’s meetings with ABC and the Contractor, staff acknowledged that the Chiquitanos generally do not raise complaints via the complaints boxes, and that the Project was removing them and focusing on other grievance channels.

154. The Panel observed that some villages lack mobile phone or internet connectivity, and these communities told the Panel how challenging it was to make calls or send texts. In villages that have mobile phone signals, community members pointed out that not everyone had a phone or credits to make calls. Furthermore, they claimed that even when they raised a concern via calls or texts, they received no responses. In the San Antonio and San Pablo villages, community members told the Panel that they had visited the Community Relations Offices in La Fortuna and San Rafael to complain about road safety and borrow pits, but that these grievances were either not accepted or went unanswered. The Panel understands from the communities, the ABC, the Supervision Firm, and the Contractor that the Supervision Firm’s social team has begun visiting the communities more frequently, and most complaints are now raised in-person directly with the Contractor and the Supervision Firm teams when they are in the villages.

155. The Bank noted in its August 2023 Aide-Mémoire that as part of the supervision mission, Bank staff held a workshop on good practices for managing a GRM for social, environmental, labor and technical specialists of ABC, the Supervision Firm, and the Contractor. In the workshop, the three entities discussed possible bottlenecks and recommendations to solve them, challenges of capacity and resources, communication, and coordination between areas to resolve complaints. The Chiquitano communities and *centrales*’ representatives, with whom the Panel met, expressed frustration during the investigation mission. They said that complaints raised over many years with the Contractor, the Supervision Firm, or ABC have, for the most part, gone unresolved. They added that due to their difficulties accessing and obtaining responses from the various GRM channels, community members in several communities, the only time they got to “*sit down with ABC or the*

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<sup>285</sup> 2022 IPP, p. 197.

<sup>286</sup> 2022 IPP, p. 197.

<sup>287</sup> 2022 IPP, pp. 198 and 199.

*Contractor and be heard was when they resorted to blockading the road or the construction activities.”*

156. The Panel observes that although multiple channels exist through which the communities can bring grievances to the Project’s attention, most are considered inaccessible for the reasons described above. The Panel notes that the communities state that the best way for them to resolve their complaints is to talk with Supervision Firm, Contractor, and ABC personnel when they visit their communities. During its investigation visit, the Panel heard that these visits are becoming more frequent, especially in the communities that have several Project-related issues. The Panel understands the communities’ frustration over unresolved complaints and inadequate follow-up when they raise grievances. The communities told the Panel that they only feel heard when they take extreme actions, such as blockades and protests.

### **3.6. Panel Findings**

157. The Panel notes the implementation challenges regarding the IPP. The Panel observes this is largely because the IPP did not specify outcomes for its activities, which could impede the Project from delivering expected benefits even where such activities have been completed. For example, the Panel noted that the Contractor has drilled wells, irrespective of whether they provide potable water or not. The Panel noted a similar issue with the artisanal project, where construction had been completed but the resulting structures have certain functional limitations. The Panel notes that the Requesters consider the revised IPP “*relatively strong*” and “*much improved*” compared to the original version, and that had it been implemented, much of the harm they allege in the Request could have been avoided. The Panel therefore notes the importance to the Requesters of the IPP implementation. The Panel also notes the Requesters and others in the Chiquitano communities said they were neither informed about the negative impacts of the Project they claim to be experiencing, nor told how these might affect them in the future. They told the Panel that, had they had more information earlier including about adverse impacts of the road upgrade Project, they would have viewed the revised IPP differently and this would have changed the way they would have approached their negotiations on the revised IPP.

158. The Panel notes several problems in – and community concerns about – the implementation of the IPP projects. The Panel notes that OP 4.10 requires the IPP to ensure culturally appropriate social and economic benefits for the project-affected Indigenous Peoples, and an appropriate action plan to avoid, minimize, mitigate, or compensate potential, adverse effects on Indigenous Peoples.<sup>288</sup> The Panel recognizes the importance of the IPP projects and activities to the Chiquitano community, and the Project’s efforts to complete these in a timely manner. However, the Panel notes discrepancies between the objectives and the designs of some of these projects. Notwithstanding the above, the Panel notes the IPP is still under implementation and recognizes the full effectiveness of the IPP implementation can only be assessed once the implementation is completed. The Panel also notes OP 4.10 does not tie provision of benefits to a specific project implementation timeline. The Panel hopes that serious issues raised on the benefit projects, their execution and sustainability are addressed before the conclusion of the IPP implementation.

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<sup>288</sup> OP 4.10, para. 1

159. The Project's GRM offers several channels for the PAPs to raise complaints, such as the Contractor's two Community Relations Offices, telephone and WhatsApp lines, complaints boxes, and the Bank's GRS. During its investigation visit, the Panel observed that some complaints boxes were not secure, and heard from multiple stakeholders that the Chiquitanos have an "oral" culture, for which reason the boxes are not used. While some communities knew of at least one channel for redressing grievances, they nevertheless complained about access and unresolved concerns. The Panel recognizes that the Supervision Firm and the Contractor have visited the communities more frequently following the Request for Inspection, in an attempt to give communities opportunities to raise their concerns directly.

160. The Panel observes that the initial grievance management system was neither culturally appropriate nor developed in consultation with the Chiquitano representatives. However, following the Request for Inspection, the Panel notes the Project has increased the number of channels available for raising complaints in an effort to make the GRM more accessible, and has improved its presence in communities where there are issues. The Panel notes the communities have expressed concerns that when they do raise concerns through the Project's GRM channels, they claim these are not accepted or go unanswered, and their issues are not followed up. The Panel notes the communities' claims that issues receive responses only after extreme measures, such as blockades, are taken. **Notwithstanding the Project's recent efforts to resolve grievances through increased presence in the communities, the Panel finds Management in non-compliance with OP 4.10, Annex B, para. 2(h) for not ensuring the existence of a functioning method for responding to concerns raised, and for not accommodating the customary dispute resolution process used by the Indigenous People.**



## Chapter 4 - Impact from the Right-of-Way, Borrow Pits, and *Atajados*

### 4.1. Introduction

161. This chapter discusses the direct impact of Project activities on the Chiquitano communities along the road corridor, and others near the Project's auxiliary sites. Specifically, the chapter analyzes issues of resettlement and compensation related to the Right-of-Way (ROW); access, agreements and impact of borrow pits, and impact of road construction on *atajados* (artificial ponds).<sup>289</sup> It examines how safeguard instruments assessed the Project's effect on the Chiquitanos in relation to and management of these issues.

### 4.2. Resettlement and Compensation Relating to the Right-of-Way

#### 4.2.1. Request for Inspection

162. During the Panel's field visits, Project-affected Chiquitano community members in all four municipalities voiced concerns and complaints regarding land take by the Project in the ROW, resettlement, and related compensation. Key issues raised were (i) confusion about the width of the ROW and how it was assigned, (ii) concern that, where the ROW was defined as narrower than 50 meters from the road's centerline, ABC could later appropriate unacquired land within the standard, 50-meter width without consulting and/or compensating the communities, (iii) a lack of clarity regarding the valuation methodology used to appraise community acreage, fruit trees, crops, and grazing on the land taken for the ROW, (iv) no compensation prior to land take and/or delays in receiving compensation after land take, and (v) delays in receiving replacement housing.

#### 4.2.2. Management Response

163. In its March 2023 written response, Management explained that the resettlement instruments developed by the Project included a 2016 RPF, a 2016 RAP (updated in 2020), and a 2022 Abbreviated RAP for the San Ignacio de Velasco bypass. Management stated that the process used to establish the Project ROW was described in these documents. Management explained that the ROW varies from section to section, and is generally narrower in urban areas than in rural areas. Management stated that more than 40 consultation meetings were conducted with all communities to discuss the resettlement program, compensation alternatives, the ROW, and the process for clearing it. Management stated ABC had informed it that the fieldwork demarcating the boundaries of 32 affected properties had taken place without the affected persons present.<sup>290</sup> Management's March 2023 written response stated that the Supervision Firm experienced delays in completing the process, but was instructed to prioritize visits to the 32 properties.<sup>291</sup> Management also acknowledged there were approximately 11 cases of pending compensation payments for land already acquired. In its March 2023 response, Management stated that the Bank

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<sup>289</sup> The issues related to the resettlement and compensation related to the right-of-way, borrow pits, *atajados* (artificial ponds), and road access were raised with the Panel team by the Requesters, their representatives, and community members during its eligibility assessment visit to Bolivia in March 2023 and investigation visit in September 2023. The Panel informed Management of these issues and received a written response.

<sup>290</sup> Annex 2, Management's March 2023 written response, p. 1.

<sup>291</sup> Annex 2, Management's March 2023 written response, pp. 1 and 2.

requested ABC to complete these pending payments urgently, reinforced that compensation be paid prior to the taking of land, and requested ABC to instruct the Supervision Firm and the Contractor not to proceed with works on sections where the PAPs had not been fully compensated.<sup>292</sup>

164. Management’s November 2023 written response stated that “[w]hen INRA regularizes a DDV [Derecho de Via, ROW] of 50m in favor of the State but ABC, based on technical or social reasons, determines that the DDV should be less than 50m in some sections, the difference between the 50m cleared by INRA and the necessary UEDDV [Uso Efectivo del Derecho de Via, “effective use of the ROW”] determined by ABC remains the State’s property.”<sup>293</sup> Management stated similarly that where INRA defines the ROW as narrower than 50 meters, and the remaining land within the standard 50-meter width is under a different tenancy also recognized by INRA – such as private ownership – if in the future this land is used by ABC, the owner/s will be compensated accordingly.<sup>294</sup>

165. Management stated in its November 2023 written response that if INRA, for example, regularizes a ROW of 20 meters in favor of the State but ABC establishes that for technical or other reasons the UEDDV should be 30 meters, the 10-meter difference will have to be purchased by ABC because those 10 meters are not the State’s property. By contrast, if the UEDDV determined by ABC is smaller than the land regularized by INRA in favor of the State and this land is occupied by crops, houses, trees, or other assets, during RAP implementation compensation is provided to the occupants for all existing improvements but not for the land since it belongs to the State.<sup>295</sup>

166. Management noted in its November 2023 written response that with regards to the Project, (i) the delineation of the ROW land in rural areas was completed and titled by INRA prior to the Project, and (ii) ABC determined the UEDDV in each community based on the ROW established by INRA, the geometric design of the road in each section, and the type of impacts on people’s assets and livelihoods. Management said that the varying width of the ROW determined by INRA and the UEDDV applied by ABC in each section of the Project area were presented in the RAP. Management stated that, in urban areas, the UEDDV determination correlated with the technical design of each bypass or road section.<sup>296</sup>

#### **4.2.3. Bank Policies**

167. The Bank Policy on Involuntary Resettlement (OP 4.12) requires particular attention be paid to the needs of vulnerable groups – especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, and others who may not be protected through national land compensation legislation.<sup>297</sup> The Policy requires that involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.<sup>298</sup> The

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<sup>292</sup> Annex 2, Management’s March 2023 written response, p. 3.

<sup>293</sup> Annex 3, Management’s November 2023 written response, p. 9.

<sup>294</sup> Annex 3, Management’s November 2023 written response, p. 9.

<sup>295</sup> Annex 3, Management’s November 2023 written response, p. 9.

<sup>296</sup> Annex 3, Management’s November 2023 written response, p. 10.

<sup>297</sup> OP 4.12, para. 8.

<sup>298</sup> OP 4.12, para. 2 (a).

Policy also requires that displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.<sup>299</sup> Furthermore, the Policy stipulates that displacement or restriction of access not take place before implementing necessary resettlement measures, which include compensation and other assistance required for relocation. The Policy requires that the taking of land and related assets may occur only after compensation has been paid.<sup>300</sup>

#### 4.2.4. Panel Analysis and Observations

168. During the September 2023 investigation mission, in eight of the 14 villages the Panel visited issues concerning resettlement and compensation relating to the ROW were raised. Some of these issues were also broached with the Panel during its March 2023 eligibility visit, and were described in the Panel's Eligibility Report. These issues can be categorized into eight main areas:

- (i) *Lack of transparency and procedural issues regarding the payment of compensation for economic resettlement.* The PAPs consistently told the Panel they had received no receipts or documents explaining the amounts of compensation paid to them for lost assets (e.g., fruit trees, small crops, etc.), or how these were calculated. They said they received a text or WhatsApp message – for those without a mobile phone, messages were sent to the *Cacique*, who informed them – to go to either San Rafael or San Ignacio de Velasco to pick up compensation checks and cash them at the bank in either San José de Chiquitos or San Ignacio de Velasco. The Panel spoke to many PAPs individually, all of whom said they received only one- or two-days' notice to pick up their checks, which expired either on that day or within five days. In all cases, the PAPs said they had to arrange and pay for their own transportation to pick up the checks and cash them. The PAPs told the Panel that in many cases, the check collection site and bank locations differed, which meant they were required to travel from their villages to two destinations to collect their compensation check and deposit it in a bank. They also told the Panel that they were asked to sign a document when picking up their checks, but were given no time to read the document, nor were they allowed to photograph it or bring someone to assist them. They said the Project photographed them signing and collecting the checks, but when they asked for a copy of the photograph, the documentation, and the proof of payment, these were not provided to them.
- (ii) *A lack of understanding and concerns over the varying width of the ROW, and what it meant in practice for communal land titles.* The Panel observed that the community members understood 50 meters to be the standard ROW under national legislation. During the eligibility visit, the Panel observed that PAPs were confused about the official width of the ROW that varied from 20, 30, to 50 meters from the road's centerline. During its investigation visit, the Panel noted that this confusion had continued, and that community members were still unclear about the status of their remaining land where the ROW was designated by the Project as narrower than 50 meters. Community members were also unclear whether the land between the Project's ROW and the standard ROW was categorized as fiscal, communal, or *mancha-urbana* (urban sprawl), and they were

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<sup>299</sup> OP 4.12, para. 2 (b).

<sup>300</sup> OP 4.12, para. 10.

- concerned that this land, for which they received no compensation, could be used in the future by ABC without consultation or compensation.
- (iii) *Concerns about the safety of houses where the ROW was narrower than 50 meters.* In urban areas such as Miraflores and Villa Fátima, community members raised concerns for the safety for their houses, which they deemed too close to the road edge due to the smaller ROW. The Panel observed some houses in these communities quite close to the road, less than five meters in some cases.
  - (iv) *Lack of compensation for houses partially in the ROW.* In the villages of Quituquiña, Portoncito, and Villa Fátima the Panel was told there was no compensation for some of the houses whose footprint was only partially in the ROW. In Portoncito, the Panel was shown a house whose owner claimed the person's property was at first partly in the ROW and then the ROW was then adjusted by ABC so that the house was now just outside the ROW. Both the owner and ABC told the Panel that the owner persistently asked ABC for compensation and was eventually allocated a replacement house. In Quituquiña, the Panel was told two PAPs had not yet been compensated for houses and crops they claimed are in the ROW. They said ABC told them they were no longer on the resettlement list. However, during the community meeting the Panel team saw a resettlement list, recently posted in the meeting hall, which contained their names. These examples indicated to the Panel some inconsistencies in the application of the criteria for replacement housing.
  - (v) *Concerns about replacement houses.* In Quituquiña and Sapocó, some PAPs expressed concerns about the design of the replacement houses. They showed the Panel that the replacement houses did not have glass windows. The Panel observed the windows of these houses had netting or open wooden grills instead of glass. The PAPs said the lack of glass in the windows made the homes less secure, exposed the interiors to rain and dust, and allowed insects inside. The Panel observed the replacement houses were close to the road, which generated considerable dust.
  - (vi) *Delays in handing over replacement houses to PAPs.* In Quituquiña the PAPs told the Panel that although replacement houses had been completed, the houses had not been handed over to the PAPs. The PAPs said the houses were due for handover by September 15, 2023 and they did not know why they cannot use them. The Panel observed the houses were unoccupied. The Government told the Panel the plan was to perform the handover in late-September to early-October 2023.
  - (vii) *Insufficient clarity on compensation for atajados located fully or partially in the ROW.* In some communities visited, community members claimed that not all of their *atajados* in the ROW were being replaced. Elsewhere community members told the Panel they received no compensation for loss of access to *atajados*, even though they believed these *atajados* were registered in the RAP asset survey or they had been promised replacements. In its November 2023 written response, Management stated that the original 2016 RAP identified only five *atajados* within the 50-meter-wide ROW that needed to be replaced, but that the updated 2020 RAP identified 33 affected *atajados*. Management acknowledged that replacement of these 33 *atajados* was significantly behind schedule. Management said the Bank, as part of its ongoing close supervision of RAP implementation, had asked ABC to prepare updated schedules and present proof of implementation. Management informed the Panel that as of October 24, 2023, nine of the 33 *atajados* had been replaced with new

ones outside the ROW, and they expect replacement of the remainder to be complete by the end of November 2023.<sup>301</sup>

(viii) *Lack of consultation.* In all communities the Panel visited, PAPs affected by the ROW said there was inadequate information on the methodology used for compensation payments for the taking of land within the ROW, for determining how assets such as crops and trees were valued, and for calculating the width of ROW.

169. According to the updated 2020 RAP, the road upgrade will affect all 22 communities<sup>302</sup> along the road, including 647 households,<sup>303</sup> and its resettlement-related impacts include:

- replacing 51 houses in Quituquiña, La Fortuna, Villa San Juan, Sapocó, Medio Monte, and San Rafaelito,<sup>304</sup>
- compensating with cash 14 affected houses in San Rafaelito, Sapocó, Nuevo Renacer, La Fortuna, and on three individual properties,<sup>305</sup>
- compensating for damage to nine partially affected houses in Pasiviquí, Sapocó, San Rafaelito, and on one private property,<sup>306</sup>
- compensating with cash 126 other types of hard infrastructure,<sup>307</sup>
- either compensating or replacing three schools, partially located in the ROW in Sapocó, Miraflores, and La Fortuna,<sup>308</sup>
- compensating five families for profits lost from affected economic activities,<sup>309</sup>
- replacing 33 *atajados* in the four municipalities,<sup>310</sup>
- replacing 506 fences,<sup>311</sup> and
- compensating with cash 935 crops, trees and assets.<sup>312</sup>

170. During its investigation visit in September 2023, the Panel heard from both ABC and Bank staff that all pending compensation payments have been completed and replacement houses have been provided. During the Panel’s visit, Management told the Panel that all outstanding compensation cases have been closed.

171. Bank staff told the Panel they had had concerns about Project-related resettlement requirements as early as 2018, and considered the handling of these a critical task. The Panel notes that once the Request was submitted – particularly after the Panel recommended an investigation in March 2023 – Bank supervision missions became more frequent, being conducted monthly on average. On May 19, 2023, Management issued a “Notice of Potential Suspension of Disbursement” to the Borrower after identifying noncompliance with Project safeguards on resettlement

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<sup>301</sup> Annex 3, Management’s November 2023 written response, p. 2.

<sup>302</sup> 2020 RAP, pp. 38 and 39, Table 17, pp. 20 and 21, Table 4, p. 42 and p. 99.

<sup>303</sup> 2020 RAP, p. 39.

<sup>304</sup> 2020 RAP, p. 46, Table 30.

<sup>305</sup> 2020 RAP, p. 34 and pp. 47 and 48, Table 33.

<sup>306</sup> 2020 RAP, p. 34 and p. 48, Table 34.

<sup>307</sup> 2020 RAP, p. 43, Table 25.

<sup>308</sup> 2020 RAP, p. 30, Table 9.

<sup>309</sup> 2020 RAP, p. 37.

<sup>310</sup> 2020 RAP, p. 44, Table 27 and p. 45, Table 28.

<sup>311</sup> 2020 RAP, p. 44, Table 27 and p. 45, Table 28.

<sup>312</sup> 2020 RAP, pp. 49 and 50, Table 35.

requirements. Management informed the Borrower it had identified noncompliance with the RAP – where the taking of land and assets from the affected people to initiate civil works prior to paying compensation – and that some cases remained outstanding. In this Notice, Management outlined remedial actions to be implemented, and required the Borrower to report to the Bank within set deadlines. Management’s letter required the Borrower to ensure completion of outstanding payments for land and assets already taken. The Notice also stated that no further displacement was to occur without fully completing the compensation process. This included the completion of replacement houses for affected people and relocation support, in accordance with the RAP.

172. The updated 2020 RAP stated that in cases of physical resettlement, all PAPs were told of and consulted on options for compensation and resettlement, but the RAP did not detail whether this occurred for all those affected by economic resettlement.<sup>313</sup> The 2020 RAP stated that “*compensation will include the value of the investment necessary to replace the affected trees and crops to the same or better condition, in accordance with the valuation and the respective supporting documents.*”<sup>314</sup> It included a table describing the actual unit price, quantity, and amounts budgeted for each type of tree, crop, and titled rural land.<sup>315</sup> It also summarized total replacement costs for affected infrastructure assets, including *atajados*.<sup>316</sup> The Panel understands the unit price for crops and trees included in the RAP was based on a review of the prices used by other Government ministries, local market prices, and consultation with local producers, and that these unit costs for compensation were shared with the PAPs.<sup>317</sup>

173. The Panel noted from the 2020 RAP that ABC had applied “an effective use of ROW” (*Uso Efectivo de Derecho de Vía*, UEDDV) versus a full, 50-meter ROW in order to reduce social impacts – i.e., physical displacement.<sup>318</sup> The updated 2020 RAP contained two tables listing all communities along the road, their respective UEDDVs versus the INRA-determined ROW, and the justification for selected UEDDVs.<sup>319</sup> The Panel reviewed the tables and noted that the UEDDVs varied based on whether they were in urban or rural areas to minimize physical resettlement. ABC informed the Panel during its September 2023 investigation mission that determining the effective use of the ROW was carried out in consultation with all affected communities and based on social studies. Following the Bank’s August 2023 supervision mission, Management indicated that additional communication with communities was required to explain the ROW compensation process.

174. The Panel notes Management’s explanation in its November 2023 response that where INRA established a 50-meter ROW in favor of the State but, for technical or social reasons, ABC determined that the portion used for the road should be narrower than 50 meters, the land between these measurements remained State property.<sup>320</sup> However, this response also notes that if INRA

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<sup>313</sup> 2020 RAP, p. 34.

<sup>314</sup> 2020 RAP, p. 88.

<sup>315</sup> 2020 RAP, pp. 41 and 42, Table 23.

<sup>316</sup> 2020 RAP, p. 45, Table 28.

<sup>317</sup> 2020 RAP, pp. 60 and 61.

<sup>318</sup> 2020 RAP, p. 90.

<sup>319</sup> 2020 RAP, pp. 90-92, Tables 44 and 45.

<sup>320</sup> Annex 3, Management November 2023 written response, p. 9.

set the ROW at less than 50 meters, any future use of the unused land within the standard 50 meters – held under different tenancy recognized by INRA – would be compensated by ABC.<sup>321</sup>

175. The Panel also notes November 2023 response explains that, where the UEDDV required less acreage than the full ROW area designated by INRA as State property, and the remaining land held crops, houses, trees, or other assets, the occupants of that unused area were compensated during the RAP implementation for improvements they made on the property, but not for the land since it already belonged to the State.<sup>322</sup> Management informed the Panel that this would also apply to future use by ABC of the remaining ROW land. The Panel notes that the compensation for land subject to ABC’s application of the UEDDV is complex and does not seem to have been explained to the communities.<sup>323</sup> As a result, the communities remain anxious about the future use of their land in the ROW and whether they will be compensated for it.

176. The Panel reviewed the updated 2020 RAP and identified no significant gaps in the document. However, given the breadth and extent of resettlement-related complaints voiced to the Panel by the PAPs, and the misunderstanding evident in communities during the Panel’s March and September 2023 field missions, the Panel observed some shortcomings associated with the implementation of the RAP. The Panel observed a lack of information and clarity about how decisions had been made on ROW width, valuation of payments, payment methods, discretion applied by ABC on properties that were partially or marginally in the ROW, and the basis for the UEDDV. The Panel notes the latter was in the 2020 RAP, but many of the PAPs the Panel met with claim they have not seen the RAP, and it was not explained to them.

#### **4.2.5. Panel Findings**

177. The Panel finds that ABC made efforts to reduce the width of the ROW in several road sections to avoid or minimize the number of houses, structures, crops, and trees affected by resettlement. The Panel notes that, in order to minimize resettlement, the Project took account of “*an effective use of ROW*” (UEDDV) which was used by ABC in different sections of the road alignment. **The Panel finds Management in compliance with OP 4.12, para. 2(a) for minimizing resettlement.**

178. While the Panel observed that the replacement houses appear to be of higher quality than those they replaced, it noted that the PAPs’ claim that they were not consulted on the design on the houses. While Management states that more than 40 consultation meetings were conducted with all communities to discuss the resettlement program, compensation alternatives, the ROW, and the process for clearing it, the Panel observed the insufficient understanding among many PAPs on how the ROW was determined, their lack of knowledge about their current land status, communal land title on the land between the *effective use of ROW* and the 50-meter ROW determined by national legislation, and on how compensation was determined, including the valuation of trees and crops.

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<sup>321</sup> Annex 3, Management November 2023 written response, p. 9.

<sup>322</sup> Annex 3, Management November 2023 written response, p. 9.

<sup>323</sup> Annex 3, Management November 2023 written response, p. 9.

179. The Panel notes repeated testimony it heard from many PAPs in different villages about how compensation was paid to them. The Panel notes lack of transparency and procedural issues PAPs faced in receiving their compensation payments for economic resettlement. The PAPs consistently told the Panel they were not given receipts or documents explaining the amounts of compensation paid to them for lost assets (e.g., fruit trees, small crops, etc.), or how these were calculated, including short notices given to pick up their checks and transportation costs they had to pay. They also told the Panel that they were given no time to read the documents, nor were they allowed to photograph it or bring someone to assist them.

180. The Panel noted during its March 2023 eligibility field mission that some PAPs said they received no – or in some cases, only partial – compensation prior to Project acquisition of their land and assets. The Panel notes Management acknowledged this in its “Notice of Potential Disbursement Suspension” sent to the Borrower in May 2023, and identified it as noncompliance with the RAP. The Panel understands, according to Management and ABC, these payments have now been closed out. **The Panel finds Management in non-compliance with OP 4.12, paras. 8 and 10, for not ensuring payment of compensation prior to taking of land and related assets, and for not ensuring an adequate process for compensation payments.**

### 4.3. Borrow Pits

#### 4.3.1. Request for Inspection

181. The Request claimed the Chiquitanos were neither meaningfully consulted during the development of the original IPP nor informed about the negative impacts, risks, and benefits of the Project during the initial consultation. On its March 2023 eligibility visit, the Panel heard about and observed issues related to extraction of materials for the road corridor from what appeared to be a borrow pit in a village. During the September 2023 investigation visit, the Panel heard several complaints from members in six Chiquitano communities about the manner in which agreements to use borrow pits on their communal lands were reached. These included no access to information during negotiations of agreements, unfulfilled commitments made to the communities in these agreements, the impact of the Contractor’s vehicles on community access routes to/from the pits, the safety associated with operation and use of the pits, and non-rehabilitation of the borrow pits once the work ceased.

#### 4.3.2. Management Response

182. According to Management, in May 2023, due to the Bank’s significant concerns about borrow pit-related risks, the Bank sent the Borrower a “Notice of Potential Disbursement Suspension.”<sup>324</sup> According to Management, the Bank specifically asked ABC to submit a report describing site-specific risks for all borrow pits under the Project and that “*ABC complied with the requested action in the specified timeframe of 60 days.*”<sup>325</sup> Management stated the Bank continues to follow up closely with ABC on all issues related to borrow pits – including their closure, site restoration, or conversion to *atajados* – as this is a dynamic situation. Management’s November 2023 written response reported “[t]he Project’s attention to these issues has been improving and

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<sup>324</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>325</sup> Annex 3, Management’s November 2023 written response, p. 5.



*risk reduction measures are being implemented.*”<sup>326</sup> The written response also stated that the number of borrow pits assessed in recent months by the Contractor and verified by the Supervision Firm as “high” risk had reduced and those considered “low” risk increased in recent months.<sup>327</sup>

183. The November 2023 written response acknowledged the Contractor had entered bilateral contracts with property-owners – both individuals and communities – along the ROW to extract materials for the road upgrade by exploiting borrow pits. Management stated 80 borrow pits were identified for this purpose, most of which have bilateral contracts between the Contractor and the respective property owner. Management stated in a few cases, instead of contracts, written authorization was provided by property-owners to subcontractors.<sup>328</sup>

184. According to Management’s November 2023 written response, the bilateral agreements on borrow pits allow the Contractor to extract material in exchange for compensation negotiated separately with each property-owner, and “*such agreements are voluntary in nature, and therefore it is up to the property owners to decide whether they provide said access in exchange for compensation (it is the same for cases where written authorization is provided instead of contracts).*”<sup>329</sup> Management acknowledged that these contracts include a non-disclosure clause. It stated ABC had informed them that, so far, the non-disclosure clause has not generated conflicts between the property-owners and the Contractor, and no losses had been alleged by any party. Management stated they are also aware of arbitration clauses as a mechanism for dispute resolution in case conflicts arise, but had been informed by ABC that no parties had yet sought arbitration.<sup>330</sup>

185. Management’s November 2023 written response stated that the potential risks and impacts of converting borrow pits into *atajados* were being considered in accordance with the ESIA requirements, ABC’s Environmental Manual for Roads, the Contractor’s specific Environmental Management and Closure Plans for each borrow pit, and the Contractor’s 2023 WRMP.<sup>331</sup> Management stated the Bank asked ABC to conduct a site-specific risk analysis to identify and address potential risks to the surrounding population caused by conversion of borrow pits to *atajados*. Management also stated it requested the Contractor’s WRMP be updated to reflect adequate risk and impact mitigation and monitoring requirements for all *atajados*, including informal ones created in active borrow pits.<sup>332</sup> The November 2023 written response stated that, based on the Bank’s field observation in February 2023, it asked ABC “*to ensure full implementation of the borrow pit EMPs.*”<sup>333</sup>

### **4.3.3. Bank Policies**

186. The Bank’s Environmental Assessment Policy (OP 4.01) Annex A defines a project’s area of influence as that area affected by the project and all ancillary aspects.<sup>334</sup> It requires the

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<sup>326</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>327</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>328</sup> Annex 3, Management’s November 2023 written response, p. 6.

<sup>329</sup> Annex 3, Management’s November 2023 written response, p. 6.

<sup>330</sup> Annex 3, Management’s November 2023 written response, p. 6.

<sup>331</sup> Annex 3, Management’s November 2023 written response, p. 4.

<sup>332</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>333</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>334</sup> OP 4.01, Annex A, para. 6.

Environment Assessment (EA) to evaluate a project's potential environmental risks and impacts in its area of influence, and to include the process of mitigating and managing adverse environmental impacts throughout project implementation.<sup>335</sup>

187. OP 4.01 requires the EA of a Category B project to examine its potential environmental impacts and recommend any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance.<sup>336</sup> It requires the EA to consider country conditions, as well as the natural environment, human health and safety, and social aspects in an integrated manner.<sup>337</sup>

188. The Bank Policy on Indigenous Peoples (OP 4.10) requires Bank-financed projects to include measures to minimize, mitigate, or compensate PAPs when avoidance of adverse impacts is infeasible.<sup>338</sup>

#### 4.3.4. Panel Analysis and Observations

189. The Panel understands the Project has two kinds of borrow pits: (i) lateral borrow pits in the ROW, and (ii) borrow pits on private or communal land where the Contractor has had to negotiate access with owners.

190. In six of the 14 communities it visited, the Panel heard a number of concerns about borrow pits used by the Project. Three *centrales*' leaders also raised concerns about borrow pits affecting communities in their *centrales*. The Panel heard and observed the following with regards to borrow pit-related access issues, contract agreements, and the use and rehabilitation of borrow pits in the communities.

- (i) *Issues regarding access, the contract negotiation process, and contents of the contract.* Several communities' members told the Panel the Contractor approached them to negotiate and/or sign agreements for development of borrow pits on their land. San Antonio community members said that, based on a verbal agreement, two years ago the Contractor started excavating the community's land to sample materials. The community said they received no compensation in return, and therefore felt exploited. They told the Panel that when the Contractor eventually sent them a written agreement, they refused to sign because it placed all liability on the community.

San Fermín and Nuevo Horizonte community members told the Panel that, when the Contractor asked them to sign agreements to excavate material from borrow pits, they lacked information, a framework, and a basis for negotiating compensation, and felt pressured to accept the terms offered by the Contractor.

The San Fermín community members told the Panel that during the COVID-19 pandemic, the Contractor consulted the community about developing a borrow pit on their land.

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<sup>335</sup> OP 4.01, para. 2.

<sup>336</sup> OP 4.01, para. 8 (b).

<sup>337</sup> OP 4.01, para. 3.

<sup>338</sup> OP 4.10, para. 1.

However, no agreement was reached because the Contractor said the community's demands were "too high." In July 2022, the Contractor returned with a contract, which the community signed. The community told the Panel "*the contract process was not a negotiation,*" and that the Contractor presented an ultimatum: "*either take it or leave it.*"

Community members in Nuevo Horizonte, which is further interior from the road corridor, was not considered an affected community by the Project. They told the Panel the Contractor approached them in February-March 2023 to extract materials from their land for the Project. The Contractor offered compensation to the community, which the community countered by asking for a water well and a primary water distribution network. (The community emphasized to the Panel its need for potable water.) The community told the Panel that the initial negotiation collapsed, but they subsequently were pressured to accept BOB 3 per cubic meter of materials extracted and agreed to the excavation of 100,000 cubic meters over six months. The community said the Contractor pays them monthly for the excavated material, but accused them of being "*greedy*" for requesting all sorts of compensatory benefits. The Nuevo Horizonte community members also told the Panel they did not know the value of the material they were selling, or understand what compensation they could seek, or have any way to judge the fairness of the compensation they received.

During the March 2023 eligibility mission, the Cuarrió community showed the Panel a site where it claimed the Contractor had removed topsoil for use in the road construction (see picture below). Community members told the Panel this was indigenous community land. They said the Contractor signed a clandestine agreement with two community members – who allegedly lacked authority to make such decisions on their behalf – to extract material in exchange for certain community benefits. They noted that while this agreement affected the broader community, they were not consulted, and the traditional, indigenous, decision-making process was not followed. The members said only after they staged a roadblock did the rest of the community see the agreement, which they alleged included "signatures" of deceased people. Community members told the Panel that, while works ceased due to community objections, because the Contractor had removed the fertile topsoil and not rehabilitated the land, they can no longer cultivate it. They added that this created a safety hazard for the community and their cattle. During its September 2023 investigation mission, the Panel observed the site had not been rehabilitated and was told that nothing had changed there.



Picture 3: A site where the Cuarrió, San Miguel community claim the Contractor had removed topsoil to use in the road construction.

- (ii) *Non-disclosure clauses in the contracts.* During meetings with various community members, the Panel heard how the borrow pit agreements were negotiated between the Contractor and the communities. The communities said they felt disadvantaged in negotiations due to a perceived power imbalance and their lack of knowledge and prior information. The communities also told the Panel the agreements' non-disclosure clauses made them afraid and kept them from seeking external advice or consulting lawyers. The Panel reviewed some of these agreements which were shown to it by various sources. The Panel observed that these agreements contain strict confidentiality and non-disclosure clauses, that the community cannot terminate them for any reason or allow the Contractor to be disturbed, and that the community is liable for damages even when caused by third parties. The Panel observed that per these agreements, the community assumed all losses incurred by the Contractor, and was to keep all livestock and domestic animals from the works, with any losses incurred solely the community's responsibility. The Panel notes some agreements designated the International Court of Arbitration of the International Chamber of Commerce in Paris, France, as the forum for resolving disputes.
- (iii) *Unfulfilled commitments in the agreement.* Community members in Nuevo Horizonte, San Fermín, Cuarrió, and Medio Monte told the Panel that the Contractor had partially or unsatisfactorily implemented commitments made in written or verbal agreements. In San Fermín, the community said the Contractor agreed to provide 80 hours of "machinery time" as compensation in return for excavating two borrow pits. The community told the Panel they did not know what could be accomplished within that time but accepted the terms of the contract in good faith. The community said when they asked the Contractor to apply these hours to cleaning sediment from their *atajado*, the Contractor did so but abandoned the job midway, claiming the 80 hours had been expended. The community showed the Panel two large sediment dumps the Contractor left in the *atajado*, which the community said made the *atajado* worse than before (see picture below).



Picture 4: An atajado in San Fermín, San Rafael, where the community claims the Contractor left two large sediment dumps (one of which is circled).

In the village of Medio Monte, the community said the Contractor signed an agreement with them in May 2022 to excavate a borrow pit, in exchange for which the Contractor would clear 10 hectares of land, install an access road, and build a sports field. These commitments were met. The Panel understands three borrow pits are being excavated in Medio Monte. The community said they had asked for these borrow pits to be converted into *atajados* once excavation was completed, but that the Contractor has not fulfilled this part of the agreement. The community said after it protested and two weeks prior to the Panel's investigation mission, a meeting with ABC, the Supervision Firm, and the Contractor was held. There ABC said it could improve the banks of the existing *atajado*, but could not enlarge it. The Contractor agreed to convert the borrow pits to *atajados*, but without indicating how long this would take to complete. The community showed the Panel the minutes of the meeting in the form of an *acta* (a formal, signed record).

- (iv) *Concerns about rehabilitating the exploited borrow pits and land.* Community members in some villages told the Panel that the Contractor had not rehabilitated borrow pits after using them. In San Antonio, community members showed what appeared to be an unrehabilitated borrow pit filled with water; the Panel saw people fishing there. The community told the Panel the Contractor took the topsoil to test but did not rehabilitate the place due to a dispute with the community over the agreement. Sapocó, Cuarrió, and Medio Monte community members told the Panel the Contractor had agreed to convert borrow pits into *atajados*, but that this had yet to happen, and they feared the Contractor will not fulfil its commitments.
- (iv) *No response to community complaints.* In San Antonio, San Fermín, and Cuarrió the Panel was told the communities had raised concerns to the Contractor but received no responses. They said the Contractor usually responded only when they resorted to protests, including blockades.

191. The Panel observed confusion among community members over what constitutes a formal agreement and an *acta*, and the purpose and importance of each. Following local custom, in many cases commitments were recorded in an *acta*, and not in a formal agreement.

192. The Panel notes that Management learned of widespread issues with the borrow pits after it increased the frequency of its missions from February 2023. In the May 2023 “Notice of Potential Disbursement Suspension” to the Borrower, Management raised issues related to the lateral borrow pits within the ROW, requiring timebound remedial actions be addressed. These issues included missing safety measures on extremely steep slopes, minimal or no warning signs, and no physical barriers to prevent people from falling in the borrow pits. The Notice also cited inadequate drainage in some of the lateral borrow pits, which could become incidental, water retention structures during the rainy season, posing risk of drowning. The “Notice of Potential Disbursement Suspension” states that following its March 2023 mission, Management observed additional safety measures were implemented at the borrow pits by the Contractor, but the work to bring all borrow pits into compliance in terms of safety was not yet complete.

193. The Panel notes the August 2023 Aide-Mémoire confirmed Management’s awareness that the Contractor had entered into many agreements over borrow pits with communities. Management stated these commitments might not conform to Bank environmental policies, such as OP 4.01 since there was no process to evaluate and manage impacts resulting from the activities, and possible noncompliance with Bank Policy on Natural Habitats (OP 4.04), and these potential noncompliances needed to be confirmed after analysis to determine the impact and necessary remedial actions. Management noted the need to analyze the agreements in detail, and to survey information in the field to determine the scope, location, impact management, and compensation measures for each commitment. The Panel notes Management’s comment that, according to ABC, the non-disclosure clauses in these agreements have generated no conflicts and the arbitration clauses have not been invoked.<sup>339</sup>

194. During the Panel’s September 2023 investigation field mission, ABC and the Supervision Firm informed the Panel they were conducting a systematic assessment of the Contractor’s agreements on borrow pits. The Supervision Firm prepared a PowerPoint presentation for the Panel containing the number of borrow pits, their characteristics and status, and the rehabilitation activities going forward. ABC and the Supervision Firm told the Panel they had provided specific instructions and guidance to the Contractor on rehabilitating borrow pits, which required signoff by the Supervision Firm. The Government informed the Panel it was looking into the whole issue of rehabilitating borrow pits, and assured the Panel that all borrow pits will be rehabilitated to the required standard following extraction. The Government also showed the Panel two borrow pits in Miraflores which were being converted into *atajados* at the community request. The Panel notes Management’s significant concerns about borrow pits, and its specific request that ABC report on the borrow pits within 60 days, including how it was addressing site-specific risks for all borrow pits.<sup>340</sup> The Panel notes that Management stated ABC complied with this request within the specified timeframe.<sup>341</sup>

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<sup>339</sup> Annex 3, November 2023 Management written response, p. 6.

<sup>340</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>341</sup> Annex 3, Management’s November 2023 written response, p. 5.

195. The Contractor told the Panel only it can negotiate the agreements, extract materials, and be responsible for the closure and rehabilitation of the borrow pits. It said in only one case had it used a subcontractor for the negotiation. It said the extraction of all borrow pits required environment management plans that are developed with the Supervision Firm. The Contractor told the Panel that, in some cases, the community and subcontractors negotiated supplementary benefits that were recorded in the *acta*, which it did not consider formal agreements or commitments. The Contractor also said constant leadership changes in the communities had become a challenge, because agreements made with earlier leaders were not recognized by their successors.

196. The Panel notes that neither the 2016 ESIA nor the RAP stated how the Contractor should acquire access to land for auxiliary projects such as borrow pits or camps. According to the World Bank Involuntary Resettlement Sourcebook, in cases where “*land is acquired through voluntary sale at market price*”<sup>342</sup> or in cases of “voluntary resettlement” – i.e., “*any resettlement not attributable to eminent domain or other forms of land acquisition backed by powers of the state*”<sup>343</sup> – the guiding principles governing these types of land acquisition are “*informed consent and power of choice*,”<sup>344</sup> meaning decisions made free of coercion. These guiding principles – and general measures to ensure their application – were not mentioned in the ESIA as safeguard requirements for the Contractor.

197. The Panel notes that the 2016 ESIA covered the potential environmental impacts of developing borrow pits,<sup>345</sup> but did not assess potential, negative social impacts, such as constraints on access to land, community safety, heavy truck traffic during borrow pit exploitation, effects on community livelihoods and water sources, and risks created if the borrow pits are not rehabilitated. The Panel notes the only social impact identified in the 2016 ESIA relating to borrow pits was the potential, positive impact of employment generation.<sup>346</sup> The ESIA covered closure of borrow pits from an environmental perspective,<sup>347</sup> but not a social perspective.

198. The Panel notes the ESIA requirement, emphasized by Management, for a specific EMP for each borrow pit, including a closure plan when exploitation was completed.<sup>348</sup> The Panel also notes that Management is requiring the Contractor to carry out a site-specific risk analysis of converting borrow pits to *atajados*, including risks to the surrounding population.<sup>349</sup> The Panel also notes that Management has asked the Contractor to update its WRMP to reflect adequate risk and impact mitigation and monitoring requirements for all *atajados*, including informal ones created from active borrow pits.<sup>350</sup>

199. The Panel observes there is a clear power imbalance between the Contractor and the Chiquitano communities in relation to the negotiation of agreements. The Panel heard that the

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<sup>342</sup> The World Bank, [Involuntary Resettlement Sourcebook, Planning and Implementation in Development Projects](#) (“Involuntary Resettlement Sourcebook”), 2004, p. 20.

<sup>343</sup> Involuntary Resettlement Sourcebook, p. 21.

<sup>344</sup> Involuntary Resettlement Sourcebook, p. 21.

<sup>345</sup> 2016 ESIA, p. 170, Table 121.

<sup>346</sup> 2016 ESIA, pp. 160 and 161, Table 115.

<sup>347</sup> 2016 ESIA, p. 313.

<sup>348</sup> Annex 3, Management’s November 2023 written response, p. 6.

<sup>349</sup> Annex 3, Management’s November 2023 written response, p. 5.

<sup>350</sup> Annex 3, Management’s November 2023 written response, p. 5.

communities felt they could not seek advice or help in negotiating agreements for borrow pits, did not know what they could get in exchange for the extracted materials, and feared repercussions for violating the non-disclosure clauses. The Panel notes the communities' testimony indicates a lack of informed consent, particularly relating to their poor understanding of the contracts and their legal implications. The Panel observes there was no supervision of the negotiation, signing, or implementation of these borrow pit agreements. The Panel understands supervision on this issue only started after submission of the Request.

#### 4.3.5. Panel Findings

200. The Panel notes that while the 2016 ESIA required a specific EMP for each borrow pit – including a closure plan – no social impact assessment or social management plan was developed for potential impacts from borrow pits, nor were potentially affected communities farther from the road identified or included in any safeguard document. The Panel further notes additional safety measures relating to borrow pits are required to bring all of them into compliance, and that Management requested full implementation of the borrow pit EMPs, including their closure plans, after submission of the Request. **The Panel finds Management in non-compliance with OP 4.01, para. 2 for not ensuring adequate implementation of the ESIA and EMPs for borrow pits. The Panel also finds Management in non-compliance with OP 4.01, para. 3 for not ensuring consideration of environmental and social aspects in an integrated way when identifying and mitigating impacts from borrow pits.**

201. The Panel notes that the communities, Bank Management, ABC, and the Supervision Firm all acknowledge the issues regarding the borrow pits. As covered in Chapter 2, the Panel observes the SAs did not adequately assess the Project's direct impacts on the Chiquitano communities, including the impact of creating the borrow pits. The Panel observes that as a result, the Project provided no measures to mitigate those impacts, such as assisting the indigenous communities in negotiations with the Contractor.

202. The Panel notes that Management understands such agreements are voluntary in nature, and it is therefore up to property owners to decide what they will accept as compensation. The Panel notes the Chiquitano communities were expected to negotiate the use of the borrow pits with the Contractor without the benefit of adequate information, prior knowledge of how to negotiate, or an understanding of the legal implications of what they signed. The Panel notes there appears to have been a lack of supervision and oversight when these agreements were being negotiated. No community with whom the Panel spoke with received assistance when negotiating and signing the agreements and the communities negotiated the agreements without the benefit of information about adequate compensation – in other words, without “*informed consent and power of choice.*”<sup>351</sup> The Panel also notes the wide power imbalance between the Contractor and Chiquitano communities during the negotiation of these agreements and the stringent nondisclosure and arbitration clauses that were included in the agreements. **The Panel finds Management did not ensure provision of measures to minimize, mitigate, or compensate adequately for the negative impacts associated with development of the borrow pits, including adequate support to the Chiquitano communities regarding the Contractor's negotiated access to their lands**



**for development of borrow pits. The Panel therefore finds Management in non-compliance with OP 4.01, para. 2, and OP 4.10, para. 1.**

#### **4.4. *Atajados***

##### **4.4.1. Request for Inspection**

203. The Request claimed the Chiquitanos were neither meaningfully consulted during development of the original IPP, nor informed about the negative impacts, risks, and benefits of the Project in the initial consultation. During the Panel’s March 2023 eligibility mission, Project-affected Chiquitano communities informed the Panel that their water sources – primarily *atajados* (artificial ponds) – were directly affected by the Project. During the September 2023 field investigation visit, six communities (in all four municipalities) claimed road construction had adversely affected their *atajados*, including with increased sedimentation and contamination due to rainwater runoff from the road, and by obstructing water inflow; two communities also attributed same to the excavation of borrow pits. They emphasized that access to clean, potable water is critical in the Project area.

##### **4.4.2. Management Response**

204. In its November 2023 written response, Management stated that although the 2016 ESIA identified *atajados* as existing infrastructure that would be directly affected by the ROW, it did not include detailed analysis of all potential Project impacts on *atajados*. According to Management, during its February 2023 supervision mission it took actions regarding *atajados*, which are reflected in the latest version of the WRMP, dated April 2023. These actions included (i) updating the typology of Project water sources to include *atajados* and *curichis* (natural reservoirs or wetland areas), (ii) improving the technical datasheet for each water source, and (iii) improving requirements for signage and safety measures around water sources.<sup>352</sup> Management’s November 2023 written response stated that “*all the Project’s water sources are monitored in accordance with the Contractor’s WRMP.*”<sup>353</sup> Management stated the Project GRM and regular meeting/joint inspections with the communities have helped identify unanticipated issues regarding existing *atajados*, such as compensation for *atajados*, fulfillment of Contractor commitments to repair pipelines, drainage infrastructure, and water channels used by landowners and communities to fill them.<sup>354</sup> Management reported only one recorded grievance related to contamination of an *atajado* by road construction activities.<sup>355</sup>

205. The November 2023 written response explained landowners build *atajados* to support their economic activities. Management said some private owners and communities have taken advantage of the Project’s elevated roadbed by building new *atajados* adjacent to it or by constructing drainage to channel rainwater runoff from it to existing *atajados* farther from the ROW.<sup>356</sup>

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<sup>352</sup> Annex 3, Management’s November 2023 written response, p. 1.

<sup>353</sup> Annex 3, Management’s November 2023 written response, p. 2.

<sup>354</sup> Annex 3, Management’s November 2023 written response, p. 2.

<sup>355</sup> Annex 3, Management’s November 2023 written response, p. 3.

<sup>356</sup> Annex 3, Management’s November 2023 written response, p. 3.

206. Management’s November 2023 written response claimed that, while not formally documented by the Project to date, “*it is further possible that some nearby communities have also exploited water collected in the lateral borrow pits during the construction period.*”<sup>357</sup> Management stated it is following up with ABC on further strengthening Project supervision and monitoring of water collection to anticipate and manage potential impacts and avert potential conflicts with community members regarding the Project’s use of – or potential impacts on – scarce water resources in the area.<sup>358</sup>

#### 4.4.3. Bank Policies

207. The Environmental Assessment Policy (OP 4.01) defines the project area of influence to include all places affected by the project including all its ancillary aspects.<sup>359</sup> It requires the Environmental Assessment (EA) to evaluate a project’s potential, environmental risks and impacts in its area of influence, and include a process for mitigating and managing adverse environmental impacts throughout project implementation.<sup>360</sup>

#### 4.4.4. Panel Analysis and Observations

208. The Panel understands that some *atajados* in the Project area are remnants of old, lateral borrow pits from work carried out in the 1970s, which have filled with rainwater and become communal ponds, which have been used by community members for decades, and in some cases have had improvement work done on them by these same communities. The Panel observed that *atajados* are used by communities for various purposes, such as drinking water for humans or livestock, washing clothes, or swimming.

209. The Panel notes the communities are claiming negative project impacts on *atajados* that are within the ROW as well as *atajados* outside the ROW. The Panel observed that in one community, an *atajado* is beside the borrow pit. In other communities, the *atajados* are near the road, but outside the ROW. Communities told the Panel they were unclear which *atajados* in the ROW qualify for compensation and reported they had been promised a replacement *atajado* in some cases, but not in others. The table below describes the issues related to the *atajados* that the Panel observed and heard about from the communities.

Community	Centrale	Atajado Location	Community’s Alleged Impact of Project
Quitiquiña	San José de Chiquitos	Eight <i>atajados</i> within the 50-meter ROW	<ul style="list-style-type: none"> <li>• Six <i>atajados</i> were damaged by mud and have not been replaced; two have been replaced.</li> <li>• The ROW fence crosses the edge of one <i>atajado</i>, making access difficult. The community claims that when the other <i>atajados</i> run dry, the whole village uses this</li> </ul>

<sup>357</sup> Annex 3, Management’s November 2023 written response, pp. 3 and 4.

<sup>358</sup> Annex 3, Management’s November 2023 written response, p. 4.

<sup>359</sup> OP 4.01, Annex A, para. 6.

<sup>360</sup> OP 4.01, para. 2.

Community	Centrale	Atajado Location	Community's Alleged Impact of Project
			one for drinking water; normally only four or five households use it.
San Antonio	San José de Chiquitos	One <i>atajado</i> on the roadside (see picture 5)	<ul style="list-style-type: none"> <li>The community claims silt from the raised roadbed's embankment contaminates their <i>atajado</i>. The Project built a culvert below this <i>atajado</i>, draining the water from it.</li> </ul>
Portoncito	San José de Chiquitos	One <i>atajado</i> in the ROW; one <i>atajado</i> at the 45-kilometer point on the roadside	<ul style="list-style-type: none"> <li>The ROW divides one <i>atajado</i>, and access to it will be difficult once the ROW fence is built.</li> <li>A culvert built by the Project drains the water from the <i>atajado</i> at the 45 kilometer point on the road.</li> </ul>
San Fermín	San Rafael	One <i>atajado</i> by the borrow pit (see picture 4 in Section 4.3.4.)	<ul style="list-style-type: none"> <li>Trucks going to and from the borrow pit damaged the access road from the community to the <i>atajado</i>. Rain eroded the access road; silt from the access road and borrow pit materials enter the <i>atajado</i>.</li> <li>The Contractor started cleaning the bottom of the <i>atajado</i> as agreed with the community but left two sediment dumps in the middle of it. (See Section 4.3.4.)</li> </ul>
Medio Monte	San Ignacio	Two <i>atajados</i> close to the road; one <i>ajajado</i> farther from the road	<ul style="list-style-type: none"> <li>Two <i>atajados</i> close to the road are filled with dirt from construction.</li> <li>The access road to an <i>atajado</i> farther from the road was blocked when the Project raised the roadbed, creating a steep embankment; community members had to hire machines to create access for cattle.</li> </ul>

Table 2: Alleged impact of Project in the Chiquitano communities as identified in field interviews.



Picture 5: A roadside *atajado* in San Antonio, San José de Chiquitos, which the community claims is contaminated from the silt from the raised roadbed's embankment.

210. The Panel understands from Management’s November 2023 written response that the Project ESIA did not include a detailed analysis of all potential Project impacts on *atajados*.<sup>361</sup> However, the Panel notes both the 2016 ESIA and the updated 2020 RAP list *atajados* in the ROW as assets potentially affected by land acquisition in the ROW and, in fact, the updated 2020 RAP indicates a total of 33 *atajados* will be fully affected by the ROW.<sup>362</sup> Management confirmed this to the Panel in its November 2023 written response. ABC told the Panel that only the *atajados* in the ROW, on which the communities have made improvements, qualify for replacement or compensation. The Panel notes this issue was not clearly explained in the RAP.

211. The Panel notes assessing potential impact on *atajados* is complicated since it is linked to land acquisition in the ROW, construction-related impacts of the road, and construction and operational impacts of the borrow pits. The Panel understands sediment management is closely related to water management. The 2016 ESIA estimated the volume of sediment expected to come from the Project to be 445 tons per year.<sup>363</sup> The Panel could find no evidence that the ESIA estimated sedimentation flow per kilometer of side drainage during construction.

212. The Requesters and the communities told the Panel they have raised *atajado*-related issues with the Contractor and the Supervision Firm for three years. Management informed the Panel that it learned of several, unanticipated impacts on existing *atajados* through the Project GRM and through regular meetings and joint inspections with the communities.<sup>364</sup> Management indicated that it is working on resolving them. Management informed the Panel there is only one recorded grievance related to the contamination of an *atajado* connected to road construction.<sup>365</sup> The Panel observes the grievance log recorded that six communities raised *atajado*-related issues to the Contractor and the Supervision Firm six times since 2020.

#### 4.4.5. Panel Findings

213. The Panel notes that the impact of the road construction on their *atajados* is important to the communities, as it affects their sources of water for human and animal consumption. The Panel notes that the Chiquitania region is water-stressed, and that during the long, dry season, communities suffer acute water shortages. Therefore, any impact on their existing water sources is significant. The Panel also notes Management’s acknowledgement that although the 2016 ESIA identified *atajados* as existing infrastructure that would be affected by acquisition of the ROW, it lacked detailed analysis of all potential impacts on them. The Panel notes no social impact assessment or social management plan was developed for potential impacts on the *atajados*. **The Panel finds Management did not ensure identification or mitigation of impacts on *atajados* and therefore is noncompliant with OP 4.01, para. 2.**

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<sup>361</sup> Annex 3, Management’s November 2023 written response, p. 1.

<sup>362</sup> 2016 ESIA, pp. 344 and 345, Table 198; 2020 RAP, pp. 44 and 45, Tables 27 and 28.

<sup>363</sup> 2016 ESIA, p. 76.

<sup>364</sup> Annex 3, Management’s November 2023 written response, p. 2.

<sup>365</sup> Annex 3, Management’s November 2023 written response, p. 3.

## Chapter 5 - Road Safety, Occupational Health and Safety, and Labor Working Conditions

### 5.1. Introduction

214. This chapter describes the issues raised by the Requesters about road safety and the issues related to Chiquitano workers' health, safety, and hiring conditions. It examines how the Project's safeguard documents identified risks associated with road safety, and Chiquitano Occupational Health and Safety (OHS) risks, working conditions, and the wellbeing of the Project's construction workforce. It also analyzes how these issues and risks are being managed.

### 5.2. Road Safety

#### 5.2.1. Request for Inspection

215. The Request claimed the Chiquitanos were neither meaningfully consulted during development of the original IPP nor informed about the potential, negative impacts, risks, and benefits of the Project. The Requesters and some communities adjacent to the road corridor and near Project auxiliary sites, such as borrow pits, raised concerns about road safety, lack of road signage, pedestrian crossings, side pathways, and speed management or speedbumps. The Requesters and the PAPs provided the Panel with examples of fatal road accidents that had occurred in the past year. The Requesters and the PAPs claimed they repeatedly raised road safety concerns with the Contractor and the Supervision Firm, but that the Project has not adequately addressed them.

#### 5.2.2. Management Response

216. Management's November 2023 written response stated that the 2016 ESIA identified road safety as a "*notable risk*"<sup>366</sup> associated with project construction and operation and proposed a Road Safety Program to reduce the probability of accidents. According to Management, this Road Safety Program included installing adequate signage along the road to prevent environmental and social impacts during all stages of the Project. Management stated that despite these requirements, consistent and rigorous implementation of the Road Safety Program in so large a Project area has been an ongoing challenge for the Project. The November 2023 written response stated that the Bank supervision team's field observations in February and March 2023 found significant shortcomings in road safety conditions, and the Bank therefore requested an update of the Contractor's Road Safety Plan.<sup>367</sup>

217. According to Management's November 2023 written response, as part of the required Road Safety Program, the Contractor initially developed a Road Safety Plan in September 2019, with a major update in March 2021. This update included, among other improvements, greater emphasis on preventing accidents and requirements for (i) an Integrated Strategy Plan for Industrial and Road Safety, (ii) the hiring of a Project Safety Officer, and (iii) improved signage, especially in places with significant movement of construction-related vehicles.<sup>368</sup>

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<sup>366</sup> Annex 3, Management's November 2023 written response, p. 7.

<sup>367</sup> Annex 3, Management's November 2023 written response, p. 7.

<sup>368</sup> Annex 3, Management's November 2023 written response, p. 7.

218. According to the November 2023 written response, the May 2023 “Notice of Potential Disbursement Suspension” issued by Management to the Government highlighted significant inadequacies in Project management of road safety risks and outlined a series of remedial actions to be achieved within specified timeframes.<sup>369</sup> Among these actions, the Project was asked to: install reflective signage and physical barriers; have trained and equipped flagmen coordinate traffic flow in all active work zones; ensure that pedestrian crossings are demarcated in all urban areas, and that flagmen direct traffic at least during times of frequent pedestrian activity; implement appropriate night illumination to protect traffic from hazards related to the Project; and comprehensively review the implementation of the ESIA/Environmental Management Plan’s (EMP) road safety program requirements, the Contractor’s Road Safety Plan, and the Contractor’s updated, temporary, road signage scheme, among others.<sup>370</sup>

219. Management’s November 2023 written response stated that ABC had submitted evidence related to each of the above tasks, and the Bank saw substantial compliance on all but one issue: night illumination at detour locations (as required by ESIA) outside of working hours, or at low-visibility locations.<sup>371</sup>

220. The written response also stated that the Contractor had yet to update its road safety EMP to reflect fully the recommendations emerging from the comprehensive review undertaken by ABC in July-August 2023.<sup>372</sup>

### **5.2.3. Bank Policies**

221. Bank Policy on Environmental Assessment (OP 4.01) requires the assessment of a project’s potential environmental risks and impacts. Where avoidance of such impacts is infeasible, mitigation and compensation measures need to be applied.<sup>373</sup> The Policy’s objective is to enhance positive impacts,<sup>374</sup> which entails consideration for “*human health and safety*.”<sup>375</sup>

222. Section 3.4 of the World Bank Group’s Environmental, Health and Safety General Guidelines (the “EHS Guidelines” or the “Guidelines”) state all project personnel should promote traffic safety during movement to and from the workplace, and during operation of project equipment on all roads, as traffic accidents are among the most significant causes of injuries and fatalities worldwide. As per the EHS Guidelines, prevention and control of traffic-related injuries and fatalities should include adoption of safety measures to protect project workers and road-users, including those most vulnerable to traffic accidents.<sup>376</sup>

### **5.2.4. Panel Analysis and Observations**

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<sup>369</sup> Annex 3, Management’s November 2023 written response, p. 7.

<sup>370</sup> Annex 3, Management’s November 2023 written response, pp. 7 and 8.

<sup>371</sup> Annex 3, Management’s November 2023 written response, p. 8.

<sup>372</sup> Annex 3, Management’s November 2023 written response, p. 8.

<sup>373</sup> OP 4.01, para. 2.

<sup>374</sup> OP 4.01, para. 2.

<sup>375</sup> OP 4.01, para. 3.

<sup>376</sup> World Bank Group, Environmental, Health, and Safety General Guidelines (the “EHS Guidelines”), 2007, p. 81.

223. **Safeguard Documents.** Management’s November 2023 written response highlighted the identification of road safety as a “*notable risk*” in the 2016 ESIA.<sup>377</sup> The ESIA specifically addressed its Road Safety Program in section 12.3.7, which stated that “[s]afety on the roads is important to decrease the levels of likelihood of accidents. It is for this reason that the objective of this Program is to have adequate signage on the road section, to prevent environmental and social impacts during all stages of the road section, in addition to defining safety criteria for work in urban areas and preparing information booklets.<sup>378</sup> In order to achieve the general objective, the following specific objectives will be followed: determine the sectors that will require different types of signage; define safety measures in urban areas, aimed at pedestrian safety; define the contents of the safety booklets; determine the cost for the implementation of the Program.”<sup>379</sup>

224. The 2016 ESIA described the types of signage, barriers, cones, and warning lights needed to keep road-users and workers safe during the Project’s construction and beyond, including the requirements that all “[s]igns must be retroreflective at all times”<sup>380</sup> and affixed to a suitably positioned post. The 2016 ESIA referred to relevant signage design standards and estimated the number of each sign required during the Project’s life.<sup>381</sup>

225. The 2016 ESIA described traffic management in urban areas stating that “*pedestrian crossings will be established in certain sectors, during road construction, with support personnel to indicate the times when it is possible to cross the road and the times when it is necessary to wait for the completion of a particular job. Safety barriers will be placed to prevent pedestrians from entering the work areas.*”<sup>382</sup> To implement these arrangements “*the Contractor is responsible for the placement of the signage. It must comply with the specifications established in the Signage Manual of ABC and the specific regulations of the project. The Contractor is also responsible for ensuring pedestrian safety conditions in urban areas are maintained as well as designing, preparing and distributing information booklets. The Supervision Firm is responsible for ensuring that the material and graphic signage corresponds to the specification requirements and will control the location in the placement of the signs as well as compliance with safety measures in urban areas and distribution of booklets.*”<sup>383</sup>

226. The Panel notes the road safety requirements in the 2016 ESIA<sup>384</sup> and the Contractor and Supervision Firm’s contracts are consistent with good practice. The Panel notes that the Contractor’s Road Safety Plan raised no noteworthy concerns.

227. **Road Safety Implementation.** The Panel notes Management issued a “Third Call to Attention” letter to the Contractor in December 2022 to address noncompliance with the Contractor’s Road Safety Plan. This letter indicated that although the Supervision Firm had identified deficiencies, the Contractor took no action to address them. The Panel recognizes that

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<sup>377</sup> Annex 3, Management’s November 2023 written response, p. 7.

<sup>378</sup> 2016 ESIA, p. 228.

<sup>379</sup> 2016 ESIA, p. 228.

<sup>380</sup> 2016 ESIA, p. 245.

<sup>381</sup> 2016 ESIA, pp. 235-237.

<sup>382</sup> 2016 ESIA, p. 246.

<sup>383</sup> 2016 ESIA, pp. 246-247.

<sup>384</sup> 2016 ESIA, p. 228.

in the May 2023 “Notice of Potential Disbursement Suspension,” Management identified the Contractor’s shortcomings in implementing road safety management measures. According to Management’s November 2023 written response, the Contractor prepared an updated “Temporary Road Signage Scheme” that was subsequently approved by the Supervision Firm in March 2021.<sup>385</sup>

228. The Panel also notes that the “Notice of Potential Disbursement Suspension” issued by Management to the Government in May 2023 cited noncompliance on road safety management – such as non-adherence to the approved Road Safety Program, ABC’s Signage Manual, the Contractor’s Road Safety EMP, and associated “Temporary Road Signage Scheme” – and required correction of such deficiencies within 45 days. The Panel notes that by the end of that period in July 2023, Management accepted evidence supplied by ABC, in a note containing the delivered corrective actions, which indicated it had sufficiently addressed most of the road safety deficiencies. In correspondence to the Government, in July 2023, Management stated that it nevertheless sought further supporting evidence regarding flagmen and signage, and two key deficiencies remained: (i) ensuring that road signage (number, size, quality, etc.) complied with the approved “Temporary Road Signage Scheme” requirements at inactive worksites, and (ii) ensuring nighttime illumination of sites so vehicles are not exposed to road project related risks that cannot be easily seen in the dark and road-related Project hazards. The Panel notes ABC was provided another 45 days to address these issues. The Panel notes that Management relied on information provided by ABC to confirm resolution of these deficiencies.

229. During its September visit, the Panel observed the road signage was inadequate in several locations. The Panel notes the June 2023 Aide-Mémoire stated that significant deficiencies remained throughout the section with the updated “Temporary Road Signage Scheme” approved by the Supervision Firm and that the Bank team stated the need to strengthen signage beyond active work fronts. The 90-day response from ABC to Management stated that full compliance with road sign captions, reflectivity, dimensions, and locations had yet to be achieved.

230. The Panel notes the original 2019 Road Safety Plan was updated twice – in March 2021 and in 2023. The Panel reviewed the 2021 and 2023 versions and notes that both clearly stated requirements for signage and road layouts, as well as the need for quality signs and posts. The Panel views the updates made to the Safety Plan as positive since they demonstrate a functioning feedback loop for improving safety outcomes, including the Supervision Firm efforts noted above. However, as neither iteration of the approved Road Safety Plan has been successfully implemented in the field, this undermines the value of that feedback loop and updating process. The Panel notes that required signage and illumination have not been fully implemented by the Contractor in a timely manner.

231. The Panel notes that the Supervision Firm’s contract designated it as the “Engineer to Contract” and the Firm’s terms of reference (ToR) explicitly required it to carry out environmental monitoring and control of the environmental and social aspects directly related to road construction operations, and to execute the Environmental Application and Monitoring Plan established in the ESIA. The Panel notes that “monitoring and control” should involve confirming (auditing) that traffic control complied with requirements from both the Road Safety Plan and the relevant ABC

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<sup>385</sup> Annex 3, Management’s November 2023 written response, p. 7.



specifications. The Panel notes it is unclear whether a formal audit of compliance with the approved safety plan has occurred. However, the Panel notes that the Supervision Firm's issuance of three "Call to Attention" letters to the Contractor indicate active monitoring of significant breaches by the Contractor.

232. The Panel notes the Supervision Firm's ToR required it to undertake a Road Safety Audit (RSA) of the design of the improvement works. This is a standard process to ensure that the final design drawings have undergone expert review prior to construction and typically results in minor changes to design details. According to the July 2019 Supervision Firm's monthly report, due to delays in hiring the Supervision Firm, the RSA was completed in July 2019 by a separate, specialist firm rather than by the Supervision Firm. According to this monthly report, the RSA mentioned, among other conclusions, the need to place the pedestrian crossings on raised platforms and to install speedbumps in urban areas to control vehicle speeds. The Panel notes that these pertain to the final design of the road, and not the temporary traffic management arrangements during construction. The Panel notes it is unclear whether these recommended changes, and others in the RSA, have been adopted in full or in part.

233. Based on its discussions with the Bank team and review of documents, including ABC's responses to the "Notice of Potential Disbursement Suspension," the Panel observes that the Contractor had insufficient signage or trained traffic staff to cover the Project's many worksites. Regarding the improvement, the Panel notes that ABC's response, in its 90-day report on the delivered corrective actions, stated there are a total of 68 areas and work fronts under construction along with an additional 37 work fronts along the road where construction is also taking place. Additionally, according to this response, there are 29 trained flag persons assigned to specific work fronts, responsible for vehicular traffic control to ensure the safety of both road-users and workers. The response also explained that the work fronts with heavy equipment are equipped with 28 solar-powered, rechargeable, tripod flashers, as provided by the Contractor. The Panel notes that following the three "Call to Attention" letters, the May 2023 Notice, and the subsequent extension from 45 to 90 days to address the remaining deficiencies, the Project still has fewer than one active flag person per active worksite, and fewer than one Hazard Warning Light per worksite.

234. The Panel observes that the May 2019 Aide-Mémoire indicated there was pressure to release road sections to the Contractor so physical works could commence immediately upon the signing of the Supervision Firm's contract. The Aide-Mémoire stated that the Supervision Firm will only approve the commencement of works once the necessary conditions are met. Additionally, it states that the Bank team recommended ABC evaluate areas which were available to develop works to speed up the process. As a consequence, key tasks concerning design review (for which the Supervision Firm received 90 additional days), the Road Safety Audit (ultimately performed externally before commencement of the Supervision Firm's contract), full establishment of the Supervision Firm's systems and staff (which should happen within two months), and review of the safeguard plans likely did not occur sufficiently in advance of commencing the works as envisioned in the Supervision Firm's ToR. The Panel observes that the Supervision Firm has been in "catch-up mode" since the start of its contract.

235. The Panel notes that the communities' concerns about safety measures indicate the need to implement fully the approved Road Safety Plan and the findings of the RSA to reduce the risk of

serious traffic incidents. The Panel further notes that proper supervision is an essential part of any road construction or upgrade contract, and critical for enforcing all safeguard elements.

236. **Road Signs.** In every community the Panel visited during its March and September 2023 field visits, it heard repeated concerns about the lack of, or inadequacy of signage, visibility, pedestrian crossings or side paths, speed management or speedbumps, and consistently about the communities' fear of more accidents, especially near schools. During its mission, the Panel team met with ABC and the Government, who both expressed their concerns about the quality of recently installed signs. During its field visits, the Panel observed inappropriate road signs that were crudely made, nonreflective, poorly supported, had fallen, or were absent entirely. In addition, the Panel noted a lack of barriers; low visibility due to dust, and missing nighttime lighting. These observations are discussed in more detail below.

237. During its March 2023 eligibility mission, the Panel drove the entire Project road corridor and observed almost no road signage or safety measures and this included in areas around worksites, schools, and in urban areas such as Miraflores. Community members with whom the Panel met expressed their concerns over the missing safety signs and pedestrian crossings and how these oversights could cause accidents in their villages.

238. During its September 2023 investigation visit, the Panel observed improvements in the number of road signs present – mostly temporary warnings of construction equipment ahead. Although there were more signs on the road and near communities in September 2023 than in March 2023, their quality remained an issue. In Miraflores, the Panel observed that the temporary road signs had little effect, as vehicles were driving at high speeds through the populated areas, ignoring the speed limits that were displayed on the road signs.

239. Most road signs observed by the Panel during the September 2023 investigation visit were of poor quality and appeared “homemade.” They were not made from durable materials or with suitable reflectivity. The Panel noted that road signs were inappropriately secured and lacked suitable support posts (see the pictures below). Most of the signs were hand-painted, secured to twigs, and had reflective tape applied by hand. Community members in most of the communities the Panel visited questioned the durability of these signs and worried that their poor visibility, exacerbated by dust kicked up by traffic, will lead to more accidents. The Panel notes that while the addition of reflective tape may help with nighttime visibility, it reduces the visibility of the lettering during daylight hours.



Pictures 6 and 7: Left - Speed bump sign secured to twig. Right - Reflective speed sign secured to twig.

240. During its September 2023 visit, the Panel heard from community members in Nuevo Horizonte that the Contractor's and subcontractor's dump trucks drive constantly on the unpaved access road through their village to extract materials from the neighboring community Caballito de Oro's borrow pit. During the two hours spent with the community, the Panel observed approximately one dump truck every five minutes on this road. The Panel noted that a section of the road ran in front of many houses in the village. The Panel observed clouds of heavy dust each time a truck carrying excavated materials from Caballito de Oro to the road construction site passed by these houses (see picture below). The Panel was told that the communities frequently asked the Project to spray the unpaved road with water to reduce the dust and risks to community members' health and safety. The community said trucks use the road from around 7:00 a.m. to 9:00 p.m. almost daily.



Picture 8: View of dust cloud from Nuevo Horizonte (San José de Chiquitos)'s community center as the dump truck passes by the community's unpaved access road.

241. Community members in Nuevo Horizonte also showed the Panel damaged road signs and small speedbumps near houses in their village on the road to the borrow pit in Caballito de Oro. The Panel observed two small speedbumps, noting that they did not reduce traffic speed, as the trucks can drive across them without slowing down. The community members told the Panel they are concerned about the safety of children who walk to school on the community unpaved access

road. They also told the Panel the subcontractor started using the road to transport excavated materials without notifying them in advance.

242. Almost all the communities with whom the Panel met in March and September 2023 expressed concerns regarding increased risks associated with upgrading the road. Some were concerned about the higher number and speed of vehicles passing by their communities and claimed the Project neither provided sufficient information about these potential impacts nor installed sufficient road signage or speed reduction measures to address them. These community members said that, due to the road upgrade more vehicles, especially trucks, now drive by their communities. During its field visits the Panel observed that schoolchildren regularly cross a roadway lacking effective speed controls or other safety measures, and sometimes with poor visibility due to dust from construction activities.

243. Sapocó community members shared with the Panel their concern regarding the upgraded road's proximity to the local school. During its September 2023 visit, the Panel observed that the school is less than five meters from the road. The community told the Panel that the lack of pedestrian crossings, signs, and speedbumps increase the risks of accidents for the 280 children attending school daily. The Panel heard that after several requests from the community, the Project finally installed speedbumps per their request, but the community said the Project did not communicate this or install warning signs. According to the community, the absence of signs resulted in three motorcycle accidents causing minor injuries to the drivers who did not notice recently installed speedbumps. During a meeting with one of the communities from the San Miguel de Velasco *Centrale*, community members told the Panel that road signs are not placed at sufficient intervals to give drivers enough warning of an upcoming stop, pedestrian crossing or speedbump.

244. In Quituquiña, a small rural community straddling the road corridor, community members explained that, before the upgrade, few vehicles passed by their communities on the unpaved road. According to them, traffic has increased since road construction began, with vehicles driving faster. They are particularly concerned with the inadequate safety measures to limit speeds or ensure pedestrian safety, especially for children who must cross the road. During the Panel's September 2023 visit, the Panel observed that both the rehabilitated road and access roads lack adequate signage, speedbumps, or safety measures to guarantee the safety of children walking to school. The community members claimed they had raised their concerns with the Supervision Firm during its visits.

245. Villa Fátima community members told the Panel that although the new road "looks nicer" than the unpaved road, it is also more dangerous. The Panel observed that the properties in parts of Villa Fátima are less than five meters from the rehabilitated road, which they complain increases risks to the community and children from vehicles driven at high speeds. The Panel notes that members of this community also claim that their chapel has suffered vibration damage from passing vehicles, especially heavy trucks. According to the community, the Project responded to one of their requests and constructed a community access road parallel to the road corridor. However, the community told the Panel there have already been minor accidents on this access road since it is used by highway vehicles to avoid the speedbumps on the main road.

246. **Road Accidents.** The Panel notes that the Bank has a Fatality Tracking System, although the Panel was not given access to it. The Panel notes that the Project should have a system which tracks all accidents in the work area, and this should not be limited to fatalities. The Panel notes from some accident reports it was given access to and from discussion with community members along the road corridor, there have been at least three fatal accidents where construction activities were a significant factor, these are discussed below.

247. The Panel reviewed the Project's traffic accident report for a fatality that occurred on December 25, 2020. The Panel notes that the report stated a motorcycle, headed in the direction of the Miraflores community, ignored the road signage and fell directly into a recently excavated hole. The Panel observes that the accident report provided by ABC to Management on this incident indicated all traffic controls were in place and were compliant, the report cited the driver's excessive speed as the probable cause. However, the Panel reviewed the accident reports provided by ABC and observed that the photos in the report indicate that the fullwidth road barriers at the accident location were missing and that the signs in place were hand-drawn and nonreflective. Furthermore, the Panel notes inconsistencies in the report, which variously put the accident at 6:30 a.m., 7:00 a.m., and 9:00 a.m.

248. The Panel notes that had the approved road safety management plan been implemented, road barriers could have channeled traffic properly and reflective signage could have provided several hundred meters of clear warning of the dangers ahead.

249. During its September 2023 field visit, the Panel heard from community members in Miraflores, Sapocó, San Pablo, and San Miguel Centrale about serious accidents that occurred in their communities during the last 12 months.

250. In Miraflores the Panel spoke to surviving family members who described two fatal accidents in their community. The first occurred on Christmas eve 2022, when a motorcyclist drove into a deep "crater" in the middle of the road. The community said the road had been excavated without any warning to community members and with no signs, or safety barriers. The Panel was told the motorcyclist was found severely injured the following morning and had to be pulled from the crater by community members. The community said that by the time they called an ambulance, the motorcyclist had passed away. Also, in Miraflores, the Panel spoke to the sister and son of a pedestrian fatally injured by a truck that swerved to avoid construction materials on the rehabilitated road. The family members noted that no signs or safety barriers warned the vehicle drivers of the presence of these materials.

251. Community members in Sapocó told the Panel that a truck fatally injured a pedestrian in a late night "hit-and-run incident." They said that, prior to the road rehabilitation, their unpaved roads were used by local pedestrians or motorcycles and therefore lacked appropriate signs or safety measures for the increased traffic. According to community members, this is a concern now as more trucks working for agribusinesses drive through their communities.

252. A San Pablo community member told the Panel about an accident which occurred at a location where the upgraded road joined the village access road (see picture below), and which the community member attributed to inadequate signage and increased traffic. The community said

one of its members was taking their three cows to the *atajado* on the other side of the road when a truck hit and killed a cow. According to the community member, the truck driver then swerved to avoid a motorcycle coming from the opposite direction and overturned on the roadside, injuring two school-age pedestrians. When the person reported the accident and the cow's death, and raised concerns about road safety, this person was allegedly blamed for the accident and threatened with arrest by the Police.



Picture 9: Panel picture of the T-junction where the upgraded road joins the village access road to the community of San Pablo, San Rafael.

253. The Panel believes these occurrences of serious accidents suggest there has likely been poor road safety management since the start of construction. The Panel notes that although the Supervision Firm is responsible for supervising the works and has been raising issues of noncompliance, the Contractor is not addressing identified needs in a timely manner by, for example, stopping construction until proper traffic controls are in place.

254. **Road Access.** During the Panel's September 2023 visit, the community raised access issues resulting from the change in roadbed elevation or the construction of side drains. Community members in Medio Monte showed the Panel that a newly elevated section of road blocked access to their *atajado*, so they can no longer take their cattle there. The community also told the Panel that their access to a small tile factory had been blocked, preventing them from making their livelihoods. They said they hired heavy machinery to create an alternative access road, but claimed their tile trucks cannot access that route to reach the factory.

255. During the Panel's March 2023 eligibility mission, some Villa Fátima community members showed the Panel that the upgraded roadbed was lower than their house. The Panel observed a drainage channel between the road and the house. The community members claim that because the Project had not solved this issue, they must carry their motorcycles to and from the road. In the September 2023 visit, another community member in Villa Fátima claimed a similar issue, where the road level impeded access to a home. In Miraflores, the community complained that the elevated roadbed flooded houses on both sides of the road corridor with water and mud when it rains.

### 5.2.5. Panel Findings

256. Bank Policy on Environmental Assessment (OP 4.01) requires the evaluation of a project’s potential environmental risks and impacts. It also stipulates that, where avoidance of such impacts is infeasible, mitigation and compensation measures must be applied. The World Bank Group EHS General Guidelines, Section 3.4 states all project personnel should promote traffic safety during movement to and from the workplace, and during operation of project equipment on all roads, as traffic accidents are among the most significant causes of injuries and fatalities worldwide. Projects should adopt safety measures that protect project workers and road-users, including those most vulnerable to road traffic accidents.

257. The Panel notes the 2016 ESIA identified road safety as a risk associated with Project construction and operation and proposed a Road Safety Program to reduce the likelihood of accidents.<sup>386</sup> In its November 2023 written response, Management informed the Panel that the Road Safety Program defined safety criteria and measures for urban areas, and the Contractor was required to develop and implement a detailed Road Safety Plan, to be approved by the Supervision Firm.<sup>387</sup> The Panel notes that this Road Safety Plan was revised in March 2021 with significant improvements – such as greater emphasis on accidents and requirements for (i) the presentation of an “Integrated Strategy Plan for Industrial and Road Safety,” (ii) the hiring of a Project Safety Officer, and (iii) improved signage, prioritizing places having significant movement of construction-related vehicles.<sup>388</sup> The Panel notes Management’s comments that despite these improvements, the implementation of the Road Safety Plan has been an ongoing challenge for the Project.

258. The Panel notes the positive steps taken by Management to ensure improvement of road safety including Management’s May 2023 “Notice of Potential Disbursement Suspension,” which highlighted significant shortcomings in Project management of road safety risks and outlined remedial actions to be achieved within specified timeframes. The Panel recognizes that the updated Road Safety Plan is adequate but that the Contractor has not improved the quality or placement of signage. The Panel notes that according to Project documents it reviewed, road safety management appears to have been noncompliant since the start of construction activities.

259. Despite the Supervision Firm’s three “Call to Attention” letters prior to December 2022, the Panel notes that the May 2023 “Notice of Potential Disbursement Suspension” still cited noncompliance on road safety management – such as non-adherence to the approved Road Safety Program, ABC’s Signage Manual, the Contractor’s Road Safety EMP, and associated “Temporary Road Signage Scheme.” The Panel believes that although contractual arrangements and approved road safety documents were in place, they were not being sufficiently implemented.

260. The Panel notes that significant issues concerning road safety were raised by communities along the road. The Panel made its own observations on road safety, risks to pedestrians – particularly schoolchildren, and inadequate signage and traffic management during its field visit. The Panel notes the World Bank Group General EHS Guidelines indicate that road safety

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<sup>386</sup> 2016 ESIA p. 228.

<sup>387</sup> Annex 3, Management’s November 2023 written response, p. 7.

<sup>388</sup> Annex 3, Management’s November 2023 written response, p. 7.

initiatives should include safe traffic control measures comprising (i) road signs and flag persons to warn of dangerous conditions, (ii) regular maintenance of vehicles, and (iii) minimal pedestrian interaction with construction vehicles.<sup>389</sup>

261. The Panel notes that Road Safety has been a significant and ongoing concern for Management and recognizes the steps Management has taken to ensure improvements in road safety, particularly following the Request for Inspection. The Panel notes the Bank recorded concerns about traffic management as early as the March 2020 Aide-Mémoire stating the need to improve signage where there is greater movement of construction machinery, detours through construction areas, access to earth and material banks, and sectors in which material is transported.

262. The Panel believes that sufficient attention to the risk of serious accidents was not paid before receipt of the Request and that Road Safety concerns are an ongoing challenge for the Project. The Panel notes that adding worksites without a corresponding increase in safety equipment or in the Supervision Firm's and Contractor's resources would predictably exacerbate the shortcomings in Project road safety. The Panel notes that despite Management's efforts to ensure improvements in road safety, the implementation of adequate and effective road safety measures protective of local communities and road-users, including pedestrians, are not in place. The Panel notes the EHS guidelines focus on the construction phase road safety issues for local communities and road-users. **The Panel finds Management did not ensure adequate implementation of the ESIA and road safety measures to protect the community and workers' human health, safety, and livelihoods in non-compliance with OP 4.01, paras. 2 and 3.**

### **5.3. Occupational Health and Safety and Labor Working Conditions**

#### **5.3.1. Request for Inspection**

263. The Requesters and Chiquitano community members raised concerns about the Project's labor and working conditions, including the condition of worker camps, lack of safety training, delays in salary and overtime payments, back-to-back short-term contracts, grievances related to benefits such as accidental and medical insurance, and issues with timely delivery and replacement of personal protective equipment (PPE).

#### **5.3.2. Management Response**

264. The Response claimed the Project bidding documents and subsequent civil works contracts contain all the standard clauses and requirements related to labor under applicable Bank policies.<sup>390</sup> Management acknowledged delays in payment of workers, and other labor issues, and that these concerns have been brought to the attention of the Contractor and ABC.<sup>391</sup> Management stated some of these issues have already been resolved, and it has asked ABC to ensure that outstanding

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<sup>389</sup> The EHS Guidelines, p. 82.

<sup>390</sup> Management Response, p. 24, para. 81.

<sup>391</sup> Management Response, p. vii, para. xv.



labor issues are also settled. Management also requested Labor and OHS Audits (the “Audits”) for Project works, to be completed by April 15, 2023.<sup>392</sup>

### 5.3.3. Bank Policies

265. The Policy on Environmental Assessment (OP 4.01) requires assessment of a project’s potential environmental risks and impacts, and their avoidance, mitigation, or compensation.<sup>393</sup> The Policy aims at enhancing a project’s positive impacts and requires attention be paid to “*human health and safety*.”<sup>394</sup>

266. The EHS Guidelines provide direction and precautions on implementing and managing principal risks to occupational health and safety.<sup>395</sup> The Guidelines require contractors to have the technical capability to manage OHS, and base prevention and control measures on safety or job hazard analyses.<sup>396</sup> They stipulate that the training and information workers receive prior to commencing their assignments acquaint them with the specific hazards of their individual jobs and should cover among others, (i) knowledge of materials, equipment, and tools, (ii) the wearing and use of PPE, and (iii) the appropriate response to operational extremes, incidents, and accidents.<sup>397</sup> The Guidelines also require that health- and safety-related signage conform to international standards; that workers, visitors, and the general public are familiar with and understand worksite rules and precautions, as appropriate; that PPE is properly maintained; that lavatory facilities, such as toilets and washing areas, are adequate; and that clean eating areas are provided for workers.<sup>398</sup>

### 5.3.4. Panel Analysis and Observations

267. The Panel notes that the 2016 ESIA sets out the Project’s expectations for the management of OHS and working conditions, including detailed work environment management measures as described in its “Prevention and Mitigation Program,”<sup>399</sup> its “Camp Installation and Management Program,”<sup>400</sup> and, more specifically, its “Occupational Health and Safety Program sections.”<sup>401</sup> The Panel also notes that the ESIA commits the Project to follow the IFC/EBRD Guidelines for Workers Accommodation’s Process and Standards.<sup>402</sup>

268. The Panel notes that the Project’s February 2023 Implementation Status and Results Reports (ISR), rated the Project to be in compliance with the required site-specific safeguards.

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<sup>392</sup> Management Response, p. 24, para. 82. The Panel notes that Management's Response refers to a Labor and occupational, health and safety (OHS) Audit. The Panel notes Management subsequently commissioned two independent Audits on Labor and OHS. The Panel reviewed the findings of both Audits, which were shared by Management in September 2023.

<sup>393</sup> OP 4.01, para. 2.

<sup>394</sup> OP 4.01, paras. 2 and 3.

<sup>395</sup> The EHS Guidelines, p. 60.

<sup>396</sup> The EHS Guidelines, pp. 60 and 61.

<sup>397</sup> The EHS Guidelines, pp.63 and 64.

<sup>398</sup> The EHS Guidelines, pp. 62, 64, and 73.

<sup>399</sup> 2016 ESIA, p. 202.

<sup>400</sup> 2016 ESIA, p. 203.

<sup>401</sup> 2016 ESIA, p. 300.

<sup>402</sup> 2016 ESIA, p. 203. IFC/EBRD Manual and Guideline, August 31, 2009, Workers Accommodation: Process and Standards.

However, the Panel notes the February 2023 supervision mission identified several serious instances of noncompliance with key commitments made in the Project ESIA – a key safeguard document included as a legal covenant in the Finance Agreement – relating to the health, safety, and wellbeing of the Project workforce. A central issue raised during the mission concerned the poor labor conditions of the Contractor’s workers. According to the February 2023 Aide-Mémoire, workers were seen without PPE and working at heights without lifelines. It also identified a sub-base area operating without an Environmental Management Plan approved by the Supervision Firm, and there were noncompliant signage and safety measures in this area. The Aide-Mémoire concluded that no minimum working conditions were in place to promote the safety and cleanliness of the area.

269. In its February 2023 supervision mission, the Bank team, ABC, and the Supervision Firm jointly met with approximately 20 workers, without the Contractor. According to the Aide-Mémoire, workers raised concerns related to: (i) late payments, (ii) problems with environmental and safety measures and fair treatment of workers, (iii) lack of health insurance for some workers, (iv) delayed provision or compensation for transportation when accidents occurred at work, (v) insufficient PPE (clothing, gloves, boots) – workers, per contract, are to receive new equipment annually; many have used the same PPE for several years, (vi) insufficient supplies of basic necessities (e.g., hygiene products), (vii) inaction or risk of retaliation when these problems are reported, and (viii) complaints that were raised through the GRM go directly to the Contractor and not to ABC.

270. The Panel notes that following the February 2023 supervision mission, Management wrote a letter to the Ministry of Development Planning, requesting immediate action on the Contractor’s noncompliance regarding working conditions and OHS measures. The Panel notes that, in this letter, Management asked that these issues be resolved quickly and reminded the Ministry that the contract documents governing Contractor performance established mandatory working conditions and OHS management requirements. Management informed the Panel that the implementing party halted work at the construction site where Bank staff had observed noncompliance, until the issues were remedied. At the same time, Management asked that ABC carry out Labor and OHS Audits of the Project by April 2023, which Management confirmed were completed in September 2023.<sup>403</sup>

271. The Panel interviewed several Bank staff members involved in Project design and implementation. The Panel noted that during the interviews staff acknowledged Project shortcomings relating to OHS issues which they deemed unacceptable and, therefore, had been working to address. The Bank staff also recognized that ABC, the Supervision Firm, and the Contractor had limited ability to deliver rapid, effective solutions of the issues identified, or to supervise the Project’s OHS management. Bank staff highlighted the need to raise the Project’s capacity – including increased OHS supervision resources, enhanced OHS procedures, and additional OHS training for the workforce – to meet Project requirements.

272. In its meeting with the Panel before the March 2023 eligibility visit, Management acknowledged learning of Project-related labor issues in August 2021, when a dispute between the union and the Contractor escalated into a strike. The Panel also heard that a second strike took place in February 2022. Management explained that it requested more comprehensive data on

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<sup>403</sup> Annex 2, Management’s March 2023 written response, p. 9.

labor issues in September 2022. It said complaints had also been raised through the GRM. Management's March 2023 written response stated the most common of these concerned late salary and overtime payments; grievances about benefits such as accident and medical insurance, and severance pay; concerns about back-to-back short-term contracts, and issues with the timely delivery and replacement of PPE.<sup>404</sup> During its March 2023 visit, the Panel spoke with workers in different communities who voiced similar complaints. ABC told the Panel that most labor issues related to the Contractor's subcontractors and that these would be examined further through the Labor and OHS Audits.

273. The Panel notes that following its February 2023 supervision mission, Management increased the frequency of supervision visits to the Project with such visits being conducted in March, April, June, and August 2023 (as seen in figure 1 in Chapter 7). The Panel also notes the Bank's observations in the March and April 2023 Aides-Mémoires of continuing shortcomings in Project OHS management during these supervision visits. These Aides-Mémoires highlighted the Borrower's inability to perform its obligations in accordance with the safeguard instruments included in the Legal Agreement. The Panel noted these Aides-Mémoires described a lack of onsite Supervision Firm inspectors to monitor properly the work carried out by the Contractor and insufficient vehicles to allow the Supervision Firm to check the many worksites along the roadway. These Aides-Mémoires included specific actions to address these deficiencies, including a requirement to increase the number of OHS professionals in both the Supervision Firm and the Contractor, and more medical staff and ambulances to comply with safeguard policies and strengthen the Project's OHS performance. The April 2023 Aide-Mémoire stated the need for proper use of PPE at all worksites, and that safety talks must be reinforced. It cited other improvements needed, such as increased cleanliness of the dining rooms and kitchens at the worker camps, and better interior ventilation.

274. The Panel notes that the first mention of a significant increase in accidents involving workers, project machinery, and private road-users is in the April 2023 Aide-Mémoire, which reported six accidents in the prior three months without providing any details. The Aide-Mémoire, however, recognized the urgent need to analyze accidents, determine preventive and corrective measures to minimize the risks of accidents, and strengthen contingency plans in case of their occurrence. The Panel notes that this indicated that the required management and investigation processes for worker health and safety issues are not in place.

275. The Panel further notes that, according to normal practice, while a Project must regularly report its health and safety statistics, Project records on safety incidents involving workers or Project-related public accidents were not made available to the Panel. The Panel recognizes that establishing routine reporting of Project health and safety statistics – including a reliable and rapid incident reporting system, with an accurate incident log and timely reporting and investigation of all incidents – is a critical part of a properly functioning safety management system. Such details and investigation results of serious incidents are essential to understand patterns and root causes better and to develop measures to address shortcomings and deficiencies to protect both public and worker health and safety, as well as to prevent reoccurrence.

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<sup>404</sup> Annex 2, Management's March 2023 written response, p. 9.

276. During the Panel's visits to the Project area in March and September 2023, the Panel heard from workers about poor working conditions at some Project locations, insufficient supervision of safe work practices, the absence of safety measures, and inadequate safety signage on the road and at other worksites.

277. The Panel notes that after identifying the Project's OHS management deficiencies during the Bank supervision missions in February, March, and April 2023, Management issued a "Notice of Potential Disbursement Suspension" in May 2023 to the Government highlighting instances of noncompliance with ESIA/EMP requirements. The Notice required specific remedial actions be implemented on explicit timescales before it would be lifted. The Panel noted the OHS management deficiencies described in the Notice contained Bank team observations relating to inadequate use by many workers of PPE, including clothing (e.g., steel-toed protective boots, gloves, and helmets). For example, the Notice highlights that at several worksites in the ROW, workers were observed moving aggregate material and dirt with their bare hands and without hard hats, immediately beside active heavy machinery. Furthermore, the Notice described unsafe conditions at many borrow pits and insufficient road safety measures. The Notice mentioned deficiencies at the asphalt plants for the Project, including the absence of dust control measures at the Sapocó plant that posed a significant hazard to workers at the canteen and at an adjacent accommodation camp. The Notice stated the Bank team observed at least one worker at the Sapocó industrial site without a hard hat, reflective clothing, or other visible PPE while standing at the face of a hillside that was being excavated, and immediately beside an excavator that was being used.

278. The Panel notes the Bank's June 2023 supervision mission reported that some corrective actions assigned to ABC and the Contractor had commenced and observed the improvement in the availability and use of PPE. However, the same Aide-Mémoire pointed to the need for corrective actions regarding the hygiene and cleanliness of accommodation camps. The Panel observed that the Bank team viewed corrective actions as a "work in progress" and that numerous OHS issues remained at Project sites. The June 2023 supervision mission also observed issues in relation to transportation of workers in the back of truck beds at Project sites, which is an unsafe practice. The Panel notes that, in the Aide-Mémoire following the June 2023 mission, Bank staff acknowledged that remaining shortcomings would require continued, dedicated attention before the Project complied with all safeguard requirements.

279. The Panel notes after the Notice, independent Labor and OHS Audits were commissioned by the Bank. The OHS Audit was conducted across the Project areas during two visits – one in June 2023 and one in July 2023 – and the report was shared to the Panel in September 2023. The Panel reviewed the findings of both Audits.

280. The Panel notes that the Labor Audit found that the Contractor hired all subcontractors by direct invitation, rather than through a tender process. According to the Audit, the subcontractors violated workers' rights and the Contractor did not adequately inspect its subcontractor's or supplier's compliance with Bolivian labor regulations. The Audit also reported that no organized safe means of transportation from accommodation areas to the worksites are provided for most workers, who generally travel unsecured in the beds of dump trucks and the back of pickup trucks

or in vans. The Panel notes that the Labor Audit findings are particularly significant given the many, noncompliant activities require immediate, corrective action.

281. The OHS Audit report shared to the Panel in September 2023 detailed the full extent and depth of the serious deficiencies in OHS management for the Project. The Audit found that the Contractor had no apparent health and safety culture, that the available procedures did not comply with Project standards and norms, and that good health and safety practices were not promoted. According to the Audit, many standard health and safety management procedures were either lacking or missing such as inadequate or incomplete health and safety risk assessments, no indication of a functioning permit to work system, and no assurance plan in place for inspections or equipment checks. The Panel observes that the Audit also found there were insufficient resources to carry out inspections, that only two safety inspectors and two environmental inspectors from the Contractor were available for the entire Project area, and that the Project did not provide sufficient transportation for the safety and environmental personnel to supervise worksites adequately.

282. Furthermore, the Panel notes the Audit found no evidence of environmental, health, or safety meetings or a workforce safety training plan, limited recordkeeping, and no official procedure for investigating incidents. The Audit also found that the emergency plan had not been shared with the workforce, no training or emergency drills had been carried out, and there was no communication system to use in the event of an emergency.

283. The Panel notes the lack of connectivity between areas amplifies the generation of risks and that urgent measures are required to propose and implement organizational reengineering to address these issues. The Panel notes the Audit highlighted that current OHS practices in the Project area pose a high risk to the workforce. The Panel notes meeting these needs requires assigning specialized supervisors with appropriate experience and knowledge of OHS and the particularities of the high-risk sites along the length of the Project.

284. The Panel notes that, according to the Audit, conditions at the construction sites and associated support locations and facilities visited by the auditor were noncompliant with international norms for the protection of the workforce and the public and the overall safe management of Project activities. In addition to the Audit's findings of unsafe electrical and fuel systems at all sites visited, the audited industrial areas (Caballito de Oro, Miraflores, and Sapocó) displayed varying levels of poor order. The Panel notes the Audit found the sites lacked safety signs, insufficient barriers and rail guards, no area or activity risk analysis or work permit system, and inadequate fire-fighting equipment and emergency systems. The Panel noted that the Audit saw workers performing high-risk activities without permits, and untrained workers operating machinery. The Panel also notes the Audit cited inadequate PPE for many workers.

285. The Panel notes the auditor visited workforce accommodation camps at Miraflores, San Rafael, and Caballito de Oro and found seriously substandard conditions at all camps. The Bank's April 2021 and February 2023 Aide-Mémoires also highlighted the basic accommodation, which provided only rudimentary conditions for rest and meals with little consideration for the general welfare of the workers. According to the OHS Audit, the accommodations were dirty and unsanitary, and the kitchen areas were cockroach-infested; there were no deep cleaning or

fumigation programs at any of the camps. In addition, the Audit noted the electrical systems at all camps were unsafe and there were no fire protection or emergency procedures. The Panel noted the auditor described the temporary accommodations provided for three workers at one of the industrial sites as “*inhumane*,” and lacking space or appropriate facilities for hygiene or bathing.

286. The Panel notes the serious issues raised by the auditor – in particular, the absence of a safe and healthy environment for the workforce, no functioning health and safety system, poor working conditions, and insufficient training and onsite job supervision. The Panel recognizes that such conditions create a high-risk environment where unsafe acts and accidents are more likely.

287. The Panel notes that Bank staff conducted a return supervision visit to the Project area following release of the findings of the independent Labor and OHS Audits. The Aide-Mémoire for the August 2023 mission noted that many significant deficiencies remained as the Contractor was just beginning to address the many serious issues identified by the OHS Audit. The Panel noted that the Contractor was reportedly planning to incorporate the necessary corrective measures as part of a new OHS Management Plan (PGSST) for the Project, to be prepared by a specialized firm, by the end of September 2023. The Panel acknowledges that Management will verify implementation of these new measures in the field – including procedures and processes, recordkeeping, and reporting – in its next mission.

288. The Panel also noted that the August 2023 supervision mission recognized that the Contractor is required to implement adequate control of the number of inhabitants per camp, provide adequate conditions for the workforce’s welfare, and that rules for coexistence, order, and cleanliness to provide adequate conditions for rest, personal hygiene, and cleaning of clothes need to be established.

289. During its September 2023 investigation visit, the Panel spoke to two groups of workers at the San Rafael worker camp who explained that, although their living conditions had improved, they still believe them inadequate. According to these workers, the poor quality of camp accommodations and welfare hinders their ability to work safely. They mentioned that, whereas they previously shared a small room with eight other workers, they now share it with three. They also told the Panel their concerns about the hygiene of food preparation in the cafeteria for the Bolivian workers and said the camp had suffered a diarrhea outbreak two weeks before the Panel’s visit. The same workers said the Sapocó workstation cafeteria had so much dust, it made their food “crunchy.” The Panel notes that the “Notice of Potential Disbursement Suspension” stated the Supervision Firm claimed prevailing winds carry airborne dust from the crusher and asphalt plant into the canteen and camp. These workers told the Panel the camp lacks washing machines or a designated place for workers to clean uniforms impregnated with grease and oil, requiring them to hire women in the communities outside the camp to wash them.

290. During its September 2023 visit, the Panel spoke to workers who said they felt unfairly treated by Project supervisors, who they claimed managed Bolivian and Chinese workers differently. The workers also raised concerns over the lack of safety supervision, and the substandard and outdated construction machinery and tools supplied by the Contractor.

291. The Panel spoke to workers in Sapocó who said they had little knowledge about how to operate their machines and that more safety training about operating them would mean fewer accidents. In Medio Monte, workers said they had no proper place to eat, away from the dust and heat. In some of the communities the Panel visited, workers complained about the inadequate supply and late replacement of PPE. In September 2023, while driving along the entire the road, the Panel observed that most workers appeared to be wearing adequate PPE, although it did see some workers who were not wearing the appropriate PPE (see pictures below).



Pictures 10 and 11: Workers without appropriate PPE, observed by the Panel, adjacent to the road corridor.

292. During its September 2023 visit, in Quituquiña, Nuevo Horizonte, and San Antonio the Panel observed the accommodation used by subcontractor workers. In Quituquiña, the Panel saw a small room in a community member’s house rented to eight workers for approximately six months. The Panel notes the poor and unsanitary conditions of the room and its overcrowding. The Panel was told these subcontractor workers were paid late, which meant they could not pay their rent on time. In Nuevo Horizonte, the community showed the Panel the poor living conditions in a school classroom that housed two subcontractor workers (see picture below). In San Antonio, the Panel was told two subcontractor workers slept in the uncovered community meeting center. The Panel spoke to two community members from different communities, one of whom claimed had rented machinery to a subcontractor and was never compensated for its use; another person claimed to have allowed the subcontractor to use electricity from the person’s house for the construction of replacement housing and was not reimbursed.



Picture 12: Right - Subcontractor workers' accommodation in Nuevo Horizonte (San José de Chiquitos) school classroom shown to the Panel by the community.

293. In September 2023, the Panel observed that most of the worker contract issues raised in the Request had been addressed in the communities it visited. Workers employed directly by the Contractor told the Panel that ongoing contracts had replaced their previous, back-to-back short-term contracts. They considered this a major improvement in their working conditions, especially since most of them said they were now paid regularly – every 15 days. Most of the Contractor workers with whom the Panel spoke claimed they now have access to benefits, such as health care, hygiene kits, and replacement PPE. A few community members explained to the Panel that their medical coverage is only valid in Santa Cruz. All of them said they had signed the CoC and have received SEA/SH training.

294. The Panel acknowledges Management's efforts to intervene and respond effectively to the serious allegations of OHS violations in the Request and also raised by the Requestors, communities, and workers the Panel spoke to during its visits to the Project. The Panel notes that Management has assigned corrective measures to address the issues identified in the Audits as well as the specific actions included in Management's May 2023 "Notice of Potential Disbursement Suspension." However, the Panel observes that it was not until submission of the Request for Inspection, bringing attention to the gravity and extent of worker-related issues and a subsequent increase in the frequency of Bank supervision at site, that the Labor and OHS Audits were commissioned. The Panel notes that despite Management's improvements, the Contractor does not have a robust Health and Safety management system for the Project, that also includes sufficient OHS professional resource, which will impede the efforts to implement these corrective measures. Moving forward, the Panel stresses the need for the Contractor to put in place an effective management system.

### **5.3.5. Panel Findings**

295. The Panel reviewed the Project's relevant safeguard documents and believes that prior to submission of the Request in December 2022, there were considerable gaps in Management's attempts to ensure that the Project applied the specific OHS measures and standards that are included in the safeguard documents. These include standards and measures in the Prevention and Mitigation Program in the 2016 ESIA, a key Project safeguard document, which with specific



relevance to OHS. Additionally, the Panel notes in relation to accommodation and camp management, the 2016 ESIA also commits the Project to adopt the IFC/EBRD Guidelines for Workers Accommodation. The Panel notes the absence of an adequate worksite health and safety management system – resulting in inadequate processes and procedures, including weak risk assessment and therefore inadequate management of risk, improper and inadequate machinery and equipment, the lack or absence of workforce PPE, unsatisfactory site safety supervision, insufficient workforce health and safety training, inadequate incident reporting and investigation, and substandard workforce accommodations.

296. This lack of an OHS management system became apparent only after submission of the Request and the subsequent Management supervision, and the Bank-commissioned OHS and Labor Audits. The Panel acknowledges that Bank staff have recognized the deficiencies in Project OHS management, and the efforts made by Management after receipt of the Request to improve the serious issues related to OHS and labor working conditions.

297. Although the ESIA included prevention and mitigation measures for OHS, working conditions, and accommodation camps, the Panel observes significant shortcomings in their implementation. **The Panel finds prior to the submission of the Request, Management did not ensure implementation of OHS measures, including working conditions, which led to inadequate implementation of the ESIA, in non-compliance with OP 4.01 on Environmental Assessment, and the Bank’s Environmental Health and Safety Guidelines.** The Panel notes Management’s increased focus on this issue after the submission of the Request for Inspection, but there remain serious concerns regarding the capacity challenges of the ABC, the Supervision Firm and the Contractor in managing and implementing OHS measures until the completion of the Project.



## Chapter 6 - Sexual Exploitation, Abuse, and Sexual Harassment

### 6.1. Introduction

298. This chapter analyzes the allegations raised in the Request concerning the sexual exploitation, abuse, and sexual harassment (SEA/SH)<sup>405</sup> of females, including minors, by Project workers. It also describes the prevalence of GBV<sup>406</sup> in Bolivia, more specifically in the Department of Santa Cruz, home to the Chiquitania region, and summarizes the services and policies implemented by the Government to raise awareness, mitigate, and respond to GBV issues. The chapter examines the systems put in place by Management to address GBV and the adequacy of actions taken by Management in response to the concerns raised by the Requesters.

### 6.2. Request for Inspection

299. The Request alleged that workers hired by the Contractor for Project activities have committed SEA/SH on indigenous women and girls. The Requesters claimed several measures developed by the Project to prevent and respond to SEA/SH on children have not been implemented. Furthermore, the Requesters said that, despite their inquiries, the Project has not fully informed them about actions that have been implemented.

### 6.3. Management Response

300. In its Response, Management said the high prevalence of GBV in Bolivia prompted it to address SEA/SH issues in the Project from its early stages and to include in Project documents measures targeted to help prevent and respond to SEA/SH incidents.<sup>407</sup> Management added that such measures reflected good practice and lessons learned from Bank-financed road projects in Uganda and Democratic Republic of Congo.<sup>408</sup> Management stated that to apply those lessons, in 2019 the Bank retrofitted GBV components on all ongoing infrastructure projects. In this Project, retrofitting included strengthening GRM effectiveness, conducting information sessions for local residents about the Code of Conduct (CoC) and GRM, and training ABC and the Contractor on safeguards and GBV issues.<sup>409</sup>

301. The Response noted that between 2018 and 2022 the Bank conducted 11 missions, which included training and confirming that essential SEA/SH measures were in place.<sup>410</sup> Management explained that in April 2021, with the support of the Bank's Human Rights, Inclusion, and

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<sup>405</sup> The Request uses the phrase "sexual exploitation, abuse, and harassment (SEA/H)." For the purpose of this Report, the phrase "sexual exploitation and abuse, and sexual harassment (SEA/SH)" is used.

<sup>406</sup> GBV is "an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (gender) differences between females and males." It "is primarily used to underscore the fact that structural, gender-based power differentials around the world place women and girls at risk for multiple forms of violence. This includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or private life." Inspection Panel, 2020. [Insights of the World Bank Inspection Panel Responding to Project Gender-Based Violence Complaints Through an Independent Accountability Mechanism](#), p. 6.

<sup>407</sup> Management Response, p. 12, para 33.

<sup>408</sup> Management Response, p. 22, para. 74.

<sup>409</sup> Management Response, p. 23, para. 77.

<sup>410</sup> Management Response, p. 22, para. 75.

Empowerment Trust Fund, the Bank engaged a local NGO – *Proceso-Servicios-Educativos (Proceso)* – to work with the four municipalities’ *promotoras*.<sup>411</sup> Management stated, in 2021, 30 *promotoras* from four municipalities were trained in GBV and “masculinities”<sup>412</sup> by *Proceso*, and were given materials to disseminate in their communities.<sup>413</sup>

302. The Response said Management became aware in 2021 of a Project-related SEA/SH incident, and responded immediately to ensure that measures were in place to offer services to survivors, strengthen CoCs, report on GRM, and sensitize workers.<sup>414</sup> Management stated that, in September 2022, BIC informed it of alleged cases of SEA/SH, including those involving minors. Management explained that in response to these allegations the Bank and ABC agreed on a GBV Action Plan – with was consulted upon with key stakeholders including BIC and an NGO called Child Protection in Crisis, which is being implemented and “*progressing well*.”<sup>415</sup> Management stated that in January 2023, the San Rafael de Velasco SLIM and DNNA told the Supervision Firm about two cases of SEA/SH, and that immediate action was taken.<sup>416</sup>

#### 6.4. Bank Policies

303. The Bank Policy on Environmental Assessment (OP 4.01) requires the project EA to consider the “*human health and safety [and] social aspects*” of the project, among others.<sup>417</sup> According to this Policy, the EA considers natural and social aspects in an integrated manner, taking into account the variations in project and country conditions.<sup>418</sup> An EA identifies ways to improve project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts.<sup>419</sup>

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<sup>411</sup> Management Response, p. 22, para. 76. According to Management Response, *promotoras comunitarias* are women nominated from their communities, who assist in GBV prevention, monitoring, and reporting efforts in coordination with the Municipal Integrated Legal Services (*Servicios Legales Integrales Municipales*, SLIMs) and the Defenders of Children and Adolescents (*Defensoría del Niño, Niña y Adolescente*, DNNAs).

<sup>412</sup> According to the Management, “Masculinity” refers to the roles, behaviors and attributes associated with maleness. The training targets concepts and ideas about masculinity and femininity that are associated with violence against women and girls. Management Response, p. 22, Footnote 21.

<sup>413</sup> Management Response, p. 22, para. 76.

<sup>414</sup> Management Response, p. 23, para. 79.

<sup>415</sup> Management Response, p. 22, para. 73 and p. 23, para. 79.

<sup>416</sup> Management Response, p. 36.

<sup>417</sup> The Interim Guidance Note on Assessing Social Impact and Risks Under OP 4.01 states that “special attention should be paid to vulnerable or disadvantaged groups who could experience adverse impacts from the proposed project more severely than other groups.” It points out that “gender differentiated impacts should also be examined and the assessment should propose measures to ensure that one gender is not disadvantaged over another.” See, World Bank, Interim Guidance Note for Assessing Social Impact and Risks Under OP/BP 4.01 – Environmental Assessment, February 2012, p. 2.

<sup>418</sup> OP 4.01, para. 3.

<sup>419</sup> OP 4.01, para. 2.

## 6.5. Background of GBV issues, National and Local Contexts

304. **Prevalence.** Bolivia ranks fourth in Latin America and the Caribbean and first in South America in femicides,<sup>420</sup> and ranks as the second most violent against women in South America.<sup>421</sup> A survey conducted in 2016 by the Department of Statistics of the Bolivian Government indicates that 71.3 percent of women living in urban areas and 82.5 percent in rural areas reported some type of violence by their partner during their lifetime.<sup>422</sup> Pan American Health Organization’s data indicates that the prevalence in Bolivia of physical and/or sexual violence inflicted by a partner at some point in life is 58.5 percent – six of every 10 women.<sup>423</sup> Women also suffer violence in the social or public sphere defined as “*emotional and physical violence, sexual abuse and rape in public spaces, by friends, acquaintances, strangers or by family members other than the partner.*”<sup>424</sup> In the Department of Santa Cruz, where the Chiquitano region is, such offenses affect 79.2 percent of women at some time in their lives.<sup>425</sup> In 2023, the Department of Santa Cruz had the most complaints at the national level (18,131).<sup>426</sup> The Attorney General’s Office of Bolivia reports that out of the 51,770 registered cases, 22,985 were closed, while 2,656 are trial, others are in different stages of the process.<sup>427</sup>

305. According to a study conducted by *Proceso* as part of the Project, in small, rural communities – and especially in indigenous areas – the population considers GBV a private matter. This attitude deters victims from seeking help outside the family or community, tends to encourage revictimization, and fosters a sense of shame among survivors. These structural, institutional, and symbolic conditions perpetuate gender inequality and GBV, one of its most serious expressions. A problem as complex as GBV therefore requires assessments that weigh highly specific contextual and cultural considerations in order to avoid revictimization of survivors.<sup>428</sup>

306. **Legal and Policy Framework.** Article 8. II of the Bolivian 2009 Constitution incorporates gender equity as a crosscutting topic involving various Government policies and laws and establishes the fundamental rights of children and adolescents and their institutional protections (Art. 58-61).<sup>429</sup> Accordingly, there is a comprehensive Law to Guarantee Women a Life Free of Violence (No. 348 – March 9, 2013) and the Child and Adolescent Code Law (No. 548 – July 17, 2014).

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<sup>420</sup> UN Women, [Strategic Note – Bolivia 2022-2026](#), 2023, p. 4. ECLAC, [ECLAC: At Least 4,473 Women Were Victims of Femicide in Latin America and the Caribbean in 2021](#), November 24, 2022.

<sup>421</sup> UN Women, [Strategic Note – Bolivia 2022-2026](#), 2023, p. 3.

<sup>422</sup> EPCVcM, [2016 Survey on the Prevalence of Violence against Women in Bolivia](#), 2016, p. 25.

<sup>423</sup> PAHO, [Intimate partner violence in the Americas: a systematic review and reanalysis of national prevalence estimates](#), 2018, p. 4.

<sup>424</sup> EPCVcM, [2016 Survey on the Prevalence of Violence against Women in Bolivia](#), 2016, p. 63.

<sup>425</sup> EPCVcM, [2016 Survey on the Prevalence of Violence against Women in Bolivia](#), 2016, p. 63.

<sup>426</sup> The Specialized Prosecutor's Office for Gender and Juvenile Crimes, 2024. [Ministerio Público Registró 51.770 Casos de Delitos en Razón de Género en la Gestión 2023](#).

<sup>427</sup> The Specialized Prosecutor’s Office for Gender and Juvenile Crimes, [Ministerio Público Registró 51.770 Casos de Delitos en Razón de Género en la Gestión 2023](#), 2024.

<sup>428</sup> The Plurinational State of Bolivia - *Ministerio de Justicia y Transparencia Institucional/Servicio Plurinacional de la Mujer y de la Despatriarcalización*, [Protocolo Interinstitucional para la Atención y Protección a Niñas, Niños, Adolescentes y Mujeres Víctimas de Violencia](#), 2020, p. 122.

<sup>429</sup> The Plurinational State of Bolivia, *Constitución Política del Estado*, Article 8, Section II.

307. Article 1 of Law No. 348 establishes the right of all women “to be free from physical, sexual and/or psychological violence, both in the family and in society.”<sup>430</sup> The law’s central objective is to establish mechanisms, measures, and comprehensive policies for the prevention, care, protection, and reparation of women in situations of violence, as well as the prosecution and punishment of aggressors, in order to guarantee women dignified lives and the full exercise of their rights to live well.<sup>431</sup> Law No. 1226 amended Law No. 1173, and further strengthened its efforts to fight violence against children, adolescents, and women, and use preventive detention in crimes of family or domestic violence.<sup>432</sup>

308. In relation to rape against minors, the Penal Code states that if a crime of rape is committed against a person of either sex under 14 the perpetrator must receive a long sentence without the right to pardon.<sup>433</sup> In Bolivia, consensual relations between adolescents older than 12 are exempted from this penalty, provided the difference in age of the parties is no greater than three years, and no violence or intimidation has occurred.<sup>434</sup>

309. The most important public policy initiative on gender issues, prior to Law No. 348, was the National Plan for Equal Opportunities “Women Building the New Bolivia to Live Well” – Supreme Decree No. 29850, December 2008.<sup>435</sup> In practice this policy calls for implementing institutional mechanisms that guarantee women equal opportunities to access services and participate in decision-making, and the equitable distribution of economic, technological, and patrimonial resources. In this context, the state must make budgetary investments in six areas of development, including eradicating gender-based violence and strengthening institutional mechanisms for designing and executing the aforementioned national policies.

310. Three government systems make up the Protocol for Attention to GBV Survivors and the Critical Pathway.<sup>436</sup> These are the Municipal Legal Services, the Ombudsman's Office for Children and Adolescents, and the state network of community *promotoras* described as follows:

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<sup>430</sup> The Plurinational State of Bolivia, [Ley Integral para Garantizar a las Mujeres una Vida Libre de Violencia No. 348](#), 2013, Article 1.

<sup>431</sup> The Plurinational State of Bolivia, [Ley Integral para Garantizar a las Mujeres una Vida Libre de Violencia No. 348](#), 2013, Article 2.

<sup>432</sup> The Plurinational State of Bolivia, [Ley de Modificación a la Ley No. 1773 de 3 Mayo de 2019, de Abreviación Procesal Penal y de Fortalecimiento de la Lucha Integral Contra la Violencia a Niñas, Niños, Adolescentes y Mujeres](#), Article 1.

<sup>433</sup> The Plurinational State of Bolivia, [La Ley Penal](#), 1972, Article 308 bis.

<sup>434</sup> This is commonly referred to as statutory rape, and reforming it has been prioritized. On November 26, 2020, Supreme Decree 4399 was approved, which mandates the Ministry of Justice to develop, in a participatory manner, a project to modify Law No. 348: “2 proposals to modify art. 308 bis, on rape of an infant, child or adolescent, delimiting the age of the victim to under 18 and establishing that the crime is committed even if there has been consent and repealing the concept of statutory rape (ALSV, *Comunidad DDHH, CLADEM, Coord. Mujer, CIAPLM, PCAJDH, MTF Bolivia, Red Tarija, Obs. Exig. y otras and IJM, Misión Internacional de Justicia*) (Ministerio de Justicia y Transparencia Institucional, *Estado de Situación de Violencia Hacia Mujeres 2021 Bolivia*).

<sup>435</sup> Plurinational State of Bolivia, [Plan Nacional Para La Igualdad De Oportunidades Decreto Supremo No. 29850 de 10 de Diciembre de 2008](#).

<sup>436</sup> This process builds on the decisions and actions carried out by women, as well as the responses found in their search for solutions when they break silence on gender violence.

- **Municipal Legal Services (SLIM).** The SLIM is the Municipal Autonomous Government's specialized agency on GBV, which provides psychological, legal, and social services to promote prevention, offers protection and care in instances of GBV, and supports survivors with legal procedures until such crimes have been resolved. The SLIM is the main, local actor in the fight against GBV; it coordinates with other local institutions to provide effective protection and legal representation. The SLIM's interdisciplinary team comprises a lawyer, a psychologist, and a social worker. It is a primary care unit, and its functions range from providing temporary shelter to persons living in violent situations, supporting filing complaints with the *Fuerza Especial de Lucha contra la Violencia* (FELCV) or the Public Prosecutor's Office, and sponsoring and representing victims in criminal proceedings at the victim's request. The SLIM assists with i) assessing the case – diagnosing the situation and offering legal guidance, ii) managing the case – providing legal representation from the beginning of the process until its conclusion, and iii) closing the case – sentencing the perpetrator and rehabilitating the victim. The SLIMs depend on Municipal Autonomous Governments for resources and budgets.
- **Ombudsman's Office for Children and Adolescents (*Defensoría del Niño, Niña y Adolescente*, DNNA).** The Ombudsman's Office for Children and Adolescents is the professional technical body that integrates the municipal services defending and protecting children's and adolescents' rights in their respective municipalities. It is an interdisciplinary team comprising a social worker, a psychologist, and a lawyer. It is the primary care unit dealing with violence against children and adolescents in the municipality. Legal advisors file complaints with the FELCV or the Public Prosecutor's Office and represent criminal proceedings. The DNNA lodges the complaint, opens the case, intervenes in legal proceedings, and follows up at police and judicial levels. The DNNA also depends on Municipal Autonomous Governments for resources and budget.
- **State Network of Community *Promotoras*.** *Promotoras* are community-elected volunteers who serve as the first line of contact for GBV victims in their communities. *Promotoras* are generally GBV survivors themselves. They provide emotional support and safety. They pay careful attention to community dynamics and are alert to potential female victims of violence. They receive extensive training on how to accompany victims throughout the entire process, from complaint filing to resolution. The *promotoras* are obliged to report acts of violence and request protection orders even when victims would prefer not to report to the authorities.

## 6.6. Panel Analysis and Observations

311. **Identifying GBV Risks in Safeguard Documents.** The Panel notes that the 2016 IPP recognizes the vulnerabilities of Chiquitano women in relation to labor discrimination and gender inequality suffered as consequence of the patriarchal system of their communities.<sup>437</sup> The SA noted the presence of single-mother households in many of the Chiquitano communities due to prevalent, intimate partner violence.<sup>438</sup> As mentioned, the prevalence of intimate partner violence in Bolivia is particularly high, especially in the Chiquitania region.<sup>439</sup> However, the Panel notes that neither the SA nor the PAD detailed specific vulnerabilities of Chiquitano women and girls in relation to

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<sup>437</sup> 2016 IPP, p. 38.

<sup>438</sup> 2016 IPP, p. 33.

<sup>439</sup> EPCVcM, [2016 Survey on the Prevalence of Violence against Women in Bolivia](#), 2016, p. 25.

the Project context, such as exposure and risk for adolescent girls of approaches by Project workers.

312. As described in Chapter 2 above, the Panel notes that the 2015 SA assessed the situation of Chiquitano women. The 2016 IPP stated that the concern for GBV is exacerbated by the absence of municipal services made available in the local areas to protect vulnerable women.<sup>440</sup> The 2016 IPP adds that municipalities do not have good promotion of gender development and participation, these tasks are delegated to NGOs and there is no appropriation by local institutions, which is why raising awareness about women's rights is so difficult.<sup>441</sup>

313. The Panel notes the PAD identified that, given the Bolivian context, women in the Chiquitania region are highly vulnerable to GBV. The PAD specified that many Chiquitano women in the proposed Project area are single mothers and heads-of-households due to different types of GBV.<sup>442</sup> The PAD recognized the presence of SLIMs as competent agencies that handle cases of violence against women.<sup>443</sup> However, it describes limitations to accessing the SLIMs. According to the PAD, because of poor road conditions, women in the Project area have poor or no way to go and report gender violence to SLIMs.<sup>444</sup> The Panel notes that the PAD stated that “[the] municipalities in the project area do not fully promote women’s rights and do not recognize the gender-based discrimination issues.”<sup>445</sup> The PAD provides the following mitigation measure related to labor influx, “in the project’s first year, an assessment will be made by an independent consultant of the capacity of the SLIMs and DNNAs in each Municipality and the communities to respond to cases of GBV [sic] and child abuse.”<sup>446</sup> However, the PAD does not raise any risks associated with the Project or the presence of workers in relation to Chiquitano women and girls. The Panel notes that the assessments conducted for developing the PAD demonstrated that Government agencies neither fully promote women’s rights nor sufficiently recognize the problems of gender discrimination.

314. According to Bank staff, a GBV screening was conducted in 2017, during the early stages of the Project. Staff said this screening, which was computer-generated, indicated that Project-related SEA/SH risks were “low.” Following the screening, Management recommended that the Project identify a quality, GBV service provider accessible to complainants in the area. The Panel requested the GBV screening, but Management did not share the GBV screening results with the Panel, as it stated the tool is internal and cannot be shared, and the information is filled in at the time of assessment.

315. As mentioned above, this Project was retrofitted in 2019 as part of the World Bank’s GBV retrofitting of all ongoing projects.<sup>447</sup> In the case of the present Project, retrofitting included activities to strengthen the effectiveness of the Project’s GRM, information sessions for local

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<sup>440</sup> 2016 IPP, pp. 33 and 34.

<sup>441</sup> 2016 IPP, pp. 33 and 34.

<sup>442</sup> PAD, p. 17, para. 66.

<sup>443</sup> PAD, Annex 3, p. 52, para. 72.

<sup>444</sup> PAD, Annex 6, p. 73, para. 26.

<sup>445</sup> PAD, Annex 3, p. 52, para. 72.

<sup>446</sup> PAD, Annex 3, p. 57.

<sup>447</sup> Management Response, p. 23, para. 77



residents on the Project’s Code of Conduct and the GRM, conducted jointly by the Contractor and the Supervision firm, and training of ABC and the Contractor on safeguards and GBV issues.<sup>448</sup>

316. The Panel observes that the 2022 IPP and 2022 SA assessed the functioning of SLIMs in 2021. The assessment recognized that some people confuse the roles and functions of the SLIM and the DNNA and that, despite their existence, the communities claimed the municipality lacks specialized services on GBV.<sup>449</sup> The assessment suggested the absence of budgets for providing these services is the biggest challenge facing municipal authorities.<sup>450</sup> The Panel notes that community lack knowledge about the agencies that handle cases of violence against women was not identified by the Bank in earlier consultations for the original 2016 IPP. Furthermore, an assessment conducted by *Proceso* observed that limited human resources hampered the SLIMs’ outreach to communities.

317. The 2022 IPP described that during the consultations process, the *centrales* proposed that the IPP include a component on training and monitoring for the prevention of GBV. The 2022 IPP stated that indigenous organizations are responsible for follow-up and monitoring of GBV prevention through the community *promotoras*.<sup>451</sup>

318. The Panel also notes that the Project assumed women who suffer violence would immediately report their cases to the authorities, and that the only constraint on reporting was the money the victim would have to pay for transportation costs to the SLIM offices. The Panel notes that the safeguard documents it reviewed did not consider the local culture and customs, the social distrust of relevant agencies, the perpetrators acting with impunity – even in cases that are charged, and the stigma suffered by GBV survivors.

319. The Panel notes that despite the high prevalence of GBV mentioned in the safeguard documents, the GBV screening designated the Project as “low” risk for Project-related GBV issues. The Panel also notes that the Project did not initially assess the exposure of adolescent girls to SEA/SH committed by Project workers. The Panel notes the assessments identified local women’s and girls’ general lack of knowledge of the SLIMs/DNNAs and the 2022 IPP finding on their limited access to the SLIMs and their lack of resources. However, the Panel notes that since allegations of SEA/SH have come to light, the Project has continuously addressed such weaknesses, such as lack of knowledge among many women and girls about their existence, difficulties in accessing them due to transportation challenges, and recognizing the constraints on SLIM resources and staffing.

320. **SLIMs.** During its field visits, the Panel was told by SLIM personnel that each office is supposed to have a staff member supported by a lawyer, a psychologist, and a social worker who handles cases of violence against women and children. The 2022 IPP states the “*precarious situation of the SLIM has been demonstrated because they have few staff, which does not allow them to carry out all their activities.*”<sup>452</sup> In September 2023, the Panel observed that, of the four

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<sup>448</sup> Management Response, p. 23, para. 77

<sup>449</sup> 2022 IPP, p. 60.

<sup>450</sup> 2022 IPP, p. 60.

<sup>451</sup> 2022 IPP, pp. 170, 177, 180, and 183.

<sup>452</sup> 2022 IPP, p. 25.

municipalities the Panel visited, two (San Jose and San Ignacio) had complete SLIM/DNNA teams; the other two (San Miguel and San Rafael) were staffed only with a psychologist and a lawyer due to insufficient resources and the low priority given to hiring social workers. The Panel noted that, in all four municipalities, underfunded SLIMs and DNNAs share offices and staff, who appear to have dual functions. SLIM staff told the Panel that they are understaffed and lack the resources to meet all their responsibilities. The Bank’s September 2022 Supervision mission also identified SLIM and DNNA needs for personnel, equipment, materials, and transportation resources to provide services to survivors and adequate follow-up, especially since some communities are located farther from the SLIM/DNNAs.

321. The SLIMs’ staff with whom the Panel met explained that even when cases are brought to SLIMs that have the financial resources and personnel to support them, victims do not necessarily pursue criminal charges because of the high costs/legal fees, lengthy processes, and high levels of impunity of perpetrators. According to SLIM staff, family members also discouraged many survivors from making formal criminal charges against the perpetrators.

322. During the Panel’s September 2023 visit, the Panel spoke with *Proceso*, the NGO hired by the Bank to assess the capacity of the SLIMs/DNNAs. *Proceso* explained that, as of 2023, with support from the Bank it has provided financial assistance to help SLIMs cover victims’ travel expenses, as well as costs related to training SLIM staff. The Panel notes this was done in order to address SLIM weaknesses that earlier assessments did not identify. The SLIMs in four municipalities told the Panel that, as of early 2023, the Contractor is covering the transportation costs to the SLIM offices for survivors of GBV committed by Project workers once a case is reported.

323. The Panel notes that in its November 2023 Response, Management stated SLIMs were responsible for training, certifying, and keeping records of the *promotoras*.<sup>453</sup> During its September 2023 visit, the Panel spoke with SLIM staff who stated they had no records of the *promotoras* for each municipality nor did they necessarily know when they were changed by the community to undergo retraining.

324. **Promotoras.** As noted above, *promotoras* are volunteers chosen to be the first line of contact for GBV victims in their communities. According to Article 14 of Bolivian Law No. 348, the central levels of the State and Municipal entities are expected to raise awareness and train all who care for women in situations of violence, including *promotoras*.<sup>454</sup> The Panel notes that *promotoras* also follow up on SEA/SH cases reported to them and accompany the victims throughout the process.<sup>455</sup>

325. The Panel notes that in 2021, the Bank engaged with *Proceso* to train 30 *promotoras* from the four municipalities on GBV and “masculinities,” and gave them materials needed to replicate

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<sup>453</sup> Annex 3, Management’s November 2023 written response, p. 11.

<sup>454</sup> Plurinational State of Bolivia – Ministry of Justice and Institutional Transparency, [Guía Formación para Promotoras Comunitarias en Prevención de la Violencia en Razón de Género](#), 2020, p. 5.

<sup>455</sup> Plurinational State of Bolivia – Ministry of Justice and Institutional Transparency, [Guía Formación para Promotoras Comunitarias en Prevención de la Violencia en Razón de Género](#), 2020, p. 11.

this training in their communities.<sup>456</sup> The Panel also notes that the revised 2022 IPP included further training, certification, and support of the *promotoras* in community-based, GBV prevention efforts.<sup>457</sup> According to Management’s November 2023 Response, in 2023 the focus shifted mainly to supporting service delivery by SLIMs and DNNAs, training *promotoras* (after they were re-engaged and trained in more communities, as specified in the Project’s IPP), and raising awareness among local and community leaders. The Response further stated that when training *promotoras*, *Proceso* works in collaboration with the SLIMs.<sup>458</sup>

326. During its March and September 2023 field missions, the Panel spoke to *promotoras* in most of the communities it visited and heard about some of the challenges they face. In one community, the Panel met a woman who claimed she had resigned as a *promotora* due to the high costs associated with the position. In another, it spoke to a former *promotora* who claimed she resigned because she received threats from the community for bringing allegations to the SLIM. The Panel notes that such factors create a high turnover of *promotoras* and the need to constantly retrain them.

327. The Panel notes that the training of *promotoras* in the prevention and mitigation of SEA/SH was proposed by the *centrales* as an IPP initiative in the 2022 IPP. The communities suggested *promotoras* be trained to bridge gaps in their knowledge, access to specialized services, and skills. The IPP for the San José de Chiquitos *Centrale* stated that “*GBV training will be carried out for the population and network of promotoras centrales [sic], in addition to supporting the strengthening of the network of promotoras [sic] who will be able to provide support to the incidents that occurred in the communities in coordination with SLIM.*”<sup>459</sup> During its September 2023 visit, the Panel met with the *centrales’* leaders and learned that each *centrale* has allocated a portion of its budget to strengthen GBV-related services and/or training. The Panel notes that a budget for training *promotoras* was omitted from the Social Management Plan.

328. According to Management’s November 2023 written response, “[t]he IPP establishes that once *promotoras [sic] are trained and certified, they must transmit their roles and knowledge to their communities. Supervision staff are responsible for monitoring and implementing the IPP, including working with promotoras [sic], and ensuring they are properly set up for this role.*”<sup>460</sup>

329. The Panel notes that *promotoras* with whom it spoke during its September 2023 visit said that, among their other responsibilities, they are expected to replicate in their communities the training they receive from either *Proceso* or the SLIMs. The Panel notes the *promotoras* confirmed they are doing this in most communities, although they said they lack sufficient knowledge and resources to cover the law and its implications appropriately. *Proceso* and SLIM staff told the Panel that SLIM and/or *Proceso* personnel are expected to accompany *promotoras* when they train their communities, but SLIM staff stated they often lack the resources, budget, or time to do so.

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<sup>456</sup> Management Response, p. 22, para 76.

<sup>457</sup> Management Response, p. 22, para 76.

<sup>458</sup> Annex 3, Management’s November 2023 written response, pp. 10 and 11.

<sup>459</sup> 2022 IPP, p. 170.

<sup>460</sup> Annex 3, Management’s November 2023 written response, p. 11.

330. **Code of Conduct and Worker Training.** The Panel notes that the ESIA/EMP explicitly directed the Contractor to establish and enforce an employee Code of Conduct (CoC) that included prevention of HIV/AIDS and/or sexually transmitted diseases (STDs), prohibition of gender-related violence, treatment of minors, and other behaviors adversely affecting community residents.<sup>461</sup> The Contractor's social team is required to train all Contractor and subcontractor workers on the CoC.<sup>462</sup> According to the ESIA/EMP, this training will be supervised at least once a year and be provided to every worker as frequently as needed.<sup>463</sup> The ESIA/EMP stated that each worker's contract must include a clause requiring compliance with the CoC and that ABC and the Supervision Firm will monitor said compliance.<sup>464</sup>

331. The Panel reviewed the CoC and notes that the Project's commitments to preventing GBV prohibit:

- a) Sexual Harassment (such as language or behavior – particularly towards women or minors – that is inappropriate, harassing, abusive, sexually provocative, humiliating, or culturally inappropriate);
- b) Any type of sexual activity with or abuse of minors or women in the communities, otherwise unacceptable behavior with children, and interactions with minors that threaten their safety in the project area;
- c) Actions or attitudes that promote or generate gender violence (such as physical, mental/psychological, or sexual harm or suffering, threats of such acts, coercion, and deprivation of liberty);
- d) Sexual exploitation and abuse (the exchange of employment, goods, or services for sex, or other forms of humiliating, degrading, exploitative behavior, or abuse of power), and
- e) Child abuse, inhumane treatment, sexual activity with minors, and sexual harassment.

332. The Panel notes the CoC acknowledged that the Contractor is responsible for deciding the sanctions imposed on workers who are involved in acts of misconduct or fail to comply with their obligations. According to the CoC, workers who violate the prohibitions will be sanctioned according to the severity of the offense. Sanctions include verbal or written notification, a monetary penalty, and/or dismissal. The Panel notes the CoC further stated that all types of violence identified in Law No. 348, as well as any form of sexual exploitation or abuse of a minor, will be considered a serious offense, will be forwarded to the relevant legal authorities for investigation, and may result in immediate dismissal.

333. After the first Project-related GBV incident was reported to Management in October 2021, the November 2021 supervision mission assessed the incident and identified the need to both enhance the quality and increase the frequency of training on the CoC and GBV. Following development of the GBV Action Plan, the Panel observed improvement in Contractor reporting on CoC orientation activities in the supervision documents. This included recording the number of workers attending CoC training, the topics covered, and the camps where it took place. The Supervision Firm's monthly reports also highlight the effective collaboration between the

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<sup>461</sup> 2019 EMP, pp. 15 and 82.

<sup>462</sup> 2019 EMP, p. 82.

<sup>463</sup> 2019 EMP, p. 82.

<sup>464</sup> 2016 ESIA, p. 318.

municipalities, who lead the joint supervision work with the SLIMs/DNNAs to deliver educational talks. The Contractor's workers with whom the Panel met confirmed receiving training by social specialists from the SLIMs, the Supervision Firm, and the Contractor.

334. The Panel notes that the earlier supervision documents do not provide data on the number of workers who received training and/or signed the CoC. The Panel notes improvement in the reporting from mid-2022, and an even greater improvement in 2023 after submission of the Request and the development of the 2022 GBV Action Plan. During its September 2023 visit, the Panel spoke to groups of Contractor workers in several communities and at the San Rafael worker camp and was told that all the workers received multiple SEA/SH trainings and had signed the CoC at least once. The Panel observed that the Contractor's workers with whom it spoke at the San Rafael camp understood the requirements of the CoC, including what was prohibited and the consequences of violating the CoC. The Panel observed that all the communities it visited had signs explaining the CoC and other matters such as instructing workers not to drink alcohol during work hours.

335. **Training.** The *centrales* told the Panel that during the 2022 IPP consultation process, they proposed a GBV training and monitoring component be included in the revised IPP. According to the *centrales*, this IPP included a budget for GBV prevention and stated that collaboration among the Municipality, the Contractor, and the Supervision Firm was needed to implement training effectively. During its September 2023 visit, all four *centrales* told the Panel that the Supervision Firm is managing their IPP budget and disbursing the financing for the IPP activities. The *centrales* said they do not know how much of their GBV budget is used for GBV training in general, or how much has been spent on training and transporting *promotoras*. The Panel notes that it is unclear to some *centrales* which GBV training is being paid from their IPP budget and which training is a Project or Municipal responsibility.

336. The Panel observes the revised 2022 IPP includes training and technical support of the *promotoras* for GBV prevention in communities.<sup>465</sup> During the investigation phase, the Panel spoke with *Proceso*. During its September 2023 visit, the Panel learned from *Proceso* that in May 2023, the *promotoras* in the four municipalities underwent three days of training, were certified, and received *promotora* community manuals, vests, caps, and notebooks. The Panel reviewed the training manual and saw the vests and caps. The Panel notes that the training manual does not mention any risks associated to the Project or Project workers.

337. The Panel notes that it was only in October 2021, following the Bank's development of the 2022 GBV Action Plan, that specific training targeted to school children and adolescents was developed and implemented. The 2022 GBV Action Plan also increased the number of *promotoras* allocated to the communities, as well as their training on how to take a survivor-centric approach<sup>466</sup> to GBV survivors.

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<sup>465</sup> 2022 IPP, p. 184.

<sup>466</sup> Survivor-centric approach is, "based on a set of principles and skills designed to guide professionals – regardless of their role – in their engagement with survivors (predominantly women and girls but also men and boys) who have experienced sexual or other forms of violence. The survivor-centered approach aims to create a supportive environment in which the survivor's interests are respected and prioritized, and in which the survivor is treated with dignity and respect. The approach helps to promote the survivor's recovery and ability to identify and

338. In September 2023, members of most of the communities told the Panel they had received more frequent GBV training from different entities since April 2023. Community members said they had been trained at the community level and that students had received training in schools. *Proceso* told the Panel it has been training teachers, *Caciques*, parents in the communities, and SLIM officials. The Director of the Gender, Generational, and Family unit of the San Ignacio de Velasco mayor's office told the Panel that officials are generally unaware of the new Law No. 348 and therefore require training on it.

339. **Location of Worker Camps.** In September 2023 the Panel visited two of the four main worker camps. In one camp it met with two groups of workers and the Contractor. The Contractor informed the Panel that the workforce comprised approximately 477 Bolivians, of whom 69 percent were local workers from the Project area and the rest from elsewhere in Bolivia.

340. The Contractor told the Panel that ABC had verbally advised it that worker camps should be at least five kilometers from the nearest community. The Contractor also said the Miraflores worker camp was an exception, since no suitable site met this ABC directive, and therefore the Contractor negotiated with the community to use their land for a camp. During its September 2023 visit, the Panel met with local leaders in Miraflores and notes that some leaders claimed the worker camps should be at least 15 kilometers away to prevent workers from disrupting community life. The Panel notes that one leader said the community understood it had authorized the Contractor to build a "construction site" on their land and did not know a worker camp would be established there in addition to the construction site.

341. The Contractor told the Panel that the Sapocó worker camp was originally near the "chancadora" site used to crush rocks, five kilometers from the community, but later moved approximately three kilometers closer to the Sapocó community. The Contractor said camps could accommodate up to 150 workers and that, when this number was reached, workers were allowed to rent rooms in the community as long as they adhered to the strict requirements of the CoC. The Contractor maintained that workers could only rent rooms outside of a camp when the camps were full. The Contractor told the Panel that local workers could live in their own homes and were allocated to worksites close to their villages.

342. The Panel met with some workers who rented rooms in the community. They were aware of the CoC and the restrictions contained in it. In Quituquiña, Nuevo Horizonte, and San Antonio the Panel was told that workers of one of the subcontractors had either rented rooms in community members' households or slept in community centers. The women with whom the Panel met in these communities said these workers encountered small children and women who were not warned about the GBV risks involved.

343. It is the Panel's understanding that the SEA/SH risks to women are higher in certain communities than others, particularly those near worker camps or that host workers, such as Miraflores. During its field visit, the Panel spoke with the San Rafael SLIM and to community

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*express needs and wishes, as well as to reinforce the survivor's capacity to make decisions about possible interventions.*" World Bank, [Good Practice Note: Addressing Sexual Exploitation and Abuse and Sexual Harassment \(SEA/SH\) in Investment Project Financing Involving Major Civil Works](#), February 2020.

members about alleged cases of workers' engagement with underage women. According to the SLIMs, in these cases customary reconciliation was conducted between *Caciques* and the parents. The Panel spoke with some women in Miraflores who said Project workers visit their community to socialize and drink approximately every 15 days.

344. **Reporting of SEA/SH Cases Involving Project Workers.** The Panel notes that on October 2021, the Supervision Firm informed ABC of an alleged assault by subcontractor's employees living in the La Fortuna camp. According to internal reports on the case, the FELCV investigated; the alleged perpetrators were detained in the camp and made available to the prosecutor. They were released after being questioned, and the Contractor transferred them to another camp to separate them from the survivor, also a Project worker. The Panel notes that soon after the incident, ABC designated a social specialist to monitor follow-up on the incident and submitted weekly reports to the Bank.

345. The Panel observes that the May 2022 Aide-Mémoire reported that, as a result of this first incident, the Project increased the SEA/SH risk rating from "low" to "moderate." After this, the Project took several measures to manage the SEA/SH risk, including hiring two social specialists for the Contractor and the Supervision Firm. Additionally, according to the incident report, the Bank sent a letter to ABC on November 18, 2021, urging it to take corrective actions addressing retaliatory measures against the Project worker who was assaulted and reported this. In its May 2022 supervision mission, the Bank stated it had yet to hear from ABC regarding this October 2021 GBV incident. According to the ESIRT Reports, ABC eventually responded to the Bank in December 2022, seven months later. On September 13, 2022, BIC informed the Bank about alleged cases of SEA/SH – including of minors – linked to the Project in the municipalities of San José de Chiquitos and San Rafael. Therefore, the Bank's September 2022 mission reassessed the existing GBV prevention and mitigation systems. The mission team recognized the need for tripartite collaboration agreements among the municipalities, the Contractor, and the Supervision Firm to strengthen the grievance systems, to increase the number of *promotoras* and the training provided to them, and to support SLIMs and DNNA with resources and transportation assistance. The mission team's Aide-Mémoire also acknowledged the need for channels outside the existing GRM for reporting cases of sexual abuse and harassment, since such delicate subject matters required an environment of exceptional trust and confidentiality.

346. Under the 2022 GBV Action Plan, the Contractor's and Supervision Firm's contracts were revised to include the requirement to promptly inform ABC of any SEA/SH case within 24 hours, irrespective of any subsequent efforts to ascertain whether the incident is associated with project workers or not.

347. The Panel reviewed the detection of and follow-up on seven allegedly Project-related incidents reported to the SLIMs in 2023. The Panel notes that four of these incidents concerned intimate partner violence, and the other three cases involved minors. In January 2023, the San Rafael SLIM/DNNA issued a first report revealing that a worker had harassed two adolescents – a 16- and a 17-year-old – via text messages. Despite the DNNA's insistence that the incident be pursued further through the official process, the girls' mothers declined to report the cases and opted for a private agreement in which the perpetrator committed to no longer bother the teenagers. The Ombudsman's office – DNNA – did not intervene in the resolution of this case. The Contractor

issued a warning of dismissal should the harassment recur, and the perpetrator signed a commitment to good behavior to keep his employment.

348. Two cases of GBV involving Project workers were reported in the March 2023 Supervision Firm Monthly Report. This report stated that one case was classified as statutory rape and the other as intimate partner violence. The report stated that the statutory rape case was reported to the San Ignacio de Velasco SLIM/DNNA. According to the Bank's incident ESIRT and the violence case log, a Project employee had a romantic relationship with a minor with her parents' permission. When she became pregnant, a joint intervention by the San Ignacio de Velasco SLIM/DNNA and the FELCV determined – with the consent of the minor's mother – that the employee would provide family assistance to the pregnant minor and recognize the unborn child, thereby ensuring the welfare of the minor and her child. Although this case was classified as a “serious” incident in the report, it was not brought to the prosecutor's office and the Contractor allowed the worker to continue to work to cover the monthly family assistance payments.

349. The September 2023 Supervision Firm Monthly Report indicated that the San Rafael SLIM/DNNA informed the Contractor of an attempted rape involving a Project worker. According to the case's ESIRT Report, the Contractor immediately coordinated with the SLIM/DNNA and provided the victim with transportation to the SLIM office. When the ESIRT report was filed, the Contractor's human resources department revealed that the perpetrator had ended his contractual relationship with the Project in the month prior to the incident being reported. According to the GRM log and Bank's ESIRTs, the alleged perpetrator in this case is the same man who had harassed the 16- and 17-year-old adolescents via text messages, described above. The September 2023 Supervision Firm Monthly and ESIRT reports stated that, as the perpetrator no longer had contractual ties with the Contractor, the case did not merit follow-up. The ESIRT report also stated that because this demonstrated recidivism within the Project's area of influence, the Contractor should increase prevention activities in the reporting sector where the incident occurred.

350. The ESIRT records the Panel reviewed show different sanctions were imposed in each of the four cases of intimate partner violence. In one of the cases, the Contractor sent the worker a “Memorandum of First and Last Call of Attention” with a strong warning about noncompliance with Law No. 348 and the CoC. Since the worker committed a serious offense, he was instructed by the Contractor to attend CoC reinforcement training weekly for four weeks. In another case, the Bank's ESIRT report stated the Contractor recommended that the GBV social specialist call attention to this noncompliance with the CoC, with a warning of more drastic measures should the event recur, since the problem did not occur at work and was not directly related to the Project. The ESIRT reports show that the worker who harassed the two minors only had to sign an agreement to behave properly – a commitment, the Panel notes, that was subsequently violated. The Panel further notes the weak sanction imposed by the Contractor for the first violation, which did not deter that worker from committing another. The Panel observes that in all five incidents involving Project workers the perpetrators received only warnings from the Contractor.

351. The Panel observes that no guidance or principles appear to calibrate consequences to the severity of the offense. The Panel notes that the perpetrators of most incidents received warnings and that the sanctions levied do not seem based on the gravity of the incident. The Panel notes that



while extensive, preventive training is provided to SLIMs/DNNAs and communities, there is little information available on appropriate sanctions.

352. The Panel notes the five incidents reported to the SLIMs since the start of the civil works in September 2019 demonstrate that the Project's reporting mechanism on SEA/SH incidents is being used. The Panel also notes that this indicates it has become better integrated with Government systems over the life of the Project. The Panel further notes that Bank financial support allowed *Proceso* to provide financial support for the victims to access the SLIM/DNNA to report and formally file the incidents with the Public Prosecutor. However, the Panel observes that the supervision documents reveal neither follow-up actions nor effective sanctions by the Contractor on perpetrators, which is inconsistent with the CoC.

353. During March and September 2023, the Panel spoke with women in all the communities it visited, as well as with the SLIMs/DNNAs in the four municipalities and was unable to verify the GBV allegations raised by BIC. The Panel did not hear about widespread cases in its meetings with the communities, including during focus sessions with the women and *promotoras*. The Panel only learned from secondary sources of possible, isolated incidents involving minors and Project workers. Based on the Panel's document review and its field observations, the Panel believes SEA/SH cases related to the Project do not indicate a systemic issue.

354. In September 2023, several communities told the Panel different reasons why women and girls do not bring forward their GBV-related complaints. The Panel notes that many people in the community consider GBV a private matter or one internal to the community. Obstacles to seeking help include the shame experienced by the victims and their families, self-censorship, and peer pressure from within the communities not to publicize such matters. The Panel understands from its meetings that intimate partner violence is the most common form of GBV, and this could be a reason such taboos exist against reporting.

355. *Centrales* leaders and *Caciques* told the Panel that indigenous communities prefer to resolve these issues using their existing customary systems, which typically means through a communal assembly and mediation by the *Caciques*. This traditional approach is also seen as more accessible, given the complexity and costs of reporting incidents through the municipal systems, which seldom resolve cases or result in prosecution, much less conviction, of perpetrators, as noted above.

356. **GRM.** The Project's GRM includes a specific mandate to report and address any kind of GBV prescribed by Law No. 348, which guarantees women freedom from violence.<sup>467</sup> The PAD stated that the GRM will work closely with the SLIM/DNNA of each municipality, refer complaints to Government entities, as appropriate, and follow up each case until resolved.<sup>468</sup>

357. As stated in Chapter 3, the grievance registration system is managed jointly by the social specialists of ABC, the Supervision Firm, and the Contractor for the registration and monitoring of the different claims.<sup>469</sup> According to the table of responsibilities in the March 2023 Aide-

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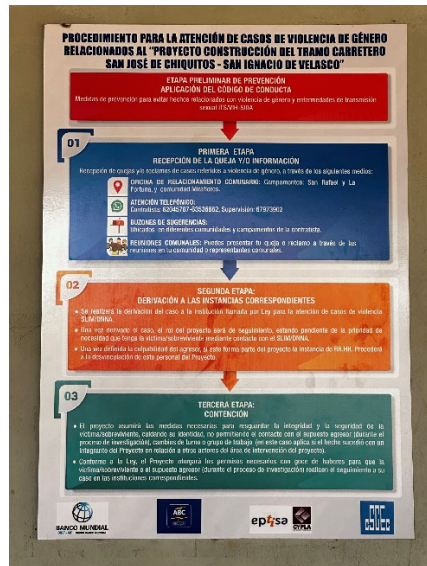
<sup>467</sup> PAD, Annex 3, p. 55.

<sup>468</sup> PAD, Annex 3, p. 57.

<sup>469</sup> 2022 IPP, p. 196.

Mémoire, going forward both the Contractor and Supervision Firm should record all complaints and claims that are presented, even if they are resolved on the day or in a short period. The August 2023 Aide-Mémoire states that, in accordance with the commitments established in the GBV Action Plan, two social Specialists with specialization in Gender-Based Violence are to be hired by the Contractor and Supervision Firm to handle all complaints related to GBV.

358. As explained in Chapter 3, the Project has multiple channels through which communities can raise grievances.<sup>470</sup> During the Panel’s September 2023 field visit, it observed that some communities had signs on how to raise concerns related to GBV, as well as guidance to workers on their behaviors as per the CoC (see pictures below). Nevertheless, the communities feel they cannot access most of these channels, particularly the GRM, believing they neither serve a useful purpose nor appreciate the realities of the Chiquitano way of life. The Panel understands that the Chiquitano are an indigenous group who mostly rely on their customary dispute settlement process, overseen by the *Caciques*, to resolve community concerns. During the Panel’s September 2023 visit, the SLIMs and community members told the Panel that survivors usually prefer to ask their *Caciques* for help with internal community disputes or personal complaints. The Panel notes the Project’s efforts to train and sensitize the *Caciques* on the seriousness of SEA/SH, and to include them in the GRM process.



Pictures 13 and 14: Left - A poster in one of the communities that explains the process of raising GBV concerns. Right - A sign in one of the communities that provides guidance to workers on their behaviors as per the CoC.

359. In September 2023, the Panel learned ABC broadcast an announcement on local radio explaining some of the channels that community members can use in case of SEA/SH. Women in some of the communities told the Panel they found this broadcast informative and engaging, like a “*novela*.”

<sup>470</sup> 2022 IPP, pp. 196-199.

## 6.7. Panel Findings

360. The Panel notes the high prevalence of GBV in Bolivia and that the Department of Santa Cruz, where the Project is located, has the most GBV-related complaints in the country. The Panel further notes the specific vulnerabilities of indigenous communities to SEA/SH risks, including to adolescent girls and children. The Panel notes that underreporting of SEA/SH incidents is common in both the country and the Chiquitania region. The Panel heard from the Chiquitano communities about social taboos against reporting SEA/SH incidents, that significant self-censorship exists in the communities, and that perpetrators acting with impunity deter pursuit of formal charges.

361. The Panel notes that the Project recognized the high prevalence of GBV risks early on and has put in place a system for preventing and managing SEA/SH concerns and incidents, which has been continuously strengthened and improved as incidents and allegations are reported. The Panel notes that, according to the cases reported in 2023, the reporting system feedback loop appears to work.

362. The Panel agrees with Management that collaborating with the state's legal institutions, in line with Bolivian Law No. 348, and using the national systems to prevent and manage GBV allegations is appropriate for the Project. The Panel notes that systems to prevent and manage GBV are only viable if they are accessible, resourced, and functioning. The Panel notes that the 2016 PAD identified the difficulties Project-affected communities have accessing the SLIMs due to their remote locations and transportation costs. The Panel observed that not all SLIMs in the four municipalities are equally funded. The Panel further noted in all four municipalities, the SLIMs face resourcing challenges of varying degrees. The Panel notes the *promotoras* explained they often pay the transportation costs related to reporting of incidents, and this burden is one of the main reasons for high turnover among them.

363. The Panel notes the various steps and actions taken by the Project to supplement the resource gaps and transportation barriers. This includes assistance to Project-related victims to access required resources where SLIMs are under-staffed, assistance to both SLIMs and Project-related victims on transportation costs and hiring *Proceso* in September 2021 to perform a social evaluation of the SLIMs/DNNAs and conduct training to strengthen their activities.

364. The Panel notes that the Contractor has prepared a new "Protocol for Attention to Victims of GBV," which contains a detailed description of all the entities that deal with such cases and the steps for processing a complaint. The Panel notes the extensive training provided to workers on the Code of Conduct, by the SLIMs and specialized staff hired by the Supervision Firm and the Contractor. The Panel also notes the increased training to *promotoras* following the development of the GBV action plan and also the specific training targeting school children, adolescents, teachers and *Caciques*.

365. The Panel reviewed the case logs, ESIRTs, as well as the supervision documents, and observed that, although the cases are entered in a timely manner, they contain insufficient information on the incidents, survivors, perpetrators, and follow-up actions. The Panel also observed that despite the classification of incidents as "serious" and "severe" in the five reported cases involving Project workers, the perpetrators received only warnings from the Contractor. The

Panel notes there appears to be no system to monitor if the agreed actions with the perpetrators are being followed.

366. This Investigation afforded the Panel an opportunity to assess how the Project is implementing the measures put forward by the Bank following the Panel's Uganda and Democratic Republic of Congo investigations involving GBV cases. As noted in this Chapter, there are still areas related to SEA/SH the Bank and the Project are working on, but after retrofitting the Project in 2019, the Project's system to prevent and manage SEA/SH issues has been continuously strengthened and improved. **The Panel finds Management in compliance OP 4.01 on Environmental Assessment in managing SEA/SH risks.**

## Chapter 7 - Project Supervision

### 7.1. Introduction

367. This chapter reviews Bank supervision of the Project and its response to the concerns raised in the Request. It briefly describes the Project's supervision structure, examines the frequency of supervision, and the technical expertise involved during Project supervision. It also explores the quality of that supervision, how issues were identified, and whether the Bank's actions addressed them adequately.

### 7.2. Request for Inspection

368. The Requesters claimed they suffered harm due to Bank's failures and omissions in Project design and implementation. They argued that the Bank's failure to prioritize safeguarding communities during the road upgrade caused harm to the Chiquitanos. They gave examples of instances when complaints were raised in-person and in writing. The Request concluded by asking the Inspection Panel to investigate whether the Bank is in compliance with its policies for implementing the Project.

### 7.3. Management Response

369. The Management Response stated that the Bank conducted 11 missions to the Project sites between 2018 and 2022.<sup>471</sup> It explained that although the contract for the civil works was signed on September 11, 2018, works could not begin until the Supervision Firm contract was awarded.<sup>472</sup> The Response noted delays in hiring the Supervision Firm, which officially started work on May 23, 2019.<sup>473</sup> Furthermore, according to Management, civil works began in September 2019, paused in March 2020 due to COVID-19, and did not fully resume until April 2021.<sup>474</sup>

370. Management explained that the Bank's missions between 2018 and 2022 sought, among other objectives, to confirm that essential SEA/SH prevention and response measures were in place prior to the start of civil works and to monitor their functioning once works began. According to the Response, the Bank team, which included a social development specialist, trained ABC, the Supervision Firm, and the Contractor on GBV issues during these missions.<sup>475</sup> Management added that, in December 2021 during the COVID-19 pandemic, the Bank authorized an exceptional, in-person mission to avoid further delay in finalizing the consultation process for the revised IPP.<sup>476</sup>

### 7.4. Bank Policies

371. The Bank Policy on Investment Project Financing requires the Bank to monitor during project implementation the Borrower's and Project participants' compliance with their obligations

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<sup>471</sup> Management Response, p. 22, para. 75.

<sup>472</sup> Management Response, p. 44.

<sup>473</sup> Management Response, pp. 40 and 44.

<sup>474</sup> Management Response, p. 22, para. 76.

<sup>475</sup> Management Response, p. 22, para. 75.

<sup>476</sup> Management Response, p. 19, para. 63.

as set out in their legal agreements with the Bank.<sup>477</sup> The policy also stipulates that Management provide implementation support to the Borrower (i) by reviewing progress on implementation, achievement of the project's development objectives, and related results, and (ii) by updating the risks and associated management measures.<sup>478</sup>

372. The Bank Directive on Investment Project Financing requires that, in providing implementation support, Management examines the Borrower's monitoring of project performance and compliance with contractual undertakings. It requires Management to assess the project periodically, review the Borrower's monitoring of results, risks, and implementation status, update project information, and identify any follow-up actions needed.<sup>479</sup>

## **7.5. Supervision Structure of the Project**

373. The PAD explained that ABC's Road Construction Unit conducts the civil works program planning and preparation, procurement, monitoring, and evaluation. It stated that ABC engineers would carry out the supervision of works with the support of a consulting firm.<sup>480</sup> The PAD stated that ABC's Environmental and Social Department was responsible for overall environmental and social supervision of the Project, working closely with the Road Construction Unit on all aspects related to planning, preparation of environmental and social studies, environmental compensation programs, and supervision.<sup>481</sup> The PAD explained that ABC was familiar with the Bank's social and environmental safeguards, and had in place reasonable standards and procedures for establishing the ROW and related compensation. The PAD stated ABC's socio-environmental management team performs a social analysis as part of each road-building project. According to the PAD, ABC had a national Indigenous Peoples specialist who oversees the social analysis and development of required, social safeguards instruments.<sup>482</sup>

374. The Panel notes on July 23, 2019, ABC awarded a contract to the Supervision Firm, whose objective was to ensure that the construction was carried out in accordance with engineering good practices by supervising the Contractor's activities. The Supervision Firm was to review, complement, validate, and approve the environmental and social components of the Project, and to perform environmental monitoring and control of the environmental and social aspects directly related to the road construction.

375. Management informed the Panel that ABC was responsible for overall Project implementation in accordance with the environmental and social instruments approved by the Bank as set forth in the Project Loan Agreement. Management further explained that ABC implements the IPP through the Supervision Firm, which assumed responsibility for actual execution of the plans and programs included in the IPP, and all administrative, financial, and technical tasks related to it. According to Management, the Supervision Firm coordinated

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<sup>477</sup> The Bank Policy on Investment Project Financing (last revised on December 1, 2021), para. 20. The Policy on Investment Project Financing defines project participants as public or private entities, including the member country and implementing entities, participating in the development or implementation of a Bank-supported Project.

<sup>478</sup> The Bank Policy on Investment Project Financing, para. 20.

<sup>479</sup> The Bank Directive on Investment Project Financing (issued and effective on March 13, 2023), para. 44.

<sup>480</sup> PAD, p. 34, Annex 3, para. 3.

<sup>481</sup> PAD, pp. 34 and 35, Annex 3, para. 4.

<sup>482</sup> PAD, p. 34, Annex 3, para. 4.

implementation of the IPP with ABC, and was responsible for ensuring achievement of the IPP objectives. Management stated, as per the 2018 contract between ABC and the Supervision Firm, that construction activities were performed by the Contractor of the road project and monitored by the Supervision Firm, while all other IPP activities were executed by the Supervision Firm.<sup>483</sup>

## **7.6. Panel Analysis and Observations**

376. Bank supervision of Project implementation covers activities related to the design and construction of the road corridor between San José de Chiquitos and San Ignacio de Velasco, commencing upon its approval, as well as the implementation of the safeguard-related documents, including the IPP. The analysis below focuses on the expertise made available to supervise the Project, how resources were used, and how the Bank Project team addressed the challenges of Project implementation.

### **7.6.1. Frequency of Supervision and Technical Expertise**

377. **Frequency of Supervision.** The Panel analyzed the frequency of supervision missions in two separate periods: from Project approval to submission of the Request (January 2017-December 2022) and after submission of the Request (December 2022 to the drafting of this Report). According to the September 2020 Aide-Mémoire, the period prior to submission of the Request includes a 131-day cessation of civil works (March-June 2020) due to COVID-19. The Panel notes that due to strict travel restrictions during the pandemic, Management used virtual or hybrid formats to conduct supervision missions.

378. In accordance with Bank policy, the Bank team regularly conducts implementation support missions, commonly called “supervision missions.” These typically occur every six months to review the progress of project implementation. The Bank team also conducts a mid-term review mission at the midpoint of the project implementation, as well as supervision missions including senior managers, referred to as “management supervision missions,” as necessary. During the staff interviews, the Panel heard that the Project team conducted monthly meetings in addition to these formal missions. However, the Panel found no records of such meetings.

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<sup>483</sup> Annex 3, Management’s November 2023 written response, pp. 11 and 12.

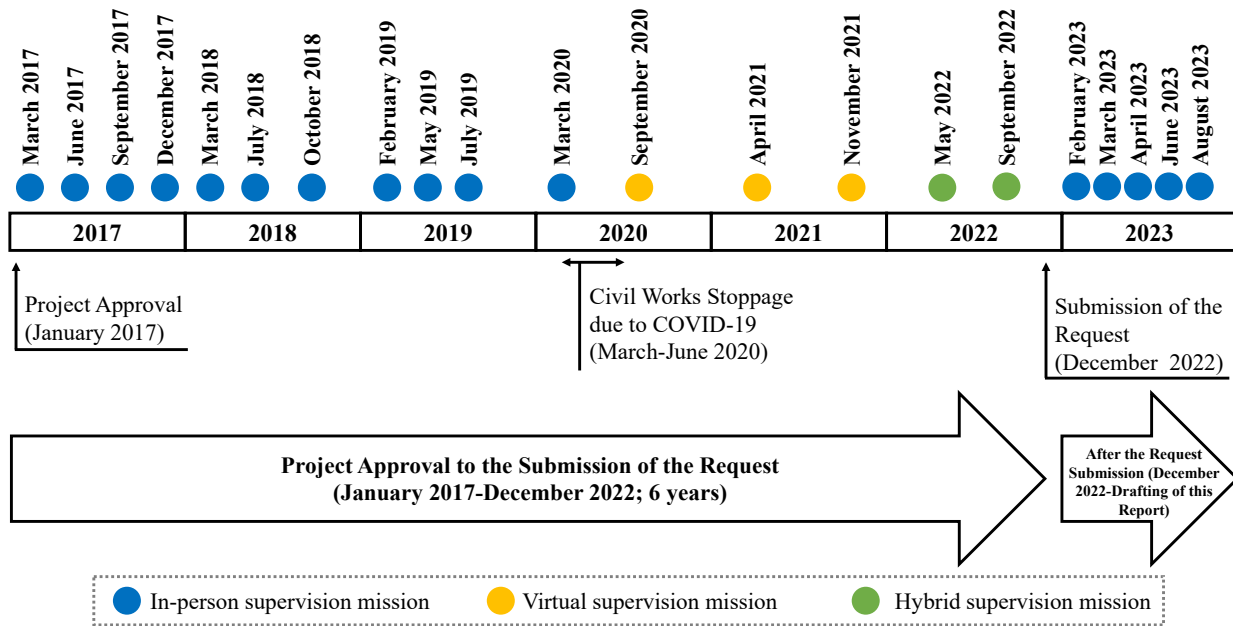


Figure 1: Frequency of Supervision Missions

379. *Prior to Submission of the Request (January 2017-December 2022).* The Panel notes Management conducted 16 supervision missions during the six years between Project approval and submission of the Request. The Panel observes that a supervision mission took place every two to three months in the period between Project approval and the start of the COVID-19 pandemic (January 2017-March 2020), with the exception of the March 2020 supervision mission. The March 2020 Aide-Mémoire states the supervision mission was conducted seven months after the July 2019 one.

380. Between the start of the COVID-19 lockdown and submission of the Request (March 2020-December 2022) travel was restricted and Management adopted a virtual or hybrid supervision format. During this period, a supervision mission took place every six to seven months, with the exception of the September 2022 mission (conducted three months after the preceding one). The Panel notes the September 2022 mission was undertaken urgently, in response to alleged, Project-related, SEA/SH cases raised with Bank Management by BIC. Due to the delays in the negotiations of the IPP, the Panel understands some Project team members conducted a field mission to Santa Cruz in December 2021 under a special travel waiver to facilitate final agreement of the revised IPP.<sup>484</sup> The Panel notes no formal Aide-Mémoire was prepared for the December 2021 field mission.

381. *Following Submission of the Request (December 2022-Drafting of this Report).* Management conducted five missions after the Request was submitted in December 2022. The Panel notes missions occurred more frequently, ranging from one mission every two weeks to one mission every four months, averaging one mission about every two months. The Panel understands that following submission of the Request, on May 19, 2023, Management issued a “Notice of Potential Disbursement Suspension,” discussed earlier in this Report. The Panel notes that the

<sup>484</sup> 2022 IPP, pp. 152-158; Management Response, p. 40.



Aides-Mémoires after this Notice indicate Management has intensely followed up on the status and implementation of the remedial actions outlined the Notice.

382. The Panel observes that (i) the rate of supervision missions prior to the COVID-19 lockdown was one every two to three months, (ii) COVID-19 travel restrictions reduced such missions to every six to seven months, a more typical rate, and (iii) mission frequency increased significantly to one every two months on average after the Request was submitted in December 2022.

383. **Technical Expertise.** The Panel analyzed the technical expertise of the Bank staff involved in the supervision missions prior to and after submission of the Request. During the six years between Project approval and submission of the Request, Management conducted 16 missions. The Panel notes there are no specific criteria for the number of participants having particular expertise on such missions, and that expertise should be commensurate with Project complexity, risks, and challenges.

384. The Panel notes that an environmental specialist was on all but three of the 16 missions prior to the submission of the Request (the first two after Project approval and prior to the start of civil works, and the September 2022 supervision mission that focused solely on SEA/SH issues). The Panel also notes that a social specialist<sup>485</sup> participated in all the supervision missions between Project approval and submission of the Request. Three of these missions included more than one social specialist; two went on the February 2019 and May 2020 missions, and five social specialists – including a senior social development manager, and SEA/SH and GBV specialist and consultant – participated in the September 2022 mission which responded to the SEA/SH allegations.

385. The Panel observes a significant increase in the environmental and social specialists on mission teams after the Request was submitted in December 2022. Environmental specialists made up, on average, 31 percent of the teams (two to six participants) and social specialists, 20 percent (one to four participants).

386. The Panel observes that environmental and social safeguard specialists have been consistently included on Bank supervision missions for this Project. As described in previous chapters, the Project faced constant environmental and social challenges, including concerns about the IPP, the compensation and resettlement in the ROW, borrow pits, *atajados*, road safety, labor and OHS, and SEA/SH. The Panel notes that after submission of the Request, Management further increased environmental and social expertise for supervision. The Panel found no evidence that a labor and/or OHS specialist was involved in the Project after Project approval.

## 7.6.2. Quality of Bank Supervision

387. The quality of Bank supervision from Project approval (January 2017) to the drafting of this Report is examined in four areas: (i) supervision of the IPP, (ii) resettlement and compensation payments relating to the ROW, (iii) the direct impacts from construction and the Project (borrow pits, *atajados*, road safety, labor and OHS), and (iv) the SEA/SH.

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<sup>485</sup> Bank staff and consultants with SEA/SH and GBV expertise are identified as “social specialists”; for the purpose of this Report they are included among “social safeguards specialists.”

388. **Supervision of the IPP.** The Panel notes that the June 2017 Aide-Mémoire stated the need to ensure constant and close supervision of all Project actions, given the complexity of the IPP. It added that, in order to accomplish this, ABC and the Bank needed to conduct training sessions on the context of Bolivia and the cultural context of the Project area. After ABC informed the Bank that the Chiquitanos requested modification of the IPP, the February 2019 Aide-Mémoire stated Management recommended ABC urgently prepare a Conflict Management Strategy to establish communication guidelines with the four *centrales* on the IPP. It also recommended that the Contractor hire a social expert familiar with an understanding of the context of the Project area as well as being Spanish-speaker. The Panel notes that according to the September 2020 and November 2021 Aide-Mémoires, the IPP revision process was prolonged – due to a multi-phased process to ensure adequate consultation – to agree with the Chiquitanos on the budget, conform to the IPP implementation timeline, and adjust to the contested leadership in two *centrales*. The Panel observes that Management may have underestimated the degree of supervision needed given the complexity the Project’s operating environment.

389. The Panel understands that the updating and revision of the IPP and its implementation depended on having contracts with the Supervision Firm and the Contractor in place. According to the October 2018 Aide-Mémoire, the Supervision Firm was responsible for preparing the IPP baseline, and according to the November 2023 written response, both the Supervision Firm and the Contractor are responsible for IPP implementation.<sup>486</sup> The Panel notes Management’s Response cited the delay in hiring the Supervision Firm, which officially started in May 2019.<sup>487</sup> The Panel notes the revised IPP was approved in February 2022, and it took seven to eight months to modify the contracts of the Supervision Firm and the Contractor to include new IPP activities and budget provisions.

390. Management explained in its November 2023 written response, the relationship, responsibilities and accountability between ABC, the Contractor and the Supervision Firm on the IPP implementation. Management stated ABC implements the IPP through the Supervision Firm, which is responsible for executing the IPP plans and programs, and all administrative, financial, and technical tasks.<sup>488</sup> According to Management, the Supervision Firm has overall responsibility for ensuring achievement of the IPP objectives, and it coordinates IPP implementation with ABC. The Contractor performs the construction activities.<sup>489</sup> All other IPP activities, including institutional strengthening, are executed by the Supervision Firm.<sup>490</sup> The Panel notes Management knows the responsibilities of each party in terms of IPP implementation, and the accountability relationship between ABC and Supervision Firm, and between the Supervision Firm and the Contractor. However, the Panel is unclear how Management ensures accountability for the IPP activities among the implementing entities.

391. **Resettlement and Compensation Payment Relating to the ROW.** The Panel notes the understanding between the Bank and ABC, since the early stages of the Project implementation,

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<sup>486</sup> Annex 3, Management November 2023 written response, pp. 11 and 12.

<sup>487</sup> Management Response, pp. 40 and 44.

<sup>488</sup> Annex 3, Management November 2023 written response, p. 11.

<sup>489</sup> Annex 3, Management November 2023 written response, p. 11.

<sup>490</sup> Annex 3, Management November 2023 written response, pp. 11 and 12.

regarding resettlement and compensation payments associated with the ROW. The 2016 RPF set out a fundamental principle that, prior to the start of Project implementation or displacement, displaced persons should be assisted in their efforts to improve their livelihoods and standards of living, or at least to restore them.<sup>491</sup> The December 2017 Aide-Mémoire stated Management informed ABC that ROW resettlement must be done in accordance with the RAP, the RPF, and OP 4.12. The Panel notes that the October 2018 Aide-Mémoire stated the Bank stressed that proper implementation of the IPP required the Supervision Firm to execute the safeguard commitments prior to the Contractor’s commencement of civil works. The Panel notes that the Supervision Firm’s monthly reports stated that, since January 2020, individual resettlement case files have been sent to ABC almost monthly for their review and approval.

392. The Panel notes that *“the financing for the land expenditure was to be assumed by the Departmental Government of Santa Cruz.”*<sup>492</sup> The Panel further notes the Government of Bolivia released the Department of Santa Cruz from this obligation due to the Department’s need to mobilize funds urgently to address the massive forest fire in the Project area July-October 2019, and to respond to the economic challenges posed by post-election political uncertainty and COVID-19.<sup>493</sup> Therefore, this funding was unavailable for the Project.

393. According to the April 2022 Project Restructuring Paper, on October 13, 2021, the Borrower asked for Bank financing – in lieu of using counterpart funds – of certain land expenditures or cash compensation and other cash assistance for involuntary resettlement.<sup>494</sup> The Paper reported that ABC had released 98 (of the 208) kilometers of road where no compensation payment was needed, and that six kilometers of non-continuous road sections would be released by completing the housing relocation. It stated the remaining 104 kilometers required cash compensation for *“land, houses, partial affectation of houses, fruit trees, grass, walls, and other small infrastructures,”*<sup>495</sup> and that the ROW will be released only after the PAPs received all compensation due them.<sup>496</sup> This Restructuring Paper stated that *“[n]o risks are expected regarding the funding of land-related expenditures with the loan proceeds. The IA [Implementing Agency] has a team to properly carry out the compensations process under the Project if the proposed restructuring is approved. The IA has proven experience in dealing with resettlement matters under the Bank’s policies in the (P122007) NRAIP [National Roads and Airport Infrastructure Project] and will receive further assistance from the Bank team.”*<sup>497</sup> Management approved the Borrower’s request on March 1, 2022, and the Project was restructured on April 6, 2022.<sup>498</sup> The Panel notes that, according to the Supervision Firm’s October and November monthly reports, the first compensation payment was completed in October 2022, and the second payment was completed in November 2022.

394. Following submission of the Request, in March 2023 the Bank supervision team found issues related to resettlement and compensation, including incomplete compensation payments for

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<sup>491</sup> 2016 RPF, p. 44.

<sup>492</sup> April 2022 Restructuring Paper, para. 16.

<sup>493</sup> April 2022 Restructuring Paper, para. 17.

<sup>494</sup> April 2022 Restructuring Paper, para. 1.

<sup>495</sup> April 2022 Restructuring Paper, para. 15.

<sup>496</sup> April 2022 Restructuring Paper, para. 15.

<sup>497</sup> April 2022 Restructuring Paper, para. 19.

<sup>498</sup> April 2022 Restructuring Paper, para. 1.

some properties affected by the road construction, lack of clarity on the land valuation method, and a delay in constructing replacement housing. The Panel understands from the May 2023 “Notice of Potential Disbursement Suspension” that Management identified instances of noncompliance with the RAP – i.e., where land and assets had been taken from affected people prior to the compensation being paid, and that some of these cases remained outstanding.

395. The Panel notes that three supervision missions took place between Project Restructuring (April 2022) and when Management identified the resettlement-related issues (March 2023). These missions were in May and September 2022, and February 2023. The Panel notes the May 2022 mission, which occurred a month after the Project Restructuring, observed progress in the construction of replacement housing, and preparation and approval of resettlement compensation. The Panel understands the September 2022 mission focused solely on the alleged SEA/SH cases. The February 2023 Aide-Mémoire mentioned no resettlement- or compensation-related topics. The Panel observes that the April 2022 Restructuring Paper stated ABC had full capacity to implement the resettlement instruments, and the risks to the Project were “low.”<sup>499</sup> However, the Panel notes that 13 months later, Management identified noncompliance regarding resettlement and compensation, as described in Management’s May 2023 “Notice of Potential Suspension of Disbursement.” The Panel notes that despite the Restructuring Paper stating that the IA would receive further assistance from the Bank team on this issue, there is no evidence that such assistance was provided.

396. **Direct Impacts from Construction and the Project (borrow pits, *atajados*, road safety, labor, and OHS).** The Panel reviewed the GRM log and the Supervision Firm’s monthly reports and observes that issues related to the borrow pits, *atajados*, road safety, labor and OHS were raised therein. The Panel observes that Management did not become fully aware of the seriousness of these issues until after submission of the Request.

397. The Panel notes the Supervision Firm and the Contractor maintain records of grievances from the communities and workers, as well as follow-up actions in the GRM log. The Supervision Firm informed the Panel, during its September 2023 investigation field visit, that the grievance log is saved online and can be viewed by the Bank and ABC in real time. As of the drafting of this Report, the Project had received 150 grievances since October 2019 and, with the exception of six, all cases are closed. The Panel reviewed the GRM log, and notes that the complaints related to the borrow pits, *atajados*, road safety, labor and OHS were raised by the community members and Project workers since early 2020.

398. The Panel notes that the Supervision Firm’s monthly reports identified early signs of weaknesses regarding the implementation of Bank safeguard policies. For example, the Panel notes that the January 2021 monthly Supervision Firm report raised deficiencies in subcontractor workers’ use of minimum PPE and work clothing. The Panel notes that, as early as August 2021, the Supervision Firm described, in its monthly report, possible issues regarding labor and potential unfair treatment of workers, when the first of many workforce strikes was reported at the Project. In September 2021, the Supervision Firm’s monthly report stated that it issued noncompliance warnings about the conditions in both the San Rafael and La Fortuna camps due to shortcomings in camp management. It called for improvement regarding the provision of PPE, dust and noise

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<sup>499</sup> April 2022 Restructuring Paper, para. 19.

control, and protection for individuals working at heights. The Panel notes the Supervision Firm instructed the Contractor in its monthly report to reinforce road signage as early as September 2019. The February 2020 monthly report stated that the Supervision Firm issued a first warning to the Contractor for failing to comply with this instruction. The Panel notes the Supervision Firm's monthly reports consistently raised road safety and signage issues – including the lack of a health, safety, and security specialist in June 2021, insufficient signs indicating industrial areas in September 2021, and the lack of reflective signage in November 2021.

399. The Panel notes that the September 2020 Aide-Mémoire stated that the Bank could not conduct in-person missions during the COVID-19 pandemic due to travel restrictions, and that the civil works were suspended March 22-June 10, 2020. The Panel notes that after the civil works restarted in June 2020, the Bank conducted virtual missions in September 2020, and April and November 2021. The Bank staff told the Panel that during the pandemic, the Project team used photographs, videos, and social media reports to monitor the on-the-ground situation. The Panel reviewed the supervision mission reports and observed that the number of work fronts more than doubled – from five to eleven – during the Bank's April-November 2021 travel restriction period. The Panel notes the Aides-Mémoires indicated both the Bank and ABC were concerned about being behind schedule and focused on hastening the works, but included no comments on potential weaknesses of supervision caused by this acceleration or the need to increase the supervision to cover the additional work fronts.

400. The Panel observes the number of supervision missions intensified following submission of the Request, when Management learned of widespread issues involving the borrow pits, *atajados*, road safety, labor, and OHS during the February and March 2023 supervision missions. The Panel notes Management wrote to the Ministry of Development Planning immediately after the February 2023 mission requesting urgent action on the Contractor's noncompliance with working conditions and occupational safety. The Panel notes Management issued a "Notice of Potential Disbursement Suspension" in May 2023, outlining the instances of noncompliance related to the borrow pits, OHS, and road safety, as well as the remedial actions required to avoid Project suspension.

401. The Panel understands the challenges associated with conducting virtual supervision during the unprecedented COVID-19 pandemic, and recognizes the Project team's efforts to conduct remote supervision during the travel restriction period. At the same time, the Panel observes Management did not adequately address the issues raised in the Supervision Firm's monthly reports, grievances and complaints raised by the communities and Project workers in the GRM log, or the potential risks and implications of expanding the work fronts in a compressed timeframe.

402. **SEA/SH.** The Panel notes that as early as the Project design stage, Management recognized the high prevalence of GBV in Bolivia, particularly in the Chiquitania region, and acknowledged that women in this region were especially vulnerable to GBV risks. The Panel understands that since the start of Project implementation, the Project included SEA/SH prevention and mitigation measures – such as the creation and enforcement of the CoC, CoC training of workers, and preventive measures for HIV/AIDS and STDs. The Panel notes that GBV screening early in the Project concluded that Project-related SEA/SH risks were "low."

403. The Panel notes the World Bank undertook an effort in 2019 to retrofit GBV components in all ongoing infrastructure projects, following issuance of a “Good Practice Note on Addressing Gender Based Violence in Investment Project Financing involving Major Civil Works” (September 2018). In this Project, retrofitting included activities to strengthen the effectiveness of the Project’s GRM, information sessions for local residents on the Project’s CoC and the GRM conducted jointly by the Contractor and the Supervision Firm, and training of ABC and the Contractor on safeguards and GBV issues.<sup>500</sup> The Panel notes that the May 2022 Aide-Mémoire reported that after the October 2021 GBV incident was reported, Management increased the SEA/SH risk rating from “low” to “moderate,” and requested ABC to take corrective action in response to retaliation against a victim of SEA/SH who was a Project worker. The Panel notes that in September, after it was informed by BIC of alleged Project-related SEA/SH cases including incidents involving minors, senior managers of the Bank immediately undertook a supervision mission to Bolivia and the Project area, as described in the September 2022 Aide-Mémoire. Subsequently, Management, BIC, and CPC jointly developed a GBV Action Plan in 2022<sup>501</sup> which outlined new obligations to promptly inform ABC of any SEA/SH case within 24 hours, irrespective of any subsequent efforts to ascertain whether the incident is associated with project workers or not. The Panel notes the Bank contracted *Proceso* in 2021 and 2022 to undertake GBV actions in the Project area.<sup>502</sup> The Panel understands when Project-related SEA/SH cases are reported to Management, Environmental and Social Incident Response Toolkit reports are developed, which are shared with senior management.

404. The Panel observes that throughout the Project implementation period, Management continued to strengthen SEA/SH and GBV prevention, mitigation, and reporting measures and system, particularly after Project-related SEA/SH cases were reported to it.

## 7.7. Panel Findings

405. The Panel notes the frequency of Bank supervision of the Project was adequate. The Bank undertook regular supervision missions since Project approval. The Panel finds that Management periodically assessed the Project and reviewed the Borrower’s monitoring of results, risks, and implementation status. **The Panel finds the frequency of Management’s supervision of the Project in compliance with the requirements of the Directive on Investment Project Financing, para. 44.**

406. The Panel notes that no specific skill sets are specified for projects; rather, needed expertise is determined by a project’s complexity, risks, and challenges. The Panel observes that environmental and social specialists were always on Bank supervision mission teams. The Panel also observes that after the Request for Inspection was submitted to the Panel, Management significantly increased both environmental and social expertise to tackle issues raised in the Request or identified by Management.

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<sup>500</sup> Management Response, p. 23, para. 77.

<sup>501</sup> Management Response, p. 13, para. 33.

<sup>502</sup> Management Response, p. 22, para. 76.

407. The Panel notes that from the Project’s inception the Bank recognized the potential for GBV and engaged GBV experts, and responded rapidly to issues and alleged incidents when they were reported, including by third party NGOs. The Panel notes additional social specialists joined the September 2022 mission to respond promptly to the alleged SEA/SH cases reported to Management, and remain closely engaged with Bank supervision on this Project. The Panel, however, deems that as OHS issues persisted, the absence of OHS specialists on the Project team became evident. The Panel observes the Bank Project team’s capacity for dealing with OHS and labor protection was limited.

408. The Panel notes Project implementation faced unforeseen, external challenges – such as COVID-19 restrictions, severe forest fires, and political instability in the Project area – which hindered the Bank team’s ability to conduct in-person supervision missions. The Panel recognizes Management’s effort to utilize technology to monitor the on-the-ground situation remotely.

409. Regarding the quality of supervision of the IPP, the Panel notes that delays in finalizing the contracts of the Supervision Firm and the Contractor affected IPP preparation and implementation. The Panel notes IPP implementation only started in October 2022, was underway at the time of drafting this Report, and its final outcome has yet to be realized. As covered in Chapter 3, the Panel notes several problems in the implementation of the IPP projects. Furthermore, the Panel is concerned about the conflicting role of the Supervision Firm, which is both implementing the institutional strengthening component of the IPP activities and supervising its implementation on behalf of ABC. The Panel notes Management is aware of the conflicting role the Supervision Firm plays in implementing the institutional strengthening component of the IPP, which is important for achieving the IPP objectives.

410. The Panel notes that, before submission of the Request, Management overlooked several complex issues raised along the entire road corridor, and missed the early warning signs in the GRM log and the Supervision Firm’s monthly reports. The Panel notes the Supervision Firm was hired nine months after the Contractor was retained, and was given insufficient time to establish itself prior to commencing works. The Panel notes that Management was unaware of the serious issues the Project faced until it identified instances of noncompliance related to resettlement, borrow pits, OHS, and road safety after submission of the Request. The Panel observes that Management’s lack of awareness of these issues until submission of the Request may have prolonged impacts that could have been mitigated earlier. **The Panel finds that, except for SEA/SH issues, Management did not effectively monitor the Project implementation or identify appropriate follow-up actions needed prior to submission of the Request. The Panel therefore finds that, prior to submission of the Request, Management was in non-compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44.**

411. The Panel notes Management’s increased supervision following submission of the Request, and the various actions taken to address the issues relating to resettlement, borrow pits, OHS, and road safety – such as issuing the “Notice of Potential Disbursement Suspension” and follow-up actions with the Borrower. **The Panel finds Management in compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44, after submission of the Request.**





## Chapter 8 - Conclusions

412. The Project's development objective is to improve transportation accessibility by upgrading a 208-kilometer road (between the Municipalities of San Iganacio de Velasco and San José de Chiquitos in the Department of Santa Cruz, the central corridor of the Chiquitano region) in line with the Government's investment planning priority to expand strategic links across Bolivia. The Management Response stated the Project will directly benefit 125,000 inhabitants – 51 percent of whom are considered poor and 62 percent are of indigenous descent – as well as businesses and road-users with better local connectivity, reduced travel times, and lower vehicle operating costs.<sup>503</sup>

413. While the relevant safeguard policies were triggered by Management, the Project has encountered several challenges during implementation, some directly linked to construction and others related to the longer-term concerns raised by indigenous Chiquitano community members. On the one hand, Management was aware of Chiquitano concerns and needs – revising the initial Indigenous People's Plan when Chiquitanos voiced dissatisfaction in all four *centrales*; developing a GBV action plan and strengthening GBV actions as cases were brought to its attention; commissioning labor and safety audits as issues were identified, with requirements for commensurate, timebound actions to address them; and involving several senior World Bank staff members with the Project as issues arose. On the other hand, many of these actions were undertaken following the Request for Inspection, prior to which there was inadequate identification of many of the issues discussed in this report and their social risks and impacts to the Chiquitanos, which have made implementation challenging.

414. In the Panel's view, Management's assumption that any adverse impacts would be small and manageable because the Project was an "upgrade" of an "existing road" and not a construction of a new road, inevitably led to underestimating risks and overlooking how the Project's impacts would play out in an area populated by indigenous communities (the Chiquitanos). In conclusion, the Panel highlights the following important issues:

415. **Assessment of Risk and Impact.** The road upgrade in the Project involves significant construction activities in an area heavily populated by indigenous communities who have historically faced – and continue to face – pressures on land largely caused by increasing population influx, agricultural expansion, and deforestation. In the Panel's view, while this is not a new road that opens up a hitherto untraversed area, given the large scale of the upgrade, the Project would predictably contribute to changes in the area – both positive and adverse. The Panel found that the Project's environmental and social assessment not only lacked sufficient contextual analysis, it also did not factor in the relevance of the social context, history, and political-economy of the Chiquitanos, their existing vulnerabilities, and how the interplay between these issues and the Project would directly and indirectly affect the Chiquitano communities' access to land, water, and other resources. While the Panel agrees with Management that the Project cannot solely be expected to solve or mitigate issues related to wider policies that predate the Project, the Panel does not agree that the road upgrading can only bring benefits (through improved connectivity and access to the area) but not contribute to any ongoing economic and demographic changes that might adversely affect the Chiquitano communities. The Panel is of the view that, had the direct

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<sup>503</sup> Management Response, p. 2, para. 6.

and induced impacts of the Project been assessed more thoroughly, many of the issues examined herein could have been addressed before they manifest, and the mitigation programs for impacts and the benefit programs in the IPP would have been better designed and targeted to address the issues faced by the Chiquitanos.

416. **The Indigenous Peoples Plan and Free, Prior, Informed Consultation.** The discrepancies between the IPP's stated objectives, the actual projects to which it committed, and the intended outcomes of those projects meant that the final outcome of these projects in terms of benefits for the Chiquitanos is unclear. Some of the commitments in the IPP – such as to strengthen the organization and the institutional structures of the Chiquitanos to advocate for their rights to deal with potential long-term, negative risks, as a result of the influx of outsiders to their area and consequent loss of social cohesion and indigenous identity and culture – are under-resourced and, as such, cannot realistically be expected to achieve their stated objectives. Likewise, hard infrastructure projects, such as the *casa grandes*, which were included as local economic development projects to reinforce the identity of the Indigenous People, have yet to be constructed and it is unclear if there is a budget or a plan to operate these communal buildings after construction. Similarly, the Panel noted that the artisanal workshops, that were constructed as part of the IPP, cannot fulfil their stated objectives due to lack of electricity to power the equipment and limited workspace for women to work and market their products. The program to drill wells has not resulted in the provision of potable water, which has meant that communities for whom water scarcity is a critical problem have yet to benefit from a clean water project as per the commitments in the WRMP. The lack of specificity in terms of outcomes in the IPP, has left gaps between its stated objectives, the actual design of Projects, and the intended results.

417. Management's own statements and actions appear at times inconsistent. For instance, Management views the IPP as predominantly a plan that provides benefits and therefore is not tied to a specific project implementation timeline. At the same time, the IPP does not cover the potential adverse effects on Indigenous Peoples, which, according to the Chiquitano had they been known to them, they would have negotiated differently.

418. **Identification and Mitigation of Construction Impacts.** The affected indigenous community faced several adverse impacts from the construction of the road upgrade due to issues related to ROW, including timing of some compensation payments, confusion about the valuation methodology, and lack of clarity about the width of the ROW, impacts from borrow pits and on their *atajados*. Management became aware of these issues only after the receipt of the Request and during the Panel process. The "Notice of Potential Disbursement Suspension" sent by the Bank to the Borrower in May 2023, noted several areas of noncompliance – on direct construction impacts, pertaining to the implementation of the RAP, issues related to borrow pits, road safety, OHS and working conditions – and required ABC and the Contractor to respond on a specified timeline. Of particular note is that, although Bank Policy on Indigenous Peoples (OP 4.10) requires the Social Assessment to evaluate potential, adverse effects of the project on the Indigenous Peoples and discuss these impacts in a process of "free, prior, and informed consultation" during each stage of the project, since these impacts were not identified during the assessments, they were also not factored into the consultation processes.

419. **Implementation Shortfalls on Road Safety and Worker Occupational Health, Safety, Working and Living Conditions.** Of particular concern are the implementation shortfalls relating to road safety and worker occupational, health and safety and welfare including working and living conditions. While high-level policy guidance was in place, significant implementation shortfalls exposed road-users to hazards and workers to unsafe working and living and conditions. While the Panel recognizes the serious attention and steps taken by Management to address these issues following the Request for Inspection, implementation challenges remain with the Contractor and its ability to implement the requirements. Had the capacity limitations of ABC, the Contractor, and the Supervision Firm been identified earlier, more steps could have been taken and resources allocated to address capacity gaps before these issues manifested.

420. **SEA/SH.** The Bank identified the contextual and endemic risks of SEA/SH issues during the early stages of the Project and put in place measures to address them. As cases and issues were brought to the Bank's attention, working together with ABC and a specialized agency it contracted to work on these issues on the ground, the Bank continued to improve and strengthen its GBV management program and remained open to feedback and input from civil society organizations engaged on these issues. The Panel is pleased to observe the measures taken by the World Bank following the Panel's Uganda and Democratic Republic of Congo investigations involving GBV cases to strengthen management of GBV risks, including retrofitting the Project in 2019. In particular, the prevention measures taken through training and awareness building for workers (including on the mandatory Code of Conduct, which all workers must sign) and increased training, capacity, and resources to support the service providers on the ground who interact directly with victims. Nevertheless, gaps remain – there are inadequate penalties for perpetrators, the sanctions do not appear to correspond to the severity of the offenses, and there appears to be no system to follow-up with the perpetrators. These are areas that need improvement.

421. **Supervision.** The Project faced several unforeseen external challenges that hindered its implementation: COVID-19 restrictions, political instability in the region, and forest fires. Following the Request for Inspection, once issues were brought to Management's attention, Management allocated resources (including the involvement of senior staff), conducted detailed assessments, and took serious steps requiring ABC and the Contractor to address the risks and issues. The delays in hiring the Supervision Firm and Management's lack of awareness of several issues prior to submission of the Request for Inspection, meant that, from a Chiquitano perspective, it was only after issues took a serious turn and they took extreme action that the Project started to pay attention to the impacts affecting them. On a practical implementation level, the responsibilities and duties of ABC vs. the Supervision Firm vs. the Contractor remain unclear. The Panel notes that the lack of clarity over each of the entities' roles could lead to inconsistent actions for the prevention, reporting, and mitigation of risks, and that the Supervision Firm's simultaneous implementing and supervising roles on some issues could create apparent or real conflicts. However, Management is to be commended for the seriousness with which it has taken the issues following the Request for Inspection, the work it did to understand the issues more deeply, and its ongoing commitment to address them.

422. The Project has faced – and continues to face – a myriad of issues and has a large footprint given that it is a linear project operating in an area predominantly inhabited by Indigenous People. The Panel notes that most community members it met with recognized the benefits of the road

upgrade, but felt their concerns on adverse impacts were not being heard and adequately addressed. While several steps are now being taken by Management to address these issues, many of these could have either been avoided or mitigated had Management identified them earlier and factored in sufficient contextual analysis to anticipate how they would play out in an area where Indigenous Peoples rights, claims, vulnerabilities, and aspirations are paramount. Management's view that the Project would have no major impacts because it was a "road upgrade" as opposed to a construction of a new road, led to a significant underestimation of the risks and the relevance of the social context to the Project, and the way these risks would pan out in the Project's broader operating environment.

## Annex 1 - Table of Findings

Issue Area	Panel Observations and Findings
<b>Chapter 2 - The Chiquitano Context, Environmental and Social Assessment, and Free, Prior and Informed Consultation</b>	
<b>Analysis of the Project's Potential, Adverse Effects</b>	The Panel notes that Management did not ensure that there was adequate consideration of the wider implications of upgrading the road, thereby improving access to an area where Indigenous Peoples had unresolved territorial land claims and identified vulnerabilities relating to land and natural resources. Furthermore, the Panel notes that the SA did not adequately assess the Project's direct, negative impacts on the Chiquitanos, and how it may affect them in a differentiated manner. <b>The Panel finds Management did not ensure that the 2015 and 2022 Social Assessments had adequate breadth and depth of analysis of the Project's potential, adverse effects on the Chiquitano communities in the Project area, given the complexity, risks, and challenges facing them. The Panel therefore finds Management in non-compliance with OP 4.01, paras. 2 and 3, and OP 4.10, para. 9 and its Annex A, para. 2(b).</b>
<b>Free, Prior, and Informed Consultation</b>	The Panel notes that OP 4.10 requires that assessment of potential, adverse effects of the project on the affected Indigenous Peoples ensure free, prior, and informed consultation with them. The Panel also notes the absence of a framework for ensuring free, prior, and informed consultation with the affected indigenous communities during the Project implementation, as per the Policy requirement. <b>The Panel finds Management did not ensure the provision of an assessment of the Project's potential, adverse impacts on the Chiquitano communities and consequently did not ensure an adequate process of free, prior, and informed consultation with them in non-compliance with OP 4.01, para. 14, OP 4.10, paras. 6(c) and 10(c) and its Annex B, para. 2(d).</b>
<b>Chapter 3 - The Indigenous Peoples Plan and the Grievance Redress Mechanism</b>	
<b>IPP Implementation</b>	The Panel notes several problems in – and community concerns about – the implementation of the IPP projects. The Panel notes that OP 4.10 requires the IPP to ensure culturally appropriate social and economic benefits for the project-affected Indigenous Peoples, and an appropriate action plan to avoid, minimize, mitigate, or compensate potential, adverse effects on Indigenous Peoples. The Panel recognizes the importance of the IPP projects and activities to the Chiquitano community, and the Project's efforts to complete these in a timely manner. However, the Panel notes discrepancies between the objectives and the designs of some of these projects. Notwithstanding the above, the Panel notes the IPP is still under implementation and recognizes the full effectiveness of the IPP implementation can only be assessed once the implementation is completed. The Panel also notes OP 4.10 does not tie provision of benefits to a specific project implementation timeline. The Panel hopes that serious issues raised on the benefit projects, their execution and sustainability are

Issue Area	Panel Observations and Findings
<p><b>Grievance Redress Mechanism</b></p>	<p>addressed before the conclusion of the IPP implementation.</p> <p>The Panel observes that the initial grievance management system was neither culturally appropriate nor developed in consultation with the Chiquitano representatives. However, following the Request for Inspection, the Panel notes the Project has increased the number of channels available for raising complaints in an effort to make the GRM more accessible, and has improved its presence in communities where there are issues. The Panel notes the communities have expressed concerns that when they do raise concerns through the Project’s GRM channels, they claim these are not accepted or go unanswered, and their issues are not followed up. The Panel notes the communities’ claims that issues receive responses only after extreme measures, such as blockades, are taken. <b>Notwithstanding the Project’s recent efforts to resolve grievances through increased presence in the communities, the Panel finds Management in non-compliance with OP 4.10, Annex B, para. 2(h) for not ensuring the existence of a functioning method for responding to concerns raised, and for not accommodating the customary dispute resolution process used by the Indigenous People.</b></p>
<p><b>Chapter 4 - Impact from the Right-of-Way, Borrow Pits, and <i>Atajados</i></b></p>	
<p><b>Resettlement and Compensation Relating to the Right-of-Way</b></p>	<p>The Panel finds that ABC made efforts to reduce the width of the ROW in several road sections to avoid or minimize the number of houses, structures, crops, and trees affected by resettlement. The Panel notes that, in order to minimize resettlement, the Project took account of “<i>an effective use of ROW</i>” (UEDDV) which was used by ABC in different sections of the road alignment. <b>The Panel finds Management in compliance with OP 4.12, para. 2(a) for minimizing resettlement.</b></p> <p>The Panel noted during its March 2023 eligibility field mission that some PAPs said they received no – or in some cases, only partial – compensation prior to Project acquisition of their land and assets. The Panel notes Management acknowledged this in its “Notice of Potential Disbursement Suspension” sent to the Borrower in May 2023, and identified it as noncompliance with the RAP. The Panel understands, according to Management and ABC, these payments have now been closed out. <b>The Panel finds Management in non-compliance with OP 4.12, paras. 8 and 10, for not ensuring payment of compensation prior to taking of land and related assets, and for not ensuring an adequate process for compensation payments.</b></p>
<p><b>Borrow Pits</b></p>	<p>The Panel notes that while the 2016 ESIA required a specific EMP for each borrow pit – including a closure plan – no social impact assessment or social management plan was developed for potential impacts from borrow pits, nor were potentially affected communities farther from the road identified or included in any safeguard document. The Panel further notes additional safety measures relating to borrow pits are required to bring all of them into compliance, and that Management requested full</p>

Issue Area	Panel Observations and Findings
	<p>implementation of the borrow pit EMPs, including their closure plans, after submission of the Request. <b>The Panel finds Management in non-compliance with OP 4.01, para. 2 for not ensuring adequate implementation of the ESIA and EMPs for borrow pits. The Panel also finds Management in non-compliance with OP 4.01, para. 3 for not ensuring consideration of environmental and social aspects in an integrated way when identifying and mitigating impacts from borrow pits.</b></p> <p>The Panel notes that the communities, Bank Management, ABC, and the Supervision Firm all acknowledge the issues regarding the borrow pits. As covered in Chapter 2, the Panel observes the SAs did not adequately assess the Project’s direct impacts on the Chiquitano communities, including the impact of creating the borrow pits. The Panel observes that as a result, the Project provided no measures to mitigate those impacts, such as assisting the indigenous communities in negotiations with the Contractor.</p> <p>The Panel notes that Management understands such agreements are voluntary in nature, and it is therefore up to property owners to decide what they will accept as compensation. The Panel notes the Chiquitano communities were expected to negotiate the use of the borrow pits with the Contractor without the benefit of adequate information, prior knowledge of how to negotiate, or an understanding of the legal implications of what they signed. The Panel notes there appears to have been a lack of supervision and oversight when these agreements were being negotiated. No community with whom the Panel spoke with received assistance when negotiating and signing the agreements and the communities negotiated the agreements without the benefit of information about adequate compensation – in other words, without “<i>informed consent and power of choice.</i>” The Panel also notes the wide power imbalance between the Contractor and Chiquitano communities during the negotiation of these agreements and the stringent nondisclosure and arbitration clauses that were included in the agreements. <b>The Panel finds Management did not ensure provision of measures to minimize, mitigate, or compensate adequately for the negative impacts associated with development of the borrow pits, including adequate support to the Chiquitano communities regarding the Contractor’s negotiated access to their lands for development of borrow pits. The Panel therefore finds Management in non-compliance with OP 4.01, para. 2, and OP 4.10, para. 1.</b></p>
<i>Atajados</i>	<p>The Panel notes that the impact of the road construction on their <i>atajados</i> is important to the communities, as it affects their sources of water for human and animal consumption. The Panel notes that the Chiquitania region is water-stressed, and that during the long, dry season, communities suffer acute water shortages. Therefore, any impact on their existing water</p>

Issue Area	Panel Observations and Findings
	sources is significant. The Panel also notes Management’s acknowledgement that although the 2016 ESIA identified <i>atajados</i> as existing infrastructure that would be affected by acquisition of the ROW, it lacked detailed analysis of all potential impacts on them. The Panel notes no social impact assessment or social management plan was developed for potential impacts on the <i>atajados</i> . <b>The Panel finds Management did not ensure identification or mitigation of impacts on <i>atajados</i> and therefore is noncompliant with OP 4.01, para. 2.</b>
<b>Chapter 5 - Road Safety, Occupational Health and Safety, and Labor Working Conditions</b>	
<b>Road Safety</b>	The Panel believes that sufficient attention to the risk of serious accidents was not paid before receipt of the Request and that Road Safety concerns are an ongoing challenge for the Project. The Panel notes that adding worksites without a corresponding increase in safety equipment or in the Supervision Firm’s and Contractor’s resources would predictably exacerbate the shortcomings in Project road safety. The Panel notes that despite Management’s efforts to ensure improvements in road safety, the implementation of adequate and effective road safety measures protective of local communities and road-users, including pedestrians, are not in place. The Panel notes the EHS guidelines focus on the construction phase road safety issues for local communities and road-users. <b>The Panel finds Management did not ensure adequate implementation of the ESIA and road safety measures to protect the community and workers’ human health, safety, and livelihoods in non-compliance with OP 4.01, paras. 2 and 3.</b>
<b>Occupational Health and Safety and Labor Working Conditions</b>	Although the ESIA included prevention and mitigation measures for OHS, working conditions, and accommodation camps, the Panel observes significant shortcomings in their implementation. <b>The Panel finds prior to the submission of the Request, Management did not ensure implementation of OHS measures, including working conditions, which led to inadequate implementation of the ESIA, in non-compliance with OP 4.01 on Environmental Assessment, and the Bank’s Environmental Health and Safety Guidelines.</b> The Panel notes Management’s increased focus on this issue after the submission of the Request for Inspection, but there remain serious concerns regarding the capacity challenges of the ABC, the Supervision Firm and the Contractor in managing and implementing OHS measures until the completion of the Project.
<b>Chapter 6 - Sexual Exploitation, Abuse, and Sexual Harassment</b>	
<b>Sexual Exploitation, Abuse, and Sexual Harassment</b>	This Investigation afforded the Panel an opportunity to assess how the Project is implementing the measures put forward by the Bank following the Panel’s Uganda and Democratic Republic of Congo investigations involving GBV cases. As noted in this chapter, there are still areas related to SEA/SH the Bank and the Project are working on, but after retrofitting the Project in 2019, the Project’s system to prevent and manage SEA/SH



Issue Area	Panel Observations and Findings
	issues has been continuously strengthened and improved. <b>The Panel finds Management in compliance OP 4.01 on Environmental Assessment in managing SEA/SH risks.</b>
<b>Chapter 7 - Project Supervision</b>	
<b>Frequency of Supervision</b>	The Panel notes the frequency of Bank supervision of the Project was adequate. The Bank undertook regular supervision missions since Project approval. The Panel finds that Management periodically assessed the Project and reviewed the Borrower’s monitoring of results, risks, and implementation status. <b>The Panel finds the frequency of Management’s supervision of the Project in compliance with the requirements of the Directive on Investment Project Financing, para. 44.</b>
<b>Quality of Supervision</b>	<p>The Panel notes that, before submission of the Request, Management overlooked several complex issues raised along the entire road corridor, and missed the early warning signs in the GRM log and the Supervision Firm’s monthly reports. The Panel notes the Supervision Firm was hired nine months after the Contractor was retained, and was given insufficient time to establish itself prior to commencing works. The Panel notes that Management was unaware of the serious issues the Project faced until it identified instances of noncompliance related to resettlement, borrow pits, OHS, and road safety after submission of the Request. The Panel observes that Management’s lack of awareness of these issues until submission of the Request may have prolonged impacts that could have been mitigated earlier. <b>The Panel finds that, except for SEA/SH issues, Management did not effectively monitor the Project implementation or identify appropriate follow-up actions needed prior to submission of the Request. The Panel therefore finds that, prior to submission of the Request, Management was in non-compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44.</b></p> <p>The Panel notes Management’s increased supervision following submission of the Request, and the various actions taken to address the issues relating to resettlement, borrow pits, OHS, and road safety – such as issuing the “Notice of Potential Disbursement Suspension” and follow-up actions with the Borrower. <b>The Panel finds Management in compliance with the Bank Policy on Investment Project Financing, para. 20, and the Bank Directive on Investment Project Financing, para. 44, after submission of the Request.</b></p>



**Annex 2 - Management's March 14, 2023 written response**



## Responses to Questions Shared by the Inspection Panel on March 8, 2023

### 1. Alleged lack of clarity on the extent of the right of way

The process for establishing the Right of Way (ROW) is described in the Project's resettlement instruments: (i) a Resettlement Policy Framework (RPF), June 2016; (ii) a Resettlement Action Plan (RAP) for the road corridor between San Ignacio de Velasco and San José de Chiquitos, also in June 2016, which was updated in August 2020; and (iii) an Abbreviated Resettlement Action Plan (ARAP), dated April 2022, specifically prepared for the bypass (*circunvalación*) in the Municipality of San Ignacio. The RAP and the ARAP provide details about the process in the Project area and how the width of the ROW, which varies by sections of the road, was discussed and consulted upon with communities affected by the Project.

The size of the right of way on urban and rural sections of the road varies. In rural areas, national legislation provides for a right of way (*derecho de via*, DDV) of 50 meters on each side, measured from the middle of the road. However, the Bolivian highway agency, *Administradora Boliviana de Carreteras* (ABC), as the competent national entity for roads, can limit the extent of the right of way on the basis of proportionality, usefulness, functionality and security.<sup>1</sup> This enables it to limit land acquisition for the right of way to what is effectively needed and is known as the "effective use of the right-of-way" (*Uso Efectivo del Derecho De Via* UEDDV), which considers technical,<sup>2</sup> social<sup>3</sup> and economic considerations. This approach has been used by ABC for various sections of the road alignment. In urban areas, the right of way is established by local governments (Municipalities) in consultation with ABC, based on similar considerations, and is usually narrower than in rural areas, ranging approximately from 12 to 20 meters on each side, as measured from the middle of the road.

The information about the width of the ROW and the process that would be carried out in each community to clear the land needed for the Project was shared and consulted upon with each affected community during the consultation process for the preparation of the RPF in 2015, the RAP in 2016 and its update in 2019/2020, and the ARAP in 2020. Over 40 consultation meetings were conducted with the communities on the resettlement program, the compensation alternatives, the ROW and the process for clearing it.

Further details on the width of the ROW in relation to each affected property is provided by the Supervision firm carrying out the field work (survey of the affected land and assets of each affected family/individual as part of the resettlement process) and the UEDDV Report dated May 2021. The Supervision firm demarcated the boundaries of the affected area with wooden stakes. It documented the engagement with the affected person/family and signed a register of affected assets ("*Ficha de levantamiento de información*") jointly with them. ABC informed the Bank that, for 32 affected properties, this field work took place without the affected person being present because the person was absent or not living on the property. In such cases, the Supervision firm visits the property again to ensure the affected person/family signs the register of affected assets. ABC also informed the Bank that the

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<sup>1</sup> Article 6 of Law No. 966 on the Right of Way and Public Registry of Roads Domain.

<sup>2</sup> For example, on curves, where the area is wider, etc.

<sup>3</sup> In order to avoid affecting houses and relocating people, and to reduce the number of residential properties affected by the road.

Supervision firm experienced delays in completing the process but was instructed to prioritize visits to the 32 properties as soon as the firm was able to reach the affected persons/families.

Once the fieldwork is completed, the Supervision firm prepares a file for each affected person/family based on the information collected and sends it to ABC. ABC then reviewed the information, which includes, among others, the affected area (DDV or UEDDV), related assets and the proposed compensation, determined in accordance with the methodology established in the RAP.

ABC informed the Bank that it requested the Supervision firm to replace demarcation stakes that were no longer in place on some properties.

ABC assured the Bank that informative sessions would be held in communities as soon as possible to inform affected people of progress in the implementation of the RAP and ARAP and respond to any questions or concerns that affected people may have.

## **2. Alleged lack of clarity on valuation methodology for fruit trees, crops and grazing land**

During the preparation of the RPF, the RAP and ARAP, as noted above, a consultation process with over 40 meetings was held with communities to inform and consult them about the resettlement process. This included the valuation methodology for determining compensation payments and other relevant measures to address the impacts of the Project. The Supervision firm conducts meetings with each affected person/family to inform them, among other things, about the valuation methodology and discuss the criteria for the valuation of trees (fruit trees and other trees, including for timber), crops and grazing land. The register of affected assets includes this information. This is the same process as described in the previous item, and covers the register of affected assets, preparation by the Supervision firm of a file for each affected person/family based on information collected, and review by ABC of the information provided by the Supervision firm, including the affected area (DDV or UEDDV), related assets and proposed compensation, determined in accordance with the RAP methodology.

The valuation methodology for asset compensation is described in RAP and ARAP. It takes into account the type of impact and considers the following factors: (i) for annual crops (seasonal), the profit plus the production cost;<sup>4</sup> (ii) for perennial crops (grazing land), the cost of replanting; (iii) for timber trees, a reference unit price, which incorporates the value of the wood that can be harvested, plus the cost of two seedlings; (iv) for fruit trees, the cost of production (which includes a period of maintenance until the species reaches production, and the period that the species is producing), plus the profit obtained during production, and the replacement of two seedlings for each tree reaching the end of its productive lifetime; (v) for ornamental plants, the cost of replanting.

As with the ROW issue, ABC will hold informative with the communities to answer any questions.

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<sup>4</sup> (a) profit (income minus production costs), (b) replacement of soil tillage costs; (c) replacement of labor, (d) inputs invested in one crop year, and (e) irrigation if used/available is considered for two crops per year.

### **3. Confusion about future land acquisition in areas where Project works have not begun**

As noted above, the process to determine the ROW and the potential need to acquire land for it are described in the Project's resettlement instruments. The Project design and the land it requires have been disclosed and consulted upon with affected communities for the preparation of the RAP, its update and the ARAP. The resettlement process for upgrading the road was also discussed during the consultations on the Environmental Impact Assessment in 2016. The amount of land to be acquired from each affected community or individual is validated during the resettlement process when the Supervision firm carries out the field work; this information, covering the affected area (DDV or UEDDV), related assets and proposed compensation, is reviewed by ABC. ABC informed the Bank that the Supervision firm has carried out the field work for most of the properties that are affected by land acquisition. The Supervision firm has been instructed to fast-track the work for the 32 affected properties that need to be revisited.

### **4. Alleged delays in receiving compensation for those who claim their land has been acquired**

According to the information provided by ABC, 895 properties, located on both sides of the road in the Project area, have been identified. Of these, 594 properties are affected by the Project in some way (land acquisition, structures, houses, crops, etc.), for which compensation must be provided. During the March 2023 supervision mission, the Supervision firm informed the Bank that there were approximately 11 cases where the land was acquired but compensation payments were pending. The delay is not a result of disbursements from the Bank to ABC.<sup>5</sup> The Ministry of Finance has set conditions for accessing the compensation funds, allowing disbursements of no more than 600,000 Bolivianos (approximately USD86,000), which must be fully used before ABC can request another disbursement. Payments began in November 2022 and to date, ABC has completed payment for 168 affected persons. Of the 11 cases where land was acquired but compensation is pending, ABC informed the Bank that payment for seven of them would be made by mid-April. In the four remaining cases, the affected persons are in the process of regularizing their properties so payment can be made.

In sections of the roadway where affected parties have not yet been compensated, the Bank has: (i) requested ABC to urgently complete the pending compensation payments; (ii) reinforced the message that compensation needs to be paid prior to acquisition; (iii) requested ABC to instruct the Supervision firm and the Contractor not to proceed with works on any sections that have not been fully compensated; and (iv) recommended to ABC – and ABC has agreed – to instruct the Supervision firm and the Contractor to immediately cease any works where compensation is pending, while ensuring that the work site is left in a transitable and safe traffic condition.

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<sup>5</sup> In April 2022, the Project had been restructured to enable these payments to be made from the Loan proceeds.





**Annex 3 - Management's November 14, 2023 written response**



**Management responses to questions posed by Ramanie Kunanayagam in an email to TTL of Bolivia Santa Cruz Road Corridor Connector Project on October 16, 2023**

**1. Alleged impact to *atajados***

In all four Centrales, community members claim that some of their water supply sources (*atajados*) are being affected by contamination from silting and sedimentation from the road construction.

In some communities, community members also raised allegations that as a result of the activities of the borrow pit, their water sources are being contaminated by run-off from the borrow pits to the water sources.

a) How did the Project assess potential impacts on existing *atajados* in the Project area?

**The Project Environmental Impact Assessment (EIA, 2016) did not include a detailed analysis of all potential project impacts on *atajados* but did identify *atajados* as existing infrastructure that would be directly affected by the acquisition of the Right of Way (ROW).** Given the overall context of water scarcity in the region, the EIA indicated that the mitigation measure would be the replacement of the affected *atajados* in new locations with similar or better characteristics. Such measures were committed to as part of the Project's Resettlement Action Plan (RAP).

The first RAP, prepared in 2016, identified only 5 *atajados* within the 50 meters of the ROW that needed to be replaced; however, in 2021 the RAP was updated based on a more detailed analysis of the effective use of the ROW, and the number of affected *atajados* increased to 33. These *atajados* were located between 20 and 30 meters from the middle of the road on each side, and the inventory in the 2021 RAP included information on their coordinates, precise locations, and their volume.

**The Project EIA also addressed the potential impacts that the Project's use of water could have on surface water sources, such as *atajados*, that are used by local communities.** The EIA mentioned in general terms the scarcity of water resources in the area and the potential for conflict with local communities over Project use of water, and therefore proposed that the Project drill and utilize ten new wells to minimize the use of surface water and thus avoid, to the extent feasible, any potential impacts on existing surface water resources. However, five test drillings by the Contractor were all unsuccessful in identifying sufficient and useable sub-surface water sources. The Contractor's Water Resources Management Plan (WRMP), developed in accordance with the Water Resources Management Program specified in the EIA, thus had to be updated based on alternative water sources, in place of the wells proposed in the EIA.

The latest version of the WRMP, dated April 2023, reflects some field observations made by the Bank during its February 2023 supervision mission, which include: (i) updating the typology of project water sources to include *atajados* – artificial reservoirs – and *curichis* – natural reservoirs or wetland areas; (ii) improving the technical datasheet for each water source; and (iii) improving requirements for signage and safety measures around the water sources, including the maximum allowable slope for *atajados* built or enlarged by the Contractor (see also response to question 2). The 2023 WRMP includes two categories of *atajados* considered as potential water sources for the Project: (i) existing *atajados*, some of which would be enlarged by the Contractor to accommodate Project uses; and (ii) new *atajados* created following the exploitation of colluvial borrow pits. All *atajados* in the WRMP were mapped and photographed and were considered in terms of their location in relation to the ROW, dimensions, approximate volume, surrounding ecosystem, site characteristics, current uses, sources of recharge, closure conditions,

conservation status, and degree of vulnerability. The Contractor and the respective owners have written agreements on the use of the *atajados*. Moreover, some of the largest *atajados*, which resulted from the exploitation of the borrow pits, became host to wildlife and native vegetation. Some additional conservation measures thus were adopted by the Project to protect these newly created ecosystems.

b) How is the Project monitoring the impact on the *atajados* in the Project area since the commencement of the civil works?

**ABC, with support from the Supervision firm, has been reporting regularly on progress in implementing the agreed replacement measures related to the direct impacts on the 33 *atajados* identified within the ROW that were included in the 2021 RAP.** Progress has been delayed, and implementation of the measures is significantly behind the schedule foreseen in the 2021 RAP. As part of its ongoing supervision of RAP implementation, the Bank requested ABC to prepare updated schedules and demonstrate implementation. As of October 24, 2023, nine of the 33 *atajados* have been replaced with new ones built outside the ROW, and the latest schedule anticipates completing the replacement of the remaining *atajados* anticipated by November 2023.

Despite the delay in implementation of the RAP related to the affected *atajados*, ABC advised the Bank that the Contractor was respecting the requirement to wait until the replacements on the respective road sections were completed before beginning works there. The communities have continued to use the existing *atajados*. The Bank has carefully reviewed the Project's monthly reports prepared by the Supervision firm; held regular meetings with ABC and discussions that included the Contractor and Supervision firm; and reviewed the logs of the Project's Grievance Redress Mechanism (GRM) to detect any reported issue or grievance related to the *atajados* from the communities.

**With respect to the Project's use of water for construction purposes and potential impacts on existing water sources, including *atajados*, all the Project's water sources are monitored in accordance with the Contractor's WRMP.** This monitoring consists of: (i) completion of water extraction logs by water truck drivers every time they collect water to be used at construction sites; (ii) ensuring the water extraction at any source is kept below the allowed margin of 20 percent of the total volume of the water body; and (iii) updating, when needed, any change to the situation of the water source.

The primary data collected by the Contractor in its water logs for construction needs includes date, tank volume, number of trips, location of the water source and area of the Project that was irrigated with this resource. All logs are signed by the water truck driver, consolidated, and analyzed by the Contractor's EHS Specialist, and then reviewed and approved by the Supervision firm. The Bank has reviewed samples of these logs and checked the summary tables presented in the Project's monthly reports, which consolidates the totals used. The main source of water for the Project in the latest reports has been the Project's borrow pits (this includes both types of pits: lateral, located in the ROW; and colluvial, located on private/community lands).

**In addition, the Project's GRM and regular meetings/joint inspections with communities have also helped to identify several unanticipated impacts on existing *atajados*, and to guide their resolution.** Some of the claims, grievances and requests registered in the GRM matrix related to *atajados* include complaints of impacts on *atajados*, requests for information on compensation for *atajados*, and fulfilment of Contractor commitments related to repair of pipelines, drainage infrastructure, and water channels used by landowners and communities to fill their *atajados*. Supervision reports include information about grievances received and the reports of joint inspections that are carried out to verify and understand the grievance. The joint inspection proposes complementary mitigation measures when applicable, with community leaders and/or local indigenous communities' associations participating together with social

and technical staff of the Contractor, the Supervision firm and sometimes also ABC. The Bank regularly reviews these inspection reports as part of its supervision of the Project. They show that issues related to potential or actual impacts on *atajados* have been brought up on occasion, and site-specific measures were identified and agreed upon by all parties of the joint inspection to address them.

As of October 2023, at least twelve cases registered in the GRM were associated with *atajados*: six of them related to *atajado* replacements under the RAP in connection with the ROW acquisition process, three related to fulfillment of commitments due to the use of borrow pits and industrial areas, one referring to a private property affectation, including an *atajado* which was located outside the right-of-way and not associated with project activities; and two other related to the obstruction of water courses. To date, all claims and grievances have followed a due diligence process with participation of interested parties and the steps taken to resolve them have been recorded in the GRM matrix.

**Only one recorded grievance of the twelve mentioned before has been related to the “contamination” of an *atajado* in connection with road construction activities.** The initial complaint referred to impacts on a community *atajado* by road construction activities that had allegedly rendered the *atajado* murky and unsuitable for human consumption. In the broader context, the Bank notes that this community suffers from longstanding water security problems and is also slated to benefit from the drilling of a well by the Project (a commitment that was originally agreed under the Project’s Indigenous Peoples Plan). In response to the complaint but also as part of the broader issue of delayed drilling of the community well by the Contractor, an agreement was worked out directly with the Contractor to provide trucked potable water to the community on a bi-weekly basis, alternating weeks with the Municipality of San Jose, which had a prior, similar agreement with the community, and the grievance was officially closed in the GRM registry. The conclusions of the Project’s follow up, as well as the Bank’s supervision, were that: (i) the *atajado* in question was one of two new *atajados* constructed by the Project as compensation under the RAP for an affected community *atajado* within the ROW; (ii) water turbidity in the *atajado* was evident during a field inspection, and was likely generated or exacerbated by the new *atajado*’s construction process, the soil characteristics or degree of compaction; (iii) the community members interviewed in-situ clarified that they used this water for livestock, irrigation and clothes washing, but were explicit that they did not use it for human consumption; the original *atajado* within the ROW which was compensated for under the RP was not used for human consumption either.

The lessons from this grievance case have been used by the Project Supervision firm and the Bank to identify further actions and preventive measures to be adopted when completing the construction of the remaining replacement *atajados* under the RAP, such as: full baseline characterization of the agreed location, including soil type and conditions; close environmental supervision of the *atajado* construction process, including erosion control measures; and enhanced communication with communities to manage expectations.

**Considering the prevailing water scarcity in the Project area, the existence and use of formal and informal land installations or features to collect rainwater has been dynamic since the commencement of civil works, therefore requiring ongoing adaptive management by the Project.** Both communities and private owners tend to assign an area in their plots to collect water and build *atajados* to support their economic activities. Also, some private owners and communities may have taken advantage of the existence of the newly elevated road platform to build new *atajados* adjacent to it – or to construct drainage channels leading to existing *atajados* further from the ROW – that can collect rainwater runoff from the road. The rainwater collection effect is noticeable with respect to the Project’s lateral borrow pits located along and within the ROW. Many if not all the Project’s lateral borrow pits fill with rainwater during the rainy season, and many have been used as water sources for Project construction needs. While to date not formally documented by the Project, it is further possible that some nearby communities have

also exploited water collected in the lateral borrow pits during the construction period. The Bank is following up with ABC on further strengthening Project supervision and monitoring of these aspects, to anticipate and manage potential impacts, and avert potential conflicts with community members related to the Project's use or potential impacts on scarce water resources in the area.

c) Are there studies conducted on community water sources in the Project area, aside from what may be in the EA?

**In accordance with the WRMP proposed in the Project's EIA (2016), the Contractor is required to develop and regularly update a site-specific Contractor WRMP.** The Contractor's most recent WRMP (April 2023) identifies an increase in demand for water for construction use as activities have intensified, from 7,830 m<sup>3</sup>/month (stated in the original 2019 WRMP) to 13,000 m<sup>3</sup>/month by 2023. Based on these required quantities, the WRMP includes an analysis of the existing water sources in the Project area, and the potential volumes available for Project activities without affecting the requirements of local communities and local ecosystems. The main information sources for this analysis were the Project's EIA and information generated in-situ during the installation of camps, industrial areas and opening of work fronts.

**As noted in the response to question 1 a) above, the Project's original approach to water utilization – to rely primarily on groundwater – had to be updated when test drilling did not uncover adequate groundwater sources for Project needs.** After the test drilling was unsuccessful, the Contractor had to adapt its approach. As a result, the Contractor's WRMP was adjusted to include the use of alternative superficial water sources – mainly *atajados*, both pre-existing and those formed in borrow pits – instead of the originally proposed wells; this adjustment has been included in the last three versions of the Contractor's WRMP (2021, 2022 and 2023).

**Site specific studies, including test drilling, are also being carried out in relation to commitments to three Chiquitano indigenous communities who had been promised construction of new wells under the Project's original Indigenous Peoples Plan (IPP).** As part of the updating process of the IPP in 2021, the construction of new wells for the three Chiquitano communities – San Antonio, Portoncito and Quituquiña – was removed from the IPP's budget and incorporated instead into the Contractor's WRMP, becoming Project commitments still within the Contractor's scope, and still subject to supervision by the Supervision firm, but now outside the scope of the IPP from a budget perspective. These three agreed wells with Chiquitano communities are new and not part of the 10 wells referred to in the Project's EIA.

## **2. Borrow Pits**

a) In cases where the Contractor agreed with community that the borrow pits will be converted to *atajados*, are studies being conducted on the impact of this conversion?

**The potential risks and impacts of converting borrow pits into *atajados* are being considered in accordance with the requirements of the EIA, ABC's Environmental Manual for Roads, the Contractor's specific Environmental Management and Closure Plans for each borrow pit, and the Contractor's 2023 WRMP.**

Some of the EIA requirements for the preparation of borrow pit-specific environmental management plans (EMPs) by the Contractor include: (i) joint field inspection by the Contractor and Supervision firm; (ii) verification of environmental liabilities and any other aspect that should be considered in defining site-

specific environmental management requirements; and (iii) identification of mitigation measures for impacts to biotic and soil resources. Under (iii), such measures include: minimization of land clearing; inventory of vegetation for subsequent revegetation with native species in sensitive areas; identification of the water table and other local limiting characteristics; definition of slope ratios for each section; and erosion control measures.

Furthermore, ABC's Environmental Manual for Roads, although not contractually binding, has nonetheless been used as a reference by the Contractor in its site-specific borrow-pit EMPs. The manual provides guidance on various aspects to be covered in a site-specific plan for each borrow pit, including: (i) selection criteria; (ii) typology of the borrow pit; (iii) verification of the concession or mining permit; (iv) location and transverse profiles of the area chosen for material extraction; (v) report on volume of extraction and final conditions in which the excavation area will be left; (vi) description of the area to be exploited and its surroundings; (vii) plan of the area prior to exploitation; (viii) panoramic photographs of the area prior to exploitation; (ix) exploitation plan of the borrow pit, roads and access to the deposit; and (ix) safety and other measures to be implemented during exploitation. The Contractor's site-specific borrow-pit EMPs consider the aforementioned aspects; in addition, in cases where the area includes trees, an evaluation and authorization from the Bolivian Forest and Land Authority (ABT) is required for the clearing permit, and any conditions that the Authority establishes for the area must be considered in the plans. Depending on the characteristics of the soil and topography as well as the interest of the private or community landowners, the Contractor defines jointly with them whether any given borrow pit will be converted into an *atajado* upon closure.

**During the Bank's field supervision in February 2023, the first conversions of closed borrow pits into *atajados* were observed, provoking a request for further efforts by the Contractor to identify and manage all potential risks and impacts associated with these conversions.** Based on observations in the field, the Bank requested ABC to ensure full implementation of the borrow-pit EMPs, including their closure plans, and to carry out site-specific risk analyses to identify and address potential risks to the surrounding population generated by the presence of each new *atajado*. Such risk mitigation measures may include, for example, improved signage around the *atajado*, verification of the slope of the walls of the *atajado* created within the closed borrow pit, and reduction of slope ratios or consideration of measures such as netting in areas with steep slopes excavated by the Contractor. The Bank further requested that the Contractor's WRMP be updated to reflect adequate risk and impact mitigation and monitoring requirements for all *atajados* (including informal ones created within still active borrow pits) used as water resources by the Project or created by the Project.

**While progress along these lines was being made by ABC, in light of the Bank's significant concerns about risks related to borrow pits, the Bank sent a letter in May 2023 to the Government of Bolivia concerning potential suspension of the loan proceeds. In the letter, the Bank specifically requested a *borrow pits report* to be submitted by ABC, including descriptions of site-specific risks, for all borrow pits under the Project.** ABC complied with the requested action in the specified timeframe of 60 days, submitting a report covering both lateral and colluvial borrow pits, which includes a specific risk analysis for each borrow pit, mainly based on physical factors (e.g., access to the area, slopes, depth of the bank/cut, water level) that defines risks for the safety of people and animals, as well as – in the case of lateral borrow pits – the risks posed to road users. As this is a dynamic analysis, the Bank continues to follow up closely with ABC on all issues related to borrow pits, including their closure and site restoration or conversion to *atajados*. The Project's attention to these issues has been improving and risk reduction measures are being implemented. Consequently, the number of borrow pits assessed by the Contractor and verified by the Supervision consultant to present a "High" risk has been reduced, while those with a "Low" risk level have proportionately increased in recent months.

b) What is Management's view on the agreements between the Contractor/subContractors and communities which include a non-disclosure clause?

Management is aware that the Contractor has entered into bilateral contracts with property owners along the ROW (both individuals and communities) to extract material for the upgrading of the road through borrow pit exploitation. There are 80 borrow pits identified for material extraction, most of which are under bilateral contracts entered into by the Contractor and the respective property owner. In a few cases, instead of contracts, written authorization was provided by property owners to sub-contractors. So far, out of 80 sites identified by the Contractor for development of borrow pits, material extraction activities have taken place at 71 of them.

The bilateral agreements allow the Contractor to extract material in exchange for compensation that is negotiated separately with each property owner. While ABC has informed the Bank that the practice is varied regarding the form of such agreements in Bolivia, Management understands that such agreements are voluntary in nature and therefore it is up to property owners to decide whether they provide said access in exchange for compensation (it is the same for cases where written authorization is provided instead of contracts). The bilateral contracts serve the purpose of formalizing such agreement. In addition to the agreement, in accordance with the Project's EIA and environmental license, the Contractor is obligated to prepare and implement an EMP for each borrow pit, which is submitted to the Supervision firm for approval, and which covers the environmental and safety management of the borrow pit exploitation. Each of the 80 borrow pits has its EMP. The Contractor is similarly required to prepare and implement a closure plan for each borrow pit, including measures for site restoration.

Management is also aware that the bilateral contracts include a non-disclosure clause. In general terms, Management understands that in a bilateral agreement between two parties, any or both parties may request the contract to be subject to such clause. That said, ABC has informed the Bank that so far said clause has not generated conflicts between property owners and the Contractor and has not led to allegations of losses suffered by any party. Additionally, the bilateral contracts contain arbitration clauses as a mechanism for dispute resolution in case conflicts arise. However, Management has also been informed by ABC that there have been no cases where the arbitration clause has been invoked.

ABC has told the Bank that there have been five complaints by property owners (communities) associated with borrow pits registered in the Project's GRM, related either to requests for additional compensation or to delays in providing the compensation agreed upon. Out of the five complaints, two have already been resolved (related to outstanding Contractor commitments). Two of the other cases that are well advanced, one related to outstanding compensation, and one related to a request to obtain additional compensation, in which the community and the Contractor agreed to an updated contract. Finally, there is one complaint that remains pending, in which the Contractor renegotiated compensation with the concerned community, which requested the construction of a multipurpose field (the field is under construction). In this case, the borrow pit is no longer being exploited, and the site restoration is also pending. The complaint will not be considered resolved until the commitment is met and the site properly restored.

### **3. Road Safety**

How has the Project assessed road safety risks to communities along the road, and how are these risks currently being managed?



**The EIA (2016) identified road safety as a notable risk associated with Project construction and operation and proposed a Road Safety Program aimed at reducing the probability of accidents and having adequate signage along the road in order to prevent environmental and social impacts during all stages of the Project.** The Road Safety Program also defines safety criteria and special safety measures for work in urban areas, and requirements for developing and distributing road safety awareness information to road users. As per the EIA's Road Safety Program, the Contractor is required to develop and implement a detailed Road Safety Plan, to be approved and monitored by the Supervision firm. In accordance with this requirement, the Contractor developed an initial Road Safety Plan in September 2019, with a major update in March 2021 to include, among other improvements, greater emphasis on accidents and requirements for: (i) the presentation of an Integral Strategy Plan for Industrial and Road Safety; (ii) hiring of a Project Safety Officer, and (iii) improved signage, with a greater emphasis on places with significant movement of construction-related vehicles.

**Despite these requirements, it has been an ongoing challenge for the Project to implement them consistently and rigorously across such a large Project area.** Based on field observations in February and March 2023 that showed still significant deficiencies in safety conditions along the road, another update of the Contractor's Road Safety Plan was requested by the Bank. The letter on potential suspension of the loan proceeds issued by the Bank to the Government of Bolivia in May 2023 further highlighted significant inadequacies in the Project's management of road safety risks and outlined a series of remedial actions to be achieved within specified timeframes. Among these remedial actions, the Project was requested to carry out the following:

- (i) Install reflective security signage and physical barriers around the perimeter of all lateral borrow pits where access by road users, the public, and domestic animals may pose risks to their safety and integrity;
- (ii) Ensure that flagmen are present at all active work zones that impede the flow of traffic or require detours by road users, and that they are trained and equipped with appropriate work clothing with high reflectiveness and visibility, communication radios to coordinate the flow of traffic in each direction, helmets with sun protection, and physical barriers with flashing lights to protect them from oncoming traffic;
- (iii) Ensure that pedestrian crossings are demarcated in all urban areas, and that flagmen are deployed to direct traffic at a minimum during timeframes of frequent pedestrian activity. Both the locations of pedestrian crossings and hours of need for direction of traffic should be determined in consultation with stakeholders of the relevant municipalities;
- (iv) Prepare and implement the specified volume, size, and visibility for the Project safety signage in accordance with the updated temporary road signage scheme, especially for nighttime road users;
- (v) Deliver information on road safety to road users through continuous distribution of brochures and provide evidence on coordination of road safety actions with municipalities and the local police, as stipulated in the EIA/EMP road safety programs;
- (vi) Implement appropriate night illumination to ensure traffic flow is not exposed to unseen risks related to the Project;
- (vii) Ensure that, by the end of each workday, all work areas are cordoned off;
- (viii) Undertake a comprehensive review of the implementation of the EIA/EMP road safety program requirements, the Contractor's road safety EMP, and the Contractor's updated temporary road signage scheme. The comprehensive review should cover the entire Project

area and make site-specific recommendations for improvement in road safety measures. The review and recommendations should cover, in particular: security/safety signage (density, design and dimensions, reflectivity, and placement); measures to demarcate and protect road users from active work zones; measures to guide traffic safely through detour areas; measures to control speeds and warn users of potential road hazards; and measures to protect road users including pedestrians in urban zones or near sensitive receptors such as schools, churches and health posts. The review should also incorporate recommendations from investigations of road and vehicle-related accidents that have occurred in the Project area;

- (ix) Based on the recommendations of the review referred to in (viii) above, cause the Contractor to implement the identified measures for improved road safety.

**At this time, ABC has submitted evidence related to each of these points, and the Bank has found such evidence to demonstrate substantial compliance in all but one issue, item (vi) *Implement appropriate night illumination to ensure traffic flow is not exposed to unseen risks related to the Project.*** This is a requirement specified in the EIA but has still not been achieved. While the evidence provided by ABC states there are 28 *destelladores* (tripods with blinking lights) at active work sites where heavy machinery is present, there is no mention of use of night illumination at detour locations (as required by EIA) outside of working hours, or at locations other than active work sites but where visibility may be low. Nonetheless: (i) ABC's statement indicates that, although it believes it is in compliance regarding the temporary signaling, it nonetheless agrees that it is necessary to further improve the night lighting on the work fronts; (ii) the Contractor indicates that the purchase of more lighting devices has been requested from its administration in order to timely meet the requirements to improve signaling for night work and for adverse visibility conditions during daytime work; and (iii) the Contractor's report states that the signage will be enhanced according to the EIA road safety program. The Bank is following up with ABC through ongoing supervision efforts to determine how and when (i), (ii) and (iii) will be accomplished.

**In addition, the Contractor still needs to update its Road Safety EMP to fully reflect the recommendations emerging from the comprehensive review undertaken by ABC in July-August 2023.** On item (i), ABC provided evidence that the Supervision firm has instructed the Contractor to implement the identified measures for improved road safety through the review carried out in accordance with (viii). Nonetheless, the instruction to the Contractor did not request the Contractor to update its Road Safety EMP based on the specific recommendations of the Supervision firm's report. The Bank has informed ABC that the submission of the updated Contractor's Road Safety EMP or an equivalent enforcement plan or commitment is still required to ensure that the Contractor will implement all recommendations resulting from the Supervision firm's analysis. This is still in process – a revised draft was shared by ABC with the Bank in mid-October, but still requires further revisions to address the Bank's request. The Bank is following this up as part of ongoing biweekly supervision meetings with ABC.

#### **4. Communities' concerns and confusions on the ROW**

In the communities where the ROW is less than 50m, the communities are concerned about the ownership of the remaining land between the demarcated ROW and the 50m. The communities fear that while the land is not being used as ROW on this Project, based on the national legislation establishing 50m as ROW, the remaining land could be used by ABC without consultation and/or compensation to the communities. They would lose their ownership of the communal land. At this juncture, the communities are unclear if this land is communal, fiscal, or "*mancha-urbana*".

a) In the areas where the Project ROW is less than 50m, what is the legal status of land that is between the national legislation 50m ROW and the Project ROW? Will the communities be compensated for this land, or will it remain communal land and/or private ownership?

The size of the right of way on urban and rural sections of the road varies. In rural areas, national legislation provides for a right of way (*derecho de via*, DDV) of 50 meters on each side, measured from the middle of the road. However, ABC, as the competent national entity for roads, can limit the extent of the right of way on the basis of proportionality, usefulness, functionality and security.<sup>1</sup> This enables it to limit land acquisition for the right of way to what is effectively needed, and is known as the “effective use of the right-of-way” (*Uso Efectivo Del Derecho de Via* - UEDDV), which considers technical,<sup>2</sup> social<sup>3</sup> and economic considerations. The UEDDV applied to a road must comply with technical and environmental guidelines that provide safety measures for the general population and the properties adjacent to the road, as also noted in ABC Right of Way Release Manual, 2020. This approach has been used by ABC for various sections of the road alignment. In urban areas, the right of way is established by local governments (Municipalities) in consultation with ABC, based on similar considerations, and is usually narrower than in rural areas, ranging approximately from 12 to 20 meters on each side, as measured from the middle of the road.

Management notes that the UEDDV criterion is consistent with the OP 4.12 requirement that all efforts should be made to minimize the impacts and resettlement.

The DDV is included in the title regularization process implemented by the *Instituto Nacional de Reforma Agraria* (INRA, National Agrarian Reform Institute), which is the entity that carries out land titling and recognizes property rights in rural areas. During the land regularization process, INRA also extends the regularization process to the land adjacent to roads and highways, the DDV, and regularizes it in favor of the State. It is important to note that INRA does not always regularize 50 meters of DDV on each side of the road, as in some instances, the amount of land titled to the state is less than 50 meters.

When INRA regularizes a DDV of 50m in favor of the State but ABC, based on technical or social reasons, determines that the DDV should be less than 50m in some sections, the difference between the 50m cleared by INRA and the necessary UEDDV determined by ABC remains the State’s property. Conversely, if INRA regularizes the DDV in an amount of land that is less than 50 meters, the remaining land up to 50m remains under the different tenancy also recognized by INRA, e.g., private ownership. Therefore, if INRA, for example, regularizes a DDV of 20m in favor of the State but ABC establishes that for technical and other reasons the UEDDV should be 30m, the difference of 10m will have to be purchased by ABC as those 10m are not the State’s property. By contrast, if the UEDDV determined by ABC is smaller than the land regularized by INRA in favor of the State and this land is occupied with crops, houses, trees, or other assets, during the implementation of a RAP, compensation is provided to the occupants for all the existing improvements but not for the land, since the State has ownership. If in the future ABC needs to use the remaining ROW cleared by INRA, ABC will compensate for the existing improvements in the remaining strip but not for the land, since the property of the ROW has already been titled in favor of the State and the limits of the individual and communal properties have also been established during the land titling process undertaken by INRA.

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<sup>1</sup> Article 6 of Law No. 966 on the Right of Way and Public Registry of Roads Domain.

<sup>2</sup> For example, on curves, where the area is wider, etc.

<sup>3</sup> In order to avoid affecting houses and relocating people, and to reduce the number of residential properties affected by the road.

Management notes that with respect to the Project: (i) the regularization of the DDV land in rural areas had already been completed and titled by INRA prior to the Project; and (ii) ABC determined the UEDDV in each community considering (a) the DDV regularized by INRA; (b) the geometric design of the road in each section, and (c) the type of impacts on people's assets and livelihoods. The different widths of the DDV regularization carried out by INRA as well as the UEDDV applied by ABC in each section of the Project area are presented in the RAP (Effective Use of the Right of Way Report. ABC. 2021, pages 68-69.)

In urban areas, the determination of the UEDDV responds to the technical design of each bypass or road section. For example, the application of the UEDDV of 13 meters on each side from the middle of the road corresponds to the urban area of the municipality of San Rafael. The distance established was agreed with the Municipality of San Rafael, due to the existence of commercial housing in this sector. In San Ignacio the Municipal Law No 17/2020, September 16, 2020, established the width of the road with a deductible DDV of 15 m to each side from the axis of the road; however, the construction design included variations of the UEDDV from 15m to 19.1m. (RAP, Effective Use of the Right of Way Report. ABC. 2021, Page 36.)

#### **5. SEA/SH training plan, and promotoras**

- a) We understand SEA/SH training is being provided by each – Supervisor, Contractor, ABC, and SLIMs. How are the responsibilities of the training divided between these different entities? Who are the audiences for each of these trainings? What are the contents that are being covered in each of these trainings? When did each of these entities start their training?

These groups provide some form of training on sexual exploitation and abuse/sexual harassment (SEA/SH): *Servicio Legal Integral Municipal (SLIM)/Defensoria de Niñas, Niños y Adolescentes (DNNA)*, Contractor, Supervision firm, and the NGO, Proceso Servicios Educativos.

The social affairs and gender-based violence (GBV) specialists from the Contractor, along with the social affairs and GBV specialist from the Supervision firm, primarily provide SEA/SH training to Project workers, communities, and educational institutions. Training for Project workers focuses on the Codes of Conduct and, specifically, the provisions of SEA/SH within them. These trainings have been taking place since the start of the Project. The trainings conducted in communities, and educational institutions are mainly organized in collaboration with SLIMs and DNNA, following the signing of inter-institutional cooperation agreements between the Contractor/ Supervision firm and the SLIMs and DNNA of the 4 Municipalities. These activities are organized autonomously and shared with the World Bank in a monthly planning document.

SLIMs and DNNA also provide periodic GBV training to the promotoras. These trainings primarily focus on GBV prevention and access to services. The events are decided autonomously by SLIMs and DNNA according to their own agendas and priorities, often in collaboration with other parties such as the Contractor/Supervision firm and Proceso Servicios Educativos. These trainings preceded the World Bank Project and are part of their organizational responsibilities.

Proceso Servicios Educativos, a local NGO, has been providing GBV training in the Chiquitania region since 2016 and since 2020 within the framework of a commitment with the World Bank. The focus of the work with the Bank was mainly on training promotoras in the region and working on masculinity issues. It has also developed the Basic Manual for Community Promoters. In 2023, the focus shifted mainly to supporting SLIMs and DNNA in service delivery, as well as training voluntary promotoras (after they were re-engaged and trained in a greater number of communities within the framework of the Project's IPP)

and raising awareness among local leaders and authorities (community leaders). In the training of promotoras, Proceso Servicios Educativos works in collaboration with SLIMs.

Increasingly, these various entities have been sharing and coordinating their activities, largely under the facilitation of the Bank and in compliance with the Interinstitutional Cooperation Agreements signed with the Municipalities. Each entity generates its own materials, but they are also increasingly shared among themselves, again under the Bank's facilitation. The Bank has provided feedback on materials shared and produced by the Contractor and the NGO.

b) Which entity is keeping track of promotoras' nomination, turnover, and training?

Promotoras are primarily engaged within the framework of the IPP and in coordination with the local SLIMs in each municipality. Local SLIMs, as well as the IPP coordinator from the Supervision firm, keep a record of the nominations of the Promotoras. Proceso Servicios Educativos also keeps a record of the names of the promotoras through additional training in collaboration with the SLIMs.

Ultimately however, it is the responsibility of the SLIMs to train, certify, and keep a record of the promotoras. Community promoters have established support networks linked to the SLIMs, as established by Law 348 on Violence against Women.

c) How is the Project ensuring that the promotoras are in turn training the communities?

The IPP establishes that once promotoras are trained and certified, they must transmit their roles and knowledge to their communities. Supervision staff are responsible for monitoring and implementing the IPP, including working with promotoras, and ensuring they are properly set up for this role.

The SLIMs are then responsible for following up on the secondary training in their communities. The SLIMs are supported in delivering on this responsibility through the implementation of the IPP and by Proceso Servicios Educativos.

## **6. Other**

Could you please explain the relationship, responsibilities and accountability between the Contractor, Supervisora and ABC with regards to implementation of the IPP – both contractually and in practice? We are trying to understand this in the context that all three seem to have an implementation role and direct interactions with the community.

ABC is responsible for the overall implementation of the Project and must do so in accordance with the environmental and social instruments approved by the Bank, which include the IPP for the Chiquitano and Ayoreo people, as set forth in the Project Loan Agreement.

In accordance with the original 2018 contract between ABC and the Supervision firm, ABC implements the IPP through the Supervision firm, which has the responsibility for the actual execution of the plans and programs included in the IPP, and all administrative, financial, and technical tasks related to it. The Supervision firm coordinates the implementation of the IPP with ABC. The Supervision firm is responsible for ensuring the achievement of the objectives of the IPP overall. As set forth in the 2018 contract, the execution of the construction activities is carried out by the Contractor of the road project, under the monitoring of the Supervision firm, while all other activities included in the IPP are executed by the

Supervision firm. The contract between ABC and the Contractor sets forth the general obligation of the Contractor to ensure implementation of the IPP.

The IPP currently under implementation (updated IPP 2022) includes different types of activities such as (i) modules for artisanal loom weaving; (ii) livestock modules; (iii) organizational strengthening with a gender focus for the four Chiquitano organizations; (iv) construction of a productive communal house (community center also used for commercial purpose); and (v) training in local economic development for the use of productive infrastructure (e.g., for the establishment of artisanal craft markets in the community center).

A detailed description of the responsibilities of ABC, the Supervision firm, and the Contractor with respect to the implementation of these activities was included in the 2016 IPP. The IPP also assigned responsibilities to the four indigenous organizations representing the communities in the Project area to support the implementation of the plan and monitor its execution. This structure for the division of responsibilities remained unchanged following the update of the IPP in 2022, which required a modification of the original contracts for the Contractor and the Supervision firm due to the introduction of new activities in the IPP (e.g., the institutional strengthening and additional infrastructure) and new budgetary provisions.

In practice, ABC, the Supervision firm, and the Contractor have been carrying out their responsibilities as defined in the Project documents and the contracts. In this context, while the practical implementation of activities is assigned to the Supervision firm and the Contractor, ABC's role has been critical in establishing an active dialogue and decision-making process between ABC, as the Project executor, and the communities of the Project area and the indigenous organizations as beneficiaries. This dialogue and the engagement of ABC with the communities and the indigenous organizations has proven to be key in overcoming the impasse in the execution of the IPP in the Project area's communities in San Ignacio and San Miguel, where internal conflicts between different organizations representing the communities have broken out. ABC also coordinates with the Supervision firm to support the participatory process with the indigenous organizations in the management and decision-making processes during the implementation of the projects included in the IPP.

The Supervision firm has sought to establish a permanent and coordinated relationship with the indigenous organizations to coordinate the execution of activities for which it is responsible, including all related administrative tasks, and inform them of progress. In addition, with respect to the infrastructure built by the Contractor, the Supervision firm's tasks include organizing meetings with community members and indigenous leaders to identify and define places where infrastructure is built and elaborate on the design of the infrastructure through participatory engagement processes with the beneficiaries.

With respect to the implementation of the construction works, the Contractor has limited responsibility for creating dialogue with the communities and the indigenous organizations; its duty is to inform the indigenous organizations, ABC and the Supervision firm on progress in the execution of the works.

Accompanying these responses is an annex (*Annex Q+A Resumen de proyectos asignados a la contratista y supervision 20 oct.docx*) with a description of the tasks assigned respectively to the Supervision firm and the Contractor.

## **Annex 4 - Biographies of Inspection Panel Members and Expert Consultants**

**Mark Goldsmith, Panel Chairperson.** Mr. Goldsmith, a United Kingdom citizen, was appointed to the Inspection Panel on November 17, 2019. He became Chairperson of the Inspection Panel on December 15, 2023. Mr. Goldsmith is an accomplished expert on environmental and social issues, with a career spanning more than 25 years. He has managed intricate projects and led teams examining diverse sectors, including Environmental, Social and Governance (ESG) and strategy consulting, financial services, international development, and renewable energy. Mr. Goldsmith has worked in both the private and public sectors, where he has demonstrated his ability to navigate complex challenges, manage multi-stakeholder dynamics, and spearhead implementation of innovative, industry-wide solutions. Prior to founding his sustainability consultancy in 2015, Mr. Goldsmith served as Director, Responsible Investment for Actis, for more than a decade. In this capacity he was an ESG thought leader in emerging markets in Africa, South Asia, and Latin America. His influence played a pivotal role in developing and advocating for world-class standards in sustainability, business integrity, health and safety, social considerations, environmental stewardship, and climate change across diverse investment areas and companies. Notably, from 2014 to 2019, Mark served as a Non-Executive Director of ENEO – the power company of Cameroon – where he chaired the board subcommittee on ESG for several years. Mr. Goldsmith’s leadership extends beyond the corporate realm, as evidenced by his work on environmental and social coaching and training for British International Investments (formerly CDC Group) – the UK’s development finance institution – and on topics related to “Just Transition” and climate change. He has also served as strategic advisor to several sustainable and ESG-focused funds and their portfolio companies, including Archipelago – an impact-led investment firm specializing in reducing the negative environmental and social impacts of plastic and waste. He has a Bachelor’s degree in manufacturing engineering from the University of Nottingham and a Master’s degree with distinction in environmental pollution control from the University of Leeds. His tenure on the Panel runs through November 16, 2024.

**Ramanie Kunanayagam, Panel Member.** Ms. Kunanayagam, a Sri Lankan-born Australian citizen, was appointed to the Inspection Panel on December 16, 2018. She served as Panel Chairperson from January 1, 2022, to December 15, 2023. She brings to the Panel three decades of experience across diverse geopolitical and multicultural environments in the private and public sectors. Ms. Kunanayagam has held leadership positions in sustainability in the private sector, working for two FTSE 10 companies. Before joining the Panel, she was the Global Head for Social Performance and Human Rights for BG Group/Royal Dutch Shell. She has been a member of the boards of international, non-profit development organizations – Youth Business International, RESOLVE, and the Institute of Human Rights and Business. Ms. Kunanayagam has strong operational experience working throughout the entire project cycle. She spent more than 10 years doing fieldwork in a remote part of East Kalimantan, Indonesia, managing complex social and environmental issues for large, extractive projects. Her experience with multinational and international organizations and valuable experience living and working in more than 30 countries demonstrates her people skills and ability to broker trust relationships. Her appointment as a secondee to the World Bank early in her career gives her insight into and knowledge of the organization’s operations that complement the expertise she has developed working with civil society, multilaterals, bilaterals, and communities affected by World Bank projects. She earned a Master’s degree in anthropology from Monash University, Australia. The World Bank Board has

approved her continuation beyond December 15, 2023, as a Panel Member until a new Panel Member assumes office.

**Ibrahim Pam, Panel Member.** Mr. Pam is an accomplished international lawyer and investigator with strong leadership experience dealing with human rights abuses, fraud, and financial crimes, and expertise in international, internal oversight, and accountability mechanisms. Most recently he was the Green Climate Fund's (GCF) interim Head of the Independent Redress Mechanism and Head of the Independent Integrity Unit. He worked as an investigator in the Office of the Prosecutor at the International Criminal Court (ICC) and as Chief Investigator in the Integrity and Anti-Corruption Department of the African Development Bank. He held various leadership positions and responsibilities in the United Nations, including at its mission in South Sudan and in the Central African Republic. Mr. Pam worked as Special Legal Assistant to the Nigerian Truth Commission, which, among other things, dealt with environmental and human rights issues in the Niger Delta. He served as Chief Legal Officer in the Nigerian Anti-Corruption Commission. He helped draft the African Union Convention on Combating and Preventing Corruption, and the UN Convention Against Corruption. He assisted in developing the General Principles for Review of Investigative Offices of the Conference of Investigators. He is concurrently a Member of the Independent External Oversight Advisory Committee of the Joint UN Programme on HIV/AIDS and Chair of the Ad Hoc External Panel on Workplace Culture for the Office of the Prosecutor of the ICC. He serves as a Member of the Advisory Board of the African Association of International Law. Mr. Pam holds a Bachelor of Laws degree from the University of Jos, and a Master of Science degree in Criminal Justice Policy from the London School of Economics and Political Science. He is a barrister and solicitor of the Supreme Court of Nigeria. His appointment with the Inspection Panel is for a term of five years effective January 1, 2023.

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**María Carolina Agoff, Regional SEA/SH and GBV Expert.** Professor Agoff is a senior researcher at the Regional Centre for Multidisciplinary Research (CRIM) of the National Autonomous University of México (UNAM). She obtained her Ph.D. in Psychology from the Free University of Berlin (Germany) in 2001. Her research focused on the empirical study of gender-based violence in various settings, including indigenous communities, universities, and lower-class, urban women, as well gender issues related to undocumented migration. More recently, she has explored criminal trajectories and prison populations in Latin America from a feminist, criminological perspective. She regularly lectures on post-graduate, qualitative methodology at the College of México (COLMEX) and UNAM. Professor Agoff has published on gender issues in journals such as *Violence against Women*, *Culture, Health & Sexuality*, *Journal of Family Violence*, *Hispanic Journal of Behavioral Sciences*, *Punishment & Society*, and *Victims & Offenders*, among others. She has participated in research projects financed by UN Women and UNICEF in México. Professor Agoff is a member of the National Council for Science and Technology of México and was awarded a research grant by the Alexander von Humboldt Foundation.

**Lisa Davis, International Expert Advisor on SEA/SH and GBV.** Lisa Davis is a Professor of Law, 2021-2023 Special Adviser on Gender Persecution to the International Criminal Court Prosecutor, Co-Director of the Human Rights & Gender Justice Clinic (formerly the International Women's Human Rights Clinic), and Faculty Chair of the Institute on Gender, Law and



Transformative Peace at CUNY Law School. Professor Davis has written and reported extensively on gender-based crimes and human rights issues – including women’s rights and LGBTQI+ rights – in conflict and other crisis settings. She has testified before U.S. Congress, the European Parliament, the U.K. Parliament, the Inter-American Commission on Human Rights, and several international human rights treaty bodies. Serving as the first Special Adviser on Gender Persecution to the International Criminal Court Prosecutor, she drafted the first-ever policy on the crime of gender persecution. Her work has been covered by numerous media outlets – such as CNN and BuzzFeed – and cited widely, including by the UN Security Council, the UN General Assembly, the Supreme Court of India, and Human Rights Watch. In 2022, she was a Fulbright Scholar, teaching at the University of Leiden School of Law in The Hague.

**Ian Greenwood, Road Transport Specialist.** Dr. Greenwood is a New Zealand citizen who holds B.E. and Ph.D. degrees in civil engineering from the University of Auckland. Since 2013 he has been a self-employed consultant, providing expert input to development projects around the world – with a focus on transport infrastructure projects. Prior to 2013, Dr. Greenwood was a Partner and Technical Principal of Asset Management in a multinational consulting firm, working on major assignments across the developed and developing world. He was selected to join the Uganda: North Eastern Road-corridor Asset Management Project (NERAMP) Inspection Panel team to provide specialist input on road safety and general civil engineering advice. He has undertaken many road safety studies and provided expert witness testimony on fatal accident investigations for the New Zealand Police department. He regularly lectures on post-graduate infrastructure asset management at the University of Auckland and has published numerous technical papers over his career on a range of transport matters. Dr. Greenwood has advised the World Bank (including expert inputs on a prior Inspection Panel investigation), the Asian Development Bank, the Caribbean Development Bank, and the European Bank of Reconstruction and Development in more than 35 countries. For his work, he has received the Individual Achievement Award from the Institute of Asset Management, the NAMie Award for Technical Excellence in asset management from the Institute of Public Works Engineers of Australasia, and was elected a Fellow of Engineers New Zealand for his work in advancing engineering knowledge in the field of infrastructure asset management.

**Kathryn Tomlinson, Anthropologist, and Expert on Indigenous Peoples and Social Safeguard Issues.** Dr. Tomlinson is a British citizen who holds a Ph.D. in anthropology from the University of Sussex, an M.Sc. in international politics from the University of Wales Aberystwyth, and an B.A. in archaeology and anthropology from the University of Cambridge. Her doctoral research explored Indigenous Peoples’ land rights in Venezuela during the development and aftermath of a conflict over the building of a power line through indigenous territories. Dr. Tomlinson has worked for the last 17 years as a consultant and expert advisor to organizations in the private, public, and multilateral sectors on managing social and human rights impacts and risks in projects. With many years of experience in the oil and gas and mining sectors, she has worked on renewable energy, transport, agricultural, health and conservation projects, and is highly skilled in translating into practice international social and human rights safeguard standards, including Indigenous Peoples’ standards, in diverse project contexts. Dr. Tomlinson also has particular expertise in indigenous rights and land, and has worked on numerous projects dealing with the intersection between indigenous and customary land rights, and private and public sector development. Her project work has included social, human rights, and indigenous rights

assessments and due diligence, resettlement planning and reviews, implementing stakeholder engagement and community agreements, developing company policy and management processes, as well as in-house training and capacity building for social and human rights management, and developing sector tools and guidance. She has served as advisor to various companies and is highly versed in helping companies understand the leadership challenges and obligations around sustainability and human rights.

