

**INTERNATIONAL FINANCE CORPORATION**

**MANAGEMENT RESPONSE TO THE  
CAO COMPLIANCE INVESTIGATION REPORT**

**LATIN AMERICA AND CARIBBEAN**

**ALTO MAIPO**

**(PROJECT #31632)**

July 16, 2021

## CONTENTS

Abbreviations and Acronyms .....	3
Executive Summary .....	4
I. Background of CAO Investigation .....	8
II. Project Description and the Due Diligence and Supervision Process.....	9
III. Management Response to CAO Observations.....	19
IV. Lessons Learned and Actions .....	34
V. Conclusion .....	37
Annex 1 – Summary of Management Responses .....	39

## ABBREVIATIONS AND ACRONYMS

AIP	Access to Information Policy
ARD	Acid Rock Drainage
BCS	Broad Community Support
CAO	Office of the Compliance Advisor Ombudsman
CIA	Cumulative Impact Assessment
CSO	Civil Society Organization
DOH	Hydraulic Works Department
E&S	Environmental and Social
EHS	Environmental, Health, and Safety
EHSS	Environmental, Health, Safety and Social
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESG	Environmental, Social and Governance
ESIA	Environmental and Social Impact Assessment
ESMC	Environmental and Social Monitoring Consultant
ESRS	Environmental and Social Review Summary
ESRP	Environmental and Social Review Procedure
GBV	Gender-Based Violence
GIIP	Good International Industry Practice
GM	Grievance Mechanism
ha	Hectare
ICP	Informed Consultation and Participation
IESC	Independent Environmental and Social Consultant
IFC	International Finance Corporation
km	Kilometer
MW	Megawatt
PIIM	Project Induced Immigration Plan
PS	IFC Performance Standards
RCA	<i>Resolución de Calificación Ambiental</i> (Environmental Permit)
SEA	<i>Servicio de Evaluación Ambiental</i> (Environmental Assessment Authority)
SEP	Stakeholder Engagement Plan
SMA	<i>Superintendencia de Medio Ambiente</i> (Environmental Superintendency)
US\$	United States Dollar
WBG	World Bank Group

## EXECUTIVE SUMMARY

- i. This report has been prepared as the Management Response of the International Finance Corporation (IFC) to the Final Investigation Report of the Office of the Compliance Advisor Ombudsman (CAO) received on June 8, 2021. The CAO Final Investigation Report presents its observations and conclusions on two complaints with respect to IFC's investment in the Alto Maipo project (#31632), which were admitted and found eligible for further assessment by the CAO in March 2017 and August 2017, respectively. The first complaint from civil society organizations alleged breaches of IFC Performance Standards (PS) 1, 2, 3, 4, 5, 6 and 8 in relation to IFC's investment in the project, covering a wide variety of concerns regarding environmental and social (E&S) impacts, an inadequate environmental and social impact assessment (ESIA) study, and dust and noise pollution impacts on surrounding communities. The second complaint from an individual alleged sexual harassment and improper handling of worker grievances, including retaliation.
- ii. Management appreciates the CAO's thorough and comprehensive compliance assessment of IFC's investment in the Alto Maipo project. IFC would particularly like to highlight the balanced analysis and discussion throughout the main body of the report where, in many of the areas alleged in the complaints, the CAO concludes that IFC's actions and recommendations to the client were generally consistent with the Sustainability Policy and IFC PS. Nevertheless, Management acknowledges that the overall assessment also raises important points for improved practices, many of which have already been addressed, including: (a) short-term, reversible impacts related to the construction phase, which is now almost completed; (b) all the assessments required for the operational phase of the project, which were already ongoing during construction as documented by IFC's supervision, and were finalized prior to start of operations (i.e., Recreational Water Users Study and Advanced Sediment Transport Study); and (c) enhanced guidance for specialists on managing cumulative impacts, hydropower projects and addressing Gender-Based Violence (GBV). Other points will be addressed as a result of this assessment and are included in the Management Action Plan.
- iii. Alto Maipo SpA is a special purpose company created for the construction and operation of a 531 MW hydropower project located in Chile's Metropolitan Region, about 50 km southeast of Santiago, in the Cajón del Maipo watershed area of the Maipo River Basin, which includes the Upper Volcán, the Upper Yeso and the Colorado Rivers. The project included two run-of-the-river hydroelectric power stations connected in a series, with a combined capacity of 531 MW (Alfalfal II, with a capacity of 264 MW, and Las Lajas, with a capacity of 267 MW), through three tunneling complexes totaling 74 km. The project, sponsored by the Chilean power company, AES Gener S.A., was originally estimated to have a total cost of about US\$2 billion.
- iv. IFC made an original investment of US\$145 million in the company in December 2013 as a Senior Lender to the project in conjunction with a group of development finance, international and domestic commercial financial institutions, comprising an overall senior lending financing package of US\$1.2 billion. Following the start of construction and disbursements of a significant proportion of the financing, the project experienced substantial cost overruns between 2016 and 2017. In May 2018, IFC made a commercial

decision to exit the project as part of a financing rescheduling resulting from these overruns. The project is currently still under construction and is expected to be operational by the end of 2021.

- v. During its participation in the Alto Maipo financing, IFC together with other Senior Lenders to the project, and with the assistance of an Independent Environmental and Social Consultant (IESC)<sup>1</sup>, carried out a comprehensive review of all E&S aspects of the project, based on environmental approvals, project documentation and interviews with relevant national and local authorities. IFC also met with other stakeholders, including representatives of the local communities and entities that had publicly expressed their opposition to the project, among whom was one of the complainants to the CAO. IFC and the Senior Lenders made extensive efforts to understand and address their concerns, including by tasking the IESC to specifically review all relevant information in the light of concerns raised involving several IESC thematic experts.
- vi. The comprehensive review encompassed in the environmental and social due diligence (ESDD) for the project resulted in the definition of eight critical path gaps that were subsequently addressed by the company through the completion of relevant additional studies (over and above the original national ESIA). These studies were completed prior to the approval by IFC's Board of Directors of the investment in the project, to enable the project to meet good international industry practice (GIIP) and the Senior Lenders' E&S requirements, including IFC's PS. IFC further determined Broad Community Support (BCS) for the project prior to its Board approval and commitment to finance the project. Finally, IFC required the company to implement the environmental and social action plan (ESAP), including key deliverables related to managing impacts during the construction and eventually the operational phase.
- vii. IFC and the other Senior Lenders closely monitored the construction stage of the project, supported by the IESC, through quarterly visits and detailed reporting, together with several supervision visits to the project site and its surroundings during the time of IFC's investment in the project. This included the monitoring of an adaptive management framework on a number of E&S risks, designed to quickly identify risks due to the inherent complexity of the project and rapidly adapt, through a structured change management process, the design and implementation of additional prevention, management and mitigation measures as the project advanced in its construction. The use of an adaptive management framework was appropriate and necessary in a project of this scope and magnitude, where potential E&S impacts could materialize during its construction, independently of the significant efforts made by IFC and all Senior Lenders to the project to anticipate and manage such outcomes. This was in addition to the project's E&S assessments, which were carried out during the project preparation phase.
- viii. This Management Response covers in detail all CAO's observations derived from its investigation of the allegations. CAO's observations and IFC's responses are also summarized in Annex 1 to this report. In the majority of them, with exceptions for specific issues, the CAO observed that IFC generally complied with its obligations under its

---

<sup>1</sup> Referred as to ESMC in the CAO Investigation Report.

Sustainability Policy with respect to the pre-investment review and supervision of the client's compliance with IFC's PS. In others, CAO observed that IFC did not take measures needed to ensure or bring the client back into compliance.

- ix. IFC agrees with several CAO observations, including some highlighted in the executive summary of the CAO report, on which the underlying work could have been more thorough. However, IFC either only partially agrees or disagrees with other CAO observations based on contextualization of the actions and requirements, understanding of the potential impacts, clarification on the timing of required implementation of the activity in question and interpretations of the policies and guidelines. This includes IFC's approach to disclosure of confidential information under the Access to Information Policy (AIP). In summary, Management believes that IFC's overall appraisal and supervision efforts were commensurate to the project risks and in line with E&S policy requirements.
- x. The CAO observations have been helpful to highlight areas where IFC can further improve its practices and procedures beyond policy requirements. IFC has learned lessons from its investment in Alto Maipo and other hydropower projects and will continue to review and update its practices and procedures in order to enhance the approach to implementation of the PS by its clients with respect to these projects to mitigate recurrences of similar issues, where possible:
  - In 2013, IFC published the Good Practice Handbook on Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets;
  - Starting from 2018, IFC developed guidance and tools for E&S specialists to screen and assess, during appraisal and supervision, contextual and project risks associated with GBV and sexual harassment;
  - In 2018, IFC published the Good Practice Note: Environmental, Health, and Safety Approaches for Hydropower Projects.
- xi. As part of the Management Action Plan, IFC will:
  - Update guidance to social development specialists to improve the consistency of descriptions of key evidence of support and/or objection to the project as part of BCS determination and enhancing the information provided as part of IFC disclosure around BCS; and
  - Develop guidance for E&S specialists to identify the parameters for ambient air quality baseline studies and parameter-based monitoring requirements, in line with GIIP, during the project construction phase, as warranted.
- xii. The CAO report notes that IFC has an equity investment (of 3.3 percent) in one of the private sector financiers of the project, Itaú Corpbanca (made before, and unrelated to, the debt investment by Itaú Corpbanca in the Alto Maipo project). IFC also has an ongoing business relationship with AES Gener S.A.'s majority shareholder, US-based AES Corporation, through two active power sector projects in Europe and in Africa. IFC will share the CAO report and conclusions with both of these parties, but note that its ability to influence project-level outcomes on a project which is now almost complete, and from

which IFC exited in May 2018, is very limited. IFC has not carried out a new engagement with any AES Corporation entity since its exit from the Alto Maipo project.

- xiii. Management would also like to point out that while IFC and another of the original Senior Lenders to the project fully exited from participation in the project in May 2018, the remaining lenders to the project, including the US Development Finance Corporation and the Inter-American Development Bank, continued with the implementation and improvement of the Alto Maipo ESAP that was jointly designed by IFC, the Senior Lenders and the IESC and was agreed by the project company. As noted in the body of this Management Response, guided by the original ESAP for the project and with the support of the IESC and the Senior Lender group, the company has achieved important ESAP milestones over the past three years since IFC made its exit from the project. These achievements have addressed issues which were ongoing and under discussion with the project company at the time of IFC's exit.
- xiv. IFC also notes that the Inter-American Development Bank's Independent Consultation and Investigation Mechanism (MICI) concluded its own investigation into complaints similar to those received by the CAO with the publication of its Compliance Review Report in June 2020, with findings and recommendations that were the basis of a Joint IDB-IDB Invest Management Action Plan, approved by IDB Invest's Board on October 7, 2020, which commits to conduct additional assessments related to recreational water users, influx of workers and related socio-economic and gender impacts, among other items.
- xv. Management is committed to continuing to improve on IFC's internal processes and systems, including, *inter alia*, by preparing updated guidance on Broad Community Support (BCS) disclosure, developing enhanced guidance regarding ambient air quality monitoring, and updating IFC's disclosure system, as detailed in the IFC Management Action Plan contained in this report. IFC will also engage with Itaú Corpbanca, other financiers, Alto Maipo SpA and US-based AES Corporation to share the CAO report and conclusions as part of the IFC Management Action Plan. Management believes that the CAO observations contained in the body of its report broadly describe an adequate pre-investment review and supervision by IFC, which resulted in a comprehensive identification of the relevant E&S risks and impacts of a complex project and the definition of an adequate ESAP, the implementation of which allowed the client to achieve outcomes in line with IFC's PS.

## I. INTRODUCTION AND BACKGROUND OF CAO INVESTIGATION

1. In January 2017, the Office of the Compliance Advisor Ombudsman (CAO) received a complaint (Alto Maipo-01) from two Chilean Civil Society Organizations (CSO), *Coordinadora Ciudadana No Alto Maipo* and *Ecosistemas*, assisted by the United States-based CSO, Center for International Environmental Law (CIEL). The complaint concerned the investment of the International Finance Corporation (IFC) in Alto Maipo SpA, a Chilean special purpose vehicle (the client or the company) created for the construction and operation of a large hydropower complex located about 50 km southeast of Chile's capital of Santiago in the Metropolitan Region. The project was sponsored by a local power generation company, AES Gener S.A. (AES Gener or the Sponsor).

2. The complaint alleged breaches of IFC Performance Standards (PS) 1, 2, 3, 4, 5, 6 and 8, and expressed concerns about project environmental and social (E&S) impacts, including limitations on access to water for neighboring communities and Santiago, erosion of the Maipo riverbed, acceleration of the desertification process in the Cajón del Maipo watershed area in which the project is located, and impacts on protected areas including glaciers, river ecology, and ecosystem services.

3. The complaint further claimed that the Environmental and Social Impact Assessment (ESIA) for this project was incomplete, inadequate, and did not meet national regulations. According to the complainants, the ESIA did not: (i) take into account the impact of climate change on the water levels of the Maipo River; (ii) contain a proper hydrogeological study to assess the impact of the construction of tunnels on water and ecosystems; (iii) properly identify the project's area of influence; (iv) contain an alternatives analysis; or (v) assess cumulative impacts of the project.

4. Finally, the complaint: (i) claimed that some communities in the vicinity of the project, particularly El Alfalfal and Los Maitenes, suffered from dust and noise pollution from construction works of the project; and (ii) set out concerns about social impacts, including poor working conditions onsite, a decrease in tourism and recreational activities in the region, and the creation of divisions within the communities. The CSO complaint was deemed eligible for further assessment in March 2017.

5. In July 2017, a second complaint (Alto Maipo-02) was received by the CAO from an individual formerly employed by the Sponsor's foundation (the AES Gener Foundation). The foundation is focused on community development programs for all AES Gener energy projects in Chile, including Alto Maipo, and IFC did not have any contractual relationship with the AES Gener Foundation. The complainant alleged that while she was working for the Foundation, she was sexually harassed by one of her colleagues. The complainant raised concerns with regard to the appropriateness of the company's response to her reporting of the harassment.

6. CAO found the complaint eligible for further assessment in August 2017, while noting that CAO has generally not initiated compliance investigations in response to individual employment-related disputes. However, in this case, the investigation was initiated as IFC project documentation had indicated concerns regarding other allegations of sexual harassment at the level

of the company and contractors, in addition to those brought by the complainant, as well as the application of PS2 requirements on the handling of worker grievances.

7. In both complaints, during CAO's assessment, there was a lack of consensus among the parties to engage in a CAO-facilitated dispute resolution process, as presented in CAO Assessment Reports issued in October 2017 and December 2017. Hence, per CAO's Operational Guidelines, the complaints were referred to CAO's Compliance function and subsequently merged for the purposes of the CAO's investigation and further actions.

8. The focus of a CAO Compliance Investigation is on IFC's compliance with its own Policy on Environmental and Social Sustainability (the Sustainability Policy), Access to Information Policy (AIP) and PS, the requirements of which an IFC client is expected to meet throughout the life of an IFC investment.

9. IFC's Environmental and Social Review Procedures (ESRP) describe how IFC's Environmental, Social and Governance (ESG) department conducts its due diligence for the business activities under consideration for investment and how it monitors and records client performance. IFC's investment in the project was made in the context of the 2012 Sustainability Framework. The investment was approved under ESRP version 7 (April 2013) and supervised under subsequent versions of the ESRP. CAO analyzed IFC's performance against the requirements of the above framework.

10. CAO's Compliance function released a Compliance Appraisal Report in May 2018 – the same month IFC fully exited from participation in the project – concluding that further investigation was warranted for both cases. A CAO compliance investigation trip to Santiago was carried out in December 2018, followed by interviews with IFC staff in January 2019. IFC Management received a draft CAO Investigation Report in May 2020, to which IFC sent its Factual Response and Comments in June 2020. A final version of the CAO Investigation Report was then received in June 2021.

11. This report addresses the CAO's investigation findings and observations and is organized into five sections. Section I is this introduction. Section II provides a detailed description of the project, including the appraisal and supervision process for the investment in Alto Maipo SpA. Section III presents Management's remarks on CAO's compliance findings and observations, and Section IV describes lessons learned and actions in response to the CAO report. Section V provides the conclusion.

## **II. PROJECT DESCRIPTION AND THE DUE DILIGENCE AND SUPERVISION PROCESS**

### **IFC Investment in Alto Maipo SpA**

12. In October 2013, IFC's Board of Directors approved an investment in Alto Maipo SpA, a special purpose vehicle created for the construction and operation of a 531 MW hydropower complex located in Chile's Metropolitan Region, about 50 km southeast of Santiago in the Cajón del Maipo watershed of the Maipo River Basin, which includes the Upper Volcán, the Upper Yeso

and the Colorado Rivers (the project). The Sponsor, a 71-percent-owned Chilean subsidiary of AES Corporation (based in Arlington, Virginia, USA), is a large and experienced corporation that owns several hydroelectric and thermoelectric generation plants in the country.

13. The Alto Maipo project (Alto Maipo or the project) consisted of two run-of-the-river hydroelectric power stations connected in a series, with a combined capacity of 531 MW (Alfalfal II with a capacity of 264 MW and Las Lajas with a capacity of 267 MW), linked to three tunneling complexes totaling 74 km, which are used to provide access and convey generating flows to and between the two power stations, and to discharge all generating flows back into the Maipo River.

14. Approximately 90 percent of the project's total infrastructure was designed to be constructed underground. Underground facilities included powerhouses, siphons, access tunnels and water conveyance systems. Surface infrastructure included intakes, delivery canals, forebay structures, a new electrical substation, new bridges, access roads and 17 km of transmission lines. The project did not require the construction of surface water reservoirs. A map of the project is presented in Figure 1 below.

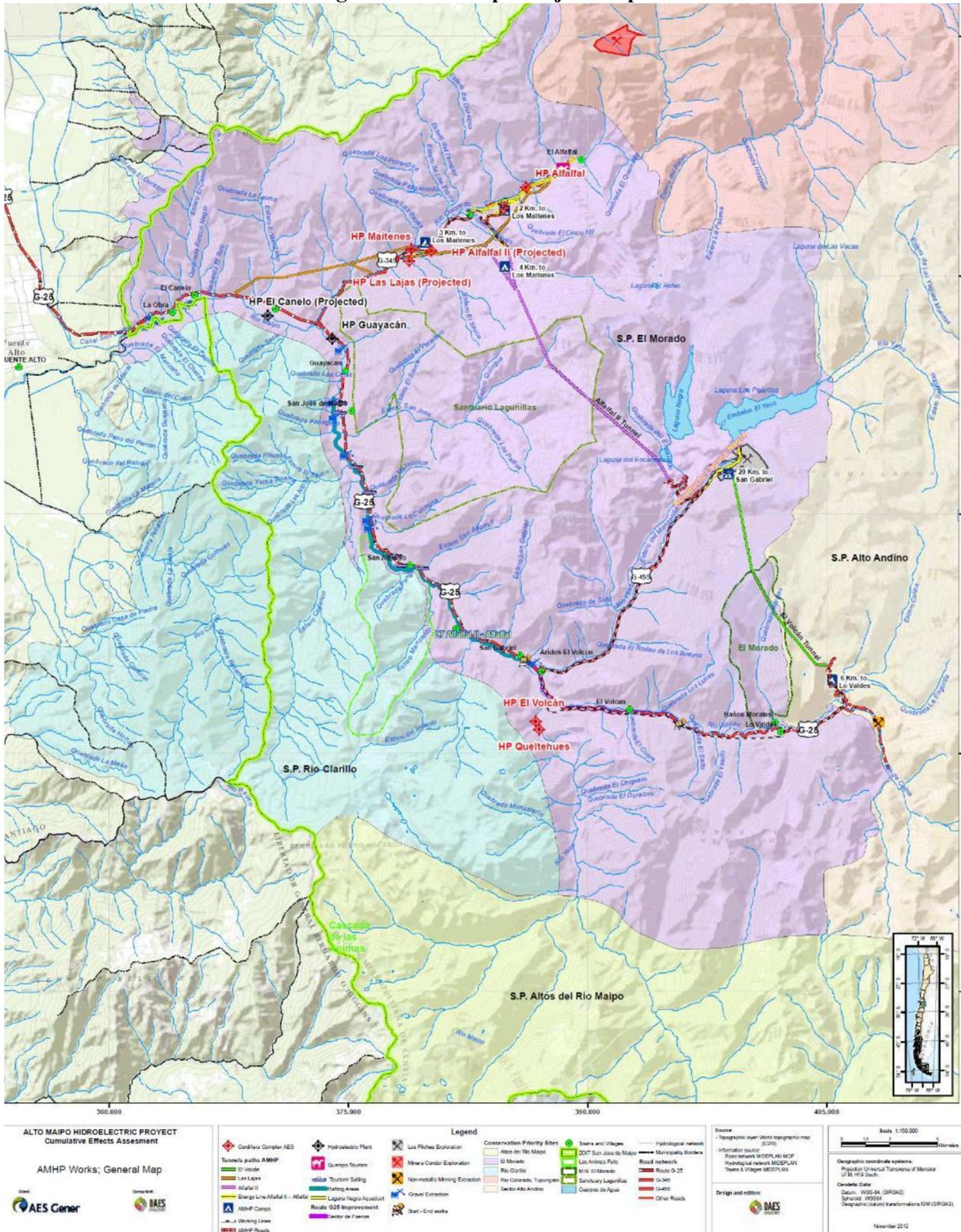
15. The total permanent surface infrastructure occupied 85 hectares (ha) (with an additional 20 ha of temporary facilities) and 61.25 ha for the transmission lines. Land used by the project's above-ground infrastructure had been used for agriculture and cattle grazing or was unimproved. The underground facilities traversed two protected areas (a Nature Sanctuary and a Natural Monument), although no surface works were foreseen in either protected area.

16. During the construction phase, 14 muck deposits, ranging in size from 0.83 to 5.61 ha, were sited throughout the project area and generally close to the tunnel portals. The Maipo, Colorado, Volcán, and Yeso Rivers have been highly affected by human activity, both historic and current. Activities include limestone mining, other run-of-river power projects (some dating back to the 1920s), informal extraction of riverbed sediments for construction materials, construction of a water reservoir, used today for drinking water supply and irrigation, and introduction of fish species for recreational purposes.

17. Following preliminary works started in 2011, the company gave the notice to proceed to its construction contractors in December 2013 – January 2014. As of December 2017, the project was 60.1 percent advanced; tunnel progress as of February 2018 was approximately 37,399 m (50 percent). At the time of IFC's exit from the project in May 2018, the project was under construction; at the time of this writing, the project continues to be under construction and is expected to enter into operation only at the end of 2021.

18. IFC's investment in Alto Maipo SpA consisted of an A Loan of US\$145 million for IFC's own account, to complement a further US\$1.072 billion provided by eight different financial institutions. The initial lender group included other development and finance institutions: Overseas Private Investment Corporation (OPIC, now the US Development Finance Corporation – DFC), the Inter-American Development Bank (IDB), and KfW as well as commercial banks – Itaú, Corpbanca (initially two separate lenders, now merged), BCI, Banco Estado and DNB (collectively, the Senior Lenders).

Figure 1. Alto Maipo Project Map



Source: Project ESIA, 2008.

19. Alto Maipo was expected to contribute to the diversification of Chile's energy matrix away from thermal energy sources, through the development of a sustainable large-scale conventional hydropower project, given the ample resource potential in the country. The implementation of projects like Alto Maipo was intended to reduce economic vulnerability and meet growing power demand with greater economies of scale than non-conventional renewable energy, which at the time of the investment was still in the relatively early stages of development.

20. Alto Maipo intended to add an amount of electricity generation capacity to the country almost as large as all of IFC's earlier combined investments in Chile's power sector over the previous ten years, making a tangible impact on Chile's generating capacity while avoiding the generation of approximately 770,000 tons of CO<sub>2</sub> emissions annually. The strategic location of the project, adjacent to the country's principal energy demand center, meant to help decrease the load on the overburdened transmission system and stabilize the country's electricity grid.

21. Through its investment in this project, IFC aimed to provide critical long-term funding which was otherwise unavailable in such large amounts, together with contributing its experience in the funding of large-scale hydropower projects through project finance in Chile. At the time of its approval, Alto Maipo represented the largest fully permitted, run-of-river hydroelectric development project in the country, and was expected to provide Chile with clean, efficient and economical electricity.

## **IFC's E&S Appraisal**

### ***IFC's Pre-Investment Review in 2012***

22. IFC's E&S pre-investment review prior to IFC Board approval included a field appraisal mission and extensive documentation reviews. These activities were conducted in conjunction with representatives from other Senior Lenders, including DFC and IDB, assisted by ERM (Environmental Resources Management, Inc.), who was the Senior Lenders' Independent Environmental and Social Consultant (IESC), as discussed in detail below. The first field appraisal mission was conducted in April 2012, with a second mission in October 2012.

23. The field appraisal missions included meetings with the Sponsor's representatives and project development team; meetings with third-party consultants responsible for the preparation of the project's Environmental and Social Impact Assessment (ESIA); relevant national and local authorities, including the Environmental Assessment Authority (*Servicio de Evaluación Ambiental - SEA*), General Water Authority, Hydraulic Works Department (DOH) and the Municipality of San Jose de Maipo, including its Municipal Tourism and Economy Office.

24. The team also met with other stakeholders, including representatives of the communities of the *Union Comunal* of San José de Maipo, located in the project's direct area of influence; and representatives of entities that publicly expressed opposition to the project at the time of the appraisal visit in April 2012 (i.e., *Coordinadora Ciudadana No Alto Maipo* – one of the complainants – *Asociacion de Canalistas del Rio Maipo*, *Comunidad de Agua de Riego* from the Community of Manzano and the *Junta de Vigilancia del Rio Maipo*). Interviews were also conducted with local community members, including residents along the access road to the Volcán area.

25. The appraisal missions also included visits to the following project locations: (i) Volcán River area to see the future location of the El Morado, Las Placas, Colina and La Engorda intakes; the sites of the Volcán tunnel portal, siphons, waste rock disposal areas and workers camp; access roads under construction; (ii) Yeso River area to see future location of workers camp, waste rock disposal areas, tunnel portal, bridges and siphons; and (iii) the Yeso reservoir (operated by Aguas Andinas, the private concession holder for water supply in the City of Santiago) and intake point, upstream of the project facilities.

26. The team also visited the Colorado River area to see the future location of tunnel portals, waste rock disposal areas, workers camps, substation, bridges, access roads and the location of the final discharge point; existing and future transmission lines; the Alfalfal I plant, an operating 178 MW run-of-river hydropower plant, and the Maitenes plant, an operating 31 MW run-of-river plant, both located in the area on the Colorado River; and the tree and plant nursery for the project established at Las Maitenes camp, where the company established its field office.

27. IFC's appraisal activities in 2012 included a review of extensive environmental, health, safety and social documentation, including the ESIA of the hydropower project and the ESIA of the transmission line; publicly available information obtained from SEA, including the environmental permits (*Resolución de Calificación Ambiental – RCA*) for both ESIA's, following the national process which took place in 2008 and 2009; project feasibility, design, and engineering information; and environmental, social, health and safety management plans.

28. IFC's team also reviewed relevant information received from civil society and local association stakeholders, who expressed persisting concerns related to the project's potential E&S impacts. These concerns were related to: (i) potential changes in surface hydrology and impacts of sudden "blackouts" (i.e., a total shutdown of the plant due to power plant or electricity grid failure); (ii) impacts on sediment transport downstream of the discharge point; (iii) groundwater impacts associated with tunneling activities; and (iv) exacerbated climate change impacts on water flow and local desertification. The issues raised by the local stakeholders were evaluated during appraisal, involving several IESC thematic experts.

### ***Independent E&S Consultant Due Diligence***

29. As indicated earlier, ERM was retained in early 2012 by Alto Maipo SpA and the Senior Lenders to serve as IESC and conduct an Environmental and Social Due Diligence (ESDD). The scope of work for the IESC was to: (i) perform an independent ESDD review of the project, resulting in the preparation of a Preliminary Findings Report and a draft, interim and final ESDD Report; and (ii) conduct regular (quarterly) monitoring of the E&S performance of the project through document review and site visits for the duration of the construction phase. The IESC provided the initial ESDD findings in September 2012 and the final ESDD report in September 2013.

30. As part of the ESDD, the IESC conducted an expert review of supplemental information provided by stakeholders opposed to the project and by the company regarding four key topics of concern to stakeholders as presented above: (i) surface hydrology and "blackouts;" (ii) sediment transport; (iii) groundwater; and (iv) climate change.

31. Based on the ESDD findings by the IESC, the Senior Lenders' E&S specialists identified the following five Critical Path Gaps in the E&S assessment documentation that needed to be addressed to meet Senior Lenders' E&S requirements (or "Applicable Standards"), including IFC's PS, before the Senior Lenders' project approval:

- Gap #1. Identification and Assessment of Potential Impacts on Water Uses and Establishment of a Management/ Compensation Plan.
- Gap #2. Identification and Assessment of Potential Impacts on Riverbed Sediments and Establishment of a Management/ Compensation Plan.
- Gap #3. Identification and Assessment of the Conversion or Degradation of Aquatic Habitats and Establishment of an Ecological Flow Management Strategy.
- Gap #4. Identification and Assessment of Impacts from Land and Right of Way Acquisition and Establishment of a Land and Right of Way Acquisition Report.
- Gap #5. Identification and Assessment of Impacts to Legally Protected and Internationally Recognized Areas.

32. The five Critical Path Gaps were later expanded to include additional Senior Lender requirements necessary prior to approval. These included:

- Gap #6. Cumulative Impact Assessment.
- Gap #7. Alternatives Analysis.
- Gap #8. Stakeholder Engagement.

33. The Senior Lenders requested Alto Maipo SpA to carry out the relevant studies, complementing the original ESIA's, to address the Critical Path Gaps, including concerns raised by the local stakeholders, and to ensure that the scope, content, and quality of the identification and assessment of E&S risks and impacts were consistent with good international industry practice (GIIP) and met the Senior Lenders' E&S requirements, including IFC's PS. Between May 2012 and June 2013, prior to approval of the project by IFC's Board, the company completed the following complementary studies:

- Report on Identification and Assessment of Potential Impacts on Water Uses and Establishment of a Management/ Compensation Plan (addressing Gap #1).
- Report on Impacts of Climate Change on the Hydrologic Resources of the Alto Maipo Hydroelectric Power Project (addressing Gap #1).
- Report on Identification and Assessment of Potential Impacts on Riverbed Sediments and Establishment of a Management/ Compensation Plan (addressing Gap #2).
- Report on Identification and Assessment of the Conversion or Degradation of Aquatic Habitats and Establishment of an Ecological Flow Management Strategy (addressing Gap #3).
- Report on Identification and Assessment of Impacts from Land and Right of Way Acquisition and Establishment of a Land and Right of Way Acquisition Report (addressing Gap #4).

- Report on Identification and Assessment of Impacts to Legally Protected and Internationally Recognized Areas (addressing Gap #5).
- Cumulative Impact Assessment Report (addressing Gap #6).
- Alternatives Analysis Study Report (addressing Gap #7).
- Stakeholder Engagement Strategy, Stakeholder Mapping and documentation of additional consultation and disclosure activities (addressing Gap #8).

34. The company also produced summary documents of each one of the Critical Path Gaps reports to be disclosed to project stakeholders. The IESC reviewed the technical documents and studies and provided its independent assessment of the alignment of the information produced by the company with the Senior Lenders' requirements to address the Critical Path Gaps. The ESDD was completed by September 2013.

***IFC's Broad Community Support and Environmental and Social Action Plan (2013)***

35. In August 2013, IFC carried out its own investigation to determine whether the client's community engagement involved Informed Consultation and Participation (ICP) and enabled the participation of the Affected Communities, leading to Broad Community Support (BCS) for the project by Affected Communities. The investigation included a series of interviews with key stakeholders such as water users, landowners, chamber of commerce and tourism, representatives from Affected Communities, as well as elected representatives at the municipal and community level. Interviews were also conducted with stakeholders that opposed the project, such as some larger businessowners dedicated to tourism and rafting.

36. IFC concluded that there was BCS for the project and that the Affected Communities largely supported the project although, during the investigation, IFC collected expressions of concern related to potential impacts during project construction and operation. In particular, IFC's investigation identified stakeholder groups within the area of influence that supported the view of the civil society organizations opposed to the development of the project and which subsequently lodged the complaint to the CAO. The majority of the population in the area, including workers employed in the tourism sector or owning small-scale businesses, supported the project.

37. Following the BCS determination, IFC recommended that Alto Maipo SpA continue the dialogue and stakeholder engagement efforts with those opposed to the project. Such enhanced engagement was done through multiple channels, including engaging a mediation and consultation firm (Consensus Building Institute – CBI) to conduct a diagnosis of the stakeholder positions and opinions in June and July 2013. The client subsequently continued the enhanced engagement with stakeholders to address the concerns that were raised through the CBI diagnosis, including the concerns of those opposed to the project. Such engagement resulted in the development and launching of a participatory monitoring process, which allowed community members to participate in monitoring of the areas of potential adverse impact about which they had concerns.

*Environmental and Social Action Plan*

38. IFC required Alto Maipo SpA to implement an Environmental and Social Action Plan (ESAP) identifying corrective measures intended to close the gaps identified as part of the pre-

investment review, within a reasonable period of time. Through the implementation of these measures, the project was expected to be designed, constructed and operated in accordance with PS objectives. The ESAP was disclosed, together with IFC's Environmental and Social Review Summary (ESRS), in July 2013. The ESAP included a requirement for Alto Maipo SpA to ensure that potential E&S impacts from any future expansions would be evaluated following applicable local laws and regulations and IFC requirements. This included the potential use of water resources from (i) Laguna Negra, Laguna Lo Encañado, in accordance with the agreement between Aguas Andinas and AES Gener; and (ii) the Volcán River, in accordance with the agreement between AES Gener and RP Global Chile Energías Renovables; and (iii) any other future new expansions, if applicable.

39. For both the construction and operational phase, the ESAP required the following actions:

- Harmonize the existing Emergency Preparedness and Response Plans into a discrete, comprehensive document (a Project Emergency Prevention and Contingency Plan), specifically focusing on emergency situations and categorizing applicable risks by probability, severity, and magnitude, using up-to-date risk information, including mapping of natural hazards to the specifics of the project's construction and operational phases;
- Develop and implement a Participative Monitoring Program for the construction phase as well as for the operational phase, focusing on the issues of concern to local communities; and
- Develop (during the construction phase) and implement (during the operational phase) an Ecosystem Services Management Program to address identified potential cumulative impacts on ecosystem services in the direct and indirect area of influence of the project (diverted reach and up to 5km downstream of the point of restitution).

40. For the construction phase, the ESAP required the following actions:

- Ensure adequate monitoring of the implementation of contractor management plans to verify that contractors and sub-contractors engaged in the construction phase comply with IFC requirements concerning occupational health and safety, labor conditions, environmental performance and community engagement;
- Develop and implement a human resources policy and Grievance Mechanism (GM) consistent with IFC's requirements and national labor laws and make available the GM to both contractors and employees;
- Develop plans for stormwater, tunnel production water, and waste rock drainage management;
- Complement the existing Noise and Vibration Monitoring Program to include a clear notification protocol to alert communities when blasting will occur and include households and sensitive receptors located in close proximity to roads where heavy traffic will occur; and
- As a complement to the Ecological Flow Management Plan, continue to gather baseline information on fish species, macroinvertebrates, and other non-fish species,

as well as hydrological information, with monitoring and sampling campaigns that provide detailed information on the pattern of habitat use of small catfish in the specific Maipo basin area.

41. For the operational phase, the ESAP required the following actions:

- Develop detailed operational phase Environmental, Health, Safety, and Social (EHSS) management plans one year prior to the operational phase;
- Define the organizational structure for the management of EHSS issues during the project's operational phase one year prior to its start;
- Complement the Ecological Flow Management Plan with specific mitigation measures for habitat conservation, compensation, and adaptive management measures. In addition to the adaptive management requirements set forth in the Environmental License, mitigation measures for the protection of the small catfish shall specifically include adjustment of flows and biodiversity offsets, in case these are deemed necessary, in order to maintain or improve their population in rivers affected by the project by start of operations;
- Develop a Recreational Water Use Management Program based on the level of recreational use in affected rivers, the flow requirements for a quality recreation experience (including preferred river segments, time of year, and minimum and maximum flows for recreational uses in any of the bypass reach segments) to be developed during the construction phase and implemented prior to start of operations.

42. Several of the ESAP items, including Ecological Flow Management, Recreational Water Use Management and Ecosystems Management, were based on an adaptive management approach which committed the client to: (i) develop a solid baseline during the construction phase; (ii) implement and monitor during the operational phase; and (iii) mitigate and/or compensate for any adverse impacts identified through the monitoring process. The process of participatory monitoring was introduced by the client to allow community members in the area of influence to participate in the process of establishing baseline and monitoring impacts for the areas that were deemed to be of importance to them. The areas selected were local employment, water, road safety and social commitments. This process allowed stakeholders to actively participate in the monitoring of potential project impacts and enabled the client to identify stakeholder concerns and to strengthen its mitigation strategy early on.

### **IFC's Supervision of Alto Maipo E&S Performance**

43. IFC initiated supervision of the project in early 2014, following the commitment of IFC's financing in December 2013. IFC's supervision was supported and complemented by the independent monitoring carried out by the IESC, which was based on quarterly visits and the review of quarterly Environmental and Social Compliance Reports issued by the company as part of its reporting requirements to Senior Lenders. The IESC reports provided consistent updates on the advancement of the project and ESAP compliance and included review and recommendations for ongoing compliance with IFC PS. The IFC team, and the E&S teams of other Senior Lenders, visited the project jointly with the IESC on several occasions. The first supervision visit by the IFC team took place in March 2014, after the first disbursement and as project construction was

starting. Other supervision visits were conducted in December 2014, May 2015, March 2017, and June 2017.

44. In the period March 2014 to June 2016, IFC completed six disbursements of its loan. All six disbursements were made on the basis of the IESC's certification and approval by the IFC team. Only one E&S-related waiver was granted for the second disbursement in February 2015 due to a delay in the implementation of the ESAP items related to the design and development of actions required for the operational phase of the project, which was justified by the company due to a 6-month delay in project implementation. This resulted in an amendment to the ESAP deadlines in the Common Terms Agreement, the main Senior Lender loan document to the company, to align with the overall delay in the project timeline, which was complied with for all subsequent disbursements. An update of the ESAP was posted on IFC's website in May 2017.

45. In addition to the development and implementation of the required E&S management plans, following the E&S risks and impacts identification and assessment phase, the company implemented a documented adaptive management framework. As recognized by the CAO, the adaptive management framework was included in the RCA granted to the project by Chilean authorities and its documented implementation was considered good practice given the complexity of the project and its construction challenges. This was consistent with the objectives of IFC's PS and allowed monitoring – and reassessing as needed – E&S risks, and particularly those associated with the extremely challenging construction phase, including tunneling in complex geological and hydrogeological conditions, management of labor issues and influx, construction traffic, management of hydrological and ecological risks, and potential cumulative impacts of the project.

46. The adaptive management framework allowed the project to rapidly adapt through a structured change management process, and to design and implement additional prevention, management and mitigation measures as project construction advanced. In addition, the same approach also informed the implementation, calibration and refinement of the several studies required to further develop and finalize the detailed design of the management and mitigation measures for the operations phase, particularly with respect to ecological flow, aquatic ecology, recreational water use and ecosystem services management.

### ***IFC's Exit from the Project***

47. In August 2016, the company announced a cost overrun of approximately US\$400 million over the original project budget, which was followed by a rescheduling of the project financing, executed in March 2017. In July 2017, the company advised the Senior Lenders of additional cost overruns on the order of US\$1 billion and proceeded to engage in further rescheduling negotiations with the Senior Lenders. By early 2018, the date on which the project was originally expected to be completed, construction on the project was only about 50 percent done and the revised estimated project cost was about US\$3.6 billion, a very large increase from the initial project cost estimate at the time of IFC's financing commitment. Following extensive negotiations, IFC made a commercial decision to leave the project due to the significant cost overruns, by selling its exposure to a commercial banking institution. This occurred simultaneously with the closing of the second project finance rescheduling in May 2018. While IFC and another financial institution in the Senior Lender group decided to completely exit the project, the remaining Senior Lenders confirmed their

support for the project and continued to monitor the implementation of the agreed ESAP and related mitigation and management measures by the company.

### III. MANAGEMENT RESPONSE TO CAO OBSERVATIONS

#### IFC's Review of the ESIA Process: Area of Influence, Alternatives Analysis and Cumulative Impact Assessment

##### *Summary of CAO Observations (CAO Report, pg. 28)*

- Area of Influence: IFC's review and advice to the client in relation to the definition of the project's area of influence were consistent with PS1.
- Cumulative Impact Assessment (CIA): Lenders participated in the selection of a competent external expert to carry out the CIA, but no additional consultation with relevant stakeholders was done in the context of the CIA study to identify any recent or recurring issues of concern, as required by PS1.
- Alternatives Analysis: The Alternatives Analysis report does not consider alternative locations for the Las Lajas forebay, which may have further reduced or avoided the otherwise significant impact that the project was expected to have on the community during the construction phase. CAO notes IFC's view that this design change was based on a comprehensive review of alternatives, however, no documentation of this analysis was provided. In not ensuring a comprehensive alternatives analysis for this specific and potentially high impact element of the project, CAO thus finds that IFC's review of the client's ESIA process fell short of GIIP and thus did not meet the requirements of PS1, para. 7.

48. **Management considers that IFC's review of the ESIA process was thorough and contributed to a substantive enhancement of the assessment studies and mitigation measures.** As part of the ESDD and appraisal process, eight critical gaps were identified and actions to close such gaps were agreed with the company. One of the gaps was related to a CIA that would meet the standards of the Lenders and such gap was closed by the company. While it is correct that IFC did not require the client to carry out separate consultations specifically for the preparation of the CIA, IFC monitored the fulfillment of the objectives of PS1 by the client, given that (i) the CIA was informed by an extensive, documented multi-year consultation process carried out for the project, including on specific cumulative impact concerns raised by stakeholders as part of the ESIA and other processes; and (ii) the CIA was revised and updated, including with specific improvements addressing stakeholder comments received following its disclosure.

49. The Alternatives Analysis report covers five alternatives, including major changes to Las Lajas components (relocation of Las Lajas powerhouse and surge shaft, access roads, location of discharge point of Las Lajas, elimination of the Laguna Lo Encañado). Each alternative was subject to detailed assessments covering hydrology and flow contributions, E&S impacts, feasibility and economic aspects, stakeholder concerns and technical aspects, and suggested design modifications aimed at minimizing impacts. While the alternatives analysis, which is disclosed on IFC's project disclosure website, predated the timing of IFC's involvement, **Management is of the opinion that a robust alternatives analysis, in compliance with PS1, para. 7, footnote 11,**

was completed by the client, including assessments based on stakeholder engagement and community concerns.

## IFC's Review and Supervision of the Project's Compliance with National Law

### *Summary of CAO Observations (CAO Report, pg. 32)*

- Pre-Investment Review: At the pre-investment stage, IFC was aware that the client carried out some activities prior to obtaining the necessary permits. As a consequence, the Lenders included an ESAP requirement for the client to put in place a permit registry to monitor the project's compliance with national law. This registry was implemented by the agreed deadline, i.e., financial closing. CAO thus finds that IFC's review of the project's approach to compliance with national law, and measures taken to monitor it, were consistent with PS1, para. 5 requirements.
- Supervision: CAO recognizes the Lenders' efforts to ensure that the client put in place a permit registry and a compliance tracking system for monitoring compliance with RCA and permitting requirements. From pre-investment stage and throughout supervision, however, the Lenders were made aware of repeated instances of project activities being carried out prior to obtaining necessary permits. These issues were flagged by the Environmental and Social Monitoring Consultant (ESMC) to be addressed as high priority items, and several instances of non-compliance were confirmed by national authorities. Though actions were taken to strengthen the client's permit tracking systems in 2015, these were not sufficient to prevent further construction permitting breaches in 2016. As a result, CAO finds that during the period 2014 to 2016, IFC did not have assurance that the client was fully compliant with national legal requirements in relation to permitting as required under PS1, paras. 5 and 24. CAO notes that no further permitting noncompliance was reported in 2017 through to IFC's exit from the project in May 2018.

#### 50. **Management concurs with the CAO observation for pre-investment review.**

51. During supervision, in order for the company to manage the complex permitting process, which included over 700 permitting requirements and conditions of the RCA, IFC required the client to establish a permit registry and subsequently actively monitored and followed up to correct deficiencies in permitting requirements. To ensure compliance with para. 5 of the preamble of the PS (compliance with applicable national law), the company established the permit registry, appointed dedicated staff to maintain it, commissioned a specialized consultant to align the permitting requirements to the Project Execution Plan and Master Schedule, migrated the permits and authorizations to the project management database for effective management, and worked with a group appointed by the Ministry of Energy to enable dedicated review of permits for Alto Maipo. Starting from 2015, the company developed and maintained a specific database ("Compliance Tracking Matrix") as a mechanism for tracking compliance with the permitting requirements.

52. To assess compliance with PS1, paras. 22, 23 and 24, internal and external audits were conducted by the company and their results were used to improve the permit follow-up system, as monitored by the IESC. During supervision, permitting compliance was carefully reviewed by the IESC and when gaps were identified, their closure was monitored both by IFC and the IESC as part of their ongoing monitoring. IFC raised permitting issues with the Sponsor through regular

feedback as part of the supervision activities and these issues were duly resolved prior to IFC's exit. **Management is of the opinion that IFC adequately monitored the implementation of the measures taken by the company to meet PS requirements regarding the project's compliance with national law.**

### **IFC's Determination of BCS, Review and Supervision of the Project's Consultation and Information Disclosure Activities, and Grievance Mechanism**

#### ***Summary of CAO Observations (CAO Report, pg. 34)***

- **Pre-Investment Review**: CAO finds that the Lenders' recommendations for the client to strengthen the project's community relations capacity, to formalize an approach to stakeholder engagement through a Stakeholder Engagement Plan (SEP) and a social management system, and to develop and implement a GM for the project and its contractors, were consistent with the requirements of PS1.
- **IFC's Determination of Broad Community Support**: While IFC's conclusions in relation to ICP (BCS Stream 1) were supported by evidence, in line with IFC guidance to staff, less detail was provided under the heading of "key evidence of support and/or objection to the project" (BCS Stream 2). CAO further notes that IFC disclosed a summary of its determination of BCS as part of the ESRS, as required by the ESRP, albeit in a form that is so limited as to provide little useful information to the reader (ESRP 4, para. 2.12, Version 7, April 2013).
- **Supervision**: CAO finds that the advice provided by IFC up to May 2018 was consistent with the requirements of PS1 for a continued ICP process, and implementation of a PS-compliant GM. Finally, CAO notes that IFC did not consistently apply its own disclosure requirements to this project. In particular, IFC's AIP requires that IFC update the ESRS with E&S information as it becomes available, including any additional E&S assessments conducted for the project, and "third-party monitoring reports where required by IFC, in accordance with the Performance Standards." (AIP 2012, para. 41). For instance, disclosure of the final versions of the CIA, the "Critical Path Gaps" reports, the Advanced Sediment Transport Study, the project Induced Immigration Plan (PIIM), the study on Potential for Contamination of Water from Tunneling Activities and Rock Disposal in Waste Heaps, and E&S management plans, were required under these provisions and would have provided up-to-date information on the project to interested stakeholders, including the complainants and other project-affected communities. CAO notes IFC's assertion that the ESMC reports are confidential in nature and were not disclosed on this basis. However, the ESMC [reports] were also disclosable under the AIP as third-party monitoring reports.

53. **Management agrees that the company developed adequate stakeholder consultation and information disclosure procedures**, including conducting multiple assessments and developing relevant documentation (i.e., SEP, GM and Participatory Monitoring). During supervision, the client also maintained adequate resources to implement stakeholder engagement throughout the project cycle.

54. **Management recognizes that while the BCS matrix outlined the key categories of stakeholders interviewed and the conclusions were correct and supported by adequate evidence, it could have included more detailed information about which communities the**

**stakeholders represented and whether they were directly or indirectly affected.** In addition, it could have been complemented with information about the reasons for which stakeholders were supportive and a discussion of the validity of the concerns that were raised and how they could be mitigated. Management notes, however, that relevant information regarding support and opposition to the project was provided in the ESRS. The AIP, para. 32, requires IFC to “disclose a summary of the process outlining how it made a determination of BCS.” Information provided for BCS in the ESRS (disclosed in IFC Disclosure Portal) complies with the AIP; however, Management acknowledges that it is brief and disclosure would have benefitted from more details on the conclusions, but as notes above that relevant information regarding support and opposition to the project was provided in other parts of the ESRS. Management notes that this observation is related to good practice but it does not represent a policy requirement.

55. With regard to CAO’s observation that IFC did not consistently apply its own disclosure requirements to this project, Management notes that Alto Maipo SpA produced summary documents of each one of the Critical Path Gaps that were disclosed to project stakeholders, and the same documents were available to the public through the website of the Inter-American Development Bank. **Management acknowledges that the relevant studies complementing the original ESIA’s to address the critical gaps were not disclosed on IFC’s project disclosure webpage, although they were completed prior to approval of the project by IFC’s Board.**

56. IFC will update the guidance to social development specialists to: (i) ensure the relevant section of the BCS matrix describes the key underlying reasons for support/objection, and (ii) ensure consistent disclosure of information, as part of the ESRS, to describe the BCS process and IFC’s determination.

57. IFC will update its website to disclose electronic copies or web links, where available, to any relevant ESIA documents prepared by or on behalf of Alto Maipo SpA, on which IFC based its pre-investment assessment review and supervision of the project, in accordance with the AIP.

### **IFC’s Review and Supervision of the Project’s Approach to Climate Change Impacts**

#### ***Summary of CAO Observations (CAO Report, pg. 39)***

- **Pre-Investment Review:** CAO finds that IFC’s pre-investment review of the client’s approach to climate change was consistent with the requirement to “identify those risks and potential impacts on priority ecosystem services that may be exacerbated by climate change” and to “implement mitigation measures” (PS4, para. 8).
- **Supervision:** CAO finds that IFC’s supervision of the client’s engagement with climate change issues as they relate to the project was consistent with the requirements of the Sustainability Policy (para. 11) and PS.

58. **Management concurs with the CAO observation.**

### **Performance Standard 2: Harassment in the Workplace and Worker GM**

#### ***Summary of CAO Observations (CAO Report, pg. 42)***

- Pre-Investment Review: CAO finds that IFC's pre-investment review of the project's approach to preventing harassment, intimidation, and/or exploitation, and employee GM, was consistent with the requirements of PS2, paras. 15 and 20.
- Supervision: CAO found no evidence that the actions required by the ESMC and the Lenders in relation to addressing sexual harassment in the workplace had been satisfactorily completed as of IFC's exit in May 2018, in particular recommendations in relation to investigations of cases of sexual harassment on the workplace were not actioned. CAO found no evidence either that IFC shared with the client relevant guidance on addressing issues of sexual harassment on the workplace. Finally, there is no indication that IFC and/or the ESMC reviewed the client's investigation into the CAO complainant's case specifically. In this context, CAO finds that IFC's supervision did not ensure that the client took appropriate measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women (PS2, para. 15). CAO further finds that IFC's supervision did not ensure that the client had in place a GM for workers of the company and its contractors that involved an appropriate level of management and addressed concerns promptly, using an understandable and transparent process, including in relation to the case of sexual harassment brought by the CAO complainant (PS2, para. 20). Given that CAO was not granted access to documentation of the client's investigation in response to the CAO complainant's allegations of sexual harassment, and there is no IFC supervision record in relation to this issue, CAO is not in a position to comment on the client's response to the specific issues raised..

59. **Management concurs with the CAO observation for pre-investment review.** The client developed a human resources management system, inclusive of human resources policy in line with PS2, prior to first disbursement.

60. Throughout the supervision process, the Senior Lenders required Alto Maipo SpA to implement actions to enhance the management of Gender-based Violence (GBV), including the development of an awareness-raising program addressing sexual harassment, which was required as a condition of subsequent disbursement. The awareness-raising program for staff and contractors on sexual harassment was rolled out in early 2018 and other actions were taken, such as developing a sexual harassment policy and including sexual harassment as a topic in the onboarding of new staff. Evidence of implementation of this program was provided to both the IESC and IFC. The program was active and ongoing at the time of IFC's exit.

61. Furthermore, improvement of the GM, which included training and outreach to contractors as well as staff and acceptance of anonymous grievances, was implemented by the client. **Although Management acknowledges that enhancements of the GM, especially related to handling of anonymous grievance and grievances related to sexual harassment, could have been introduced by the company earlier, IFC's supervision required the client to implement mitigation measures and enhanced procedures as soon as the team became aware of concerns related to sexual harassment. Management believes that para. 20 of PS2 was eventually met by the client.**

62. With respect to AES Gener's investigation of the sexual harassment case involving the complainant, it is important to note that it was not an investigation conducted by the client. The

AES Gener Foundation, the entity within which the related grievance was lodged, is a corporate-level foundation that supports community development programs and initiatives in all areas where AES Gener develops projects and operates power plants in Chile (including Alto Maipo). Relevant information was requested by IFC and the IESC, but they were not given access to the grievance investigation files, as such grievance lodged by an employee of the Foundation, and concerning another employee of the Foundation, was confidential per AES Gener's policies. **However, Management acknowledges that once the issue became known to IFC and was the subject of a CAO complaint, IFC could have done more to seek a copy of the investigation report and its outcomes, although IFC lacked a contractual relationship with the AES Gener Foundation thus limiting its actions.**

63. Over the last two years IFC has developed guidance for E&S specialists on how to support clients in addressing GBV and sexual harassment. This includes tools and training provided by expert GBV consultants. In addition, in April 2020 IFC hired a senior GBV specialist to lead further efforts in this regard and support E&S specialists during project appraisals and supervision to identify and review GBV and sexual harassment risks.

### **Performance Standard 3 (1/4): Impacts of Waste Rock Disposal on Soil and Water Pollution**

#### *Summary of CAO Observations (CAO Report, pg. 45)*

- Pre-investment Review: CAO finds that IFC's pre-investment review of potential impacts of waste rock disposal on water contamination was commensurate with the level of risks, and consistent with PS3 requirements.
- Supervision: CAO finds that IFC's supervision ensured that the client was given advice consistent with the requirements of PS3 in relation to the management of waste rock disposal during the period up to IFC's exit from the project in May 2018.

64. **Management concurs with the CAO observation.**

### **Performance Standard 3 (2/4): Impacts of Tunneling Activities on Groundwater**

#### *Summary of CAO Observations (CAO Report, pg. 47)*

- Pre-Investment Review: The Lenders identified the issue of impacts of tunneling activities on groundwater as a significant one for the project. CAO notes, however, that while IFC took steps during appraisal to assess and prevent the risk of groundwater interception and pollution, certain elements were not raised in the ESDD, including the absence of hydrogeological modelling to be carried out during tunneling activities. Considering that the ESIA had weak baseline information, conducting modeling during tunneling activities would represent GIIP by allowing for an accurate estimation of impacts on groundwater and aquifers and subsequent development of a monitoring plan for groundwater interception, pollution control and treatment. In this context, CAO finds that IFC did not require the client to use GIIP techniques, such as modeling during tunneling activities, which would provide data regarding potential

impacts of tunneling activities on groundwater, thus IFC did not ensure project compliance with PS3, para. 4.

- **Supervision:** CAO notes that, during construction, several events of groundwater interception by tunnels demonstrated that discharges were higher than expected in the ESIA, which as noted above, contained a weak baseline in hydrogeology. In several instances, adaptive management failed to adequately characterize the rock to identify whether acid rock drainage (ARD) was present, and therefore whether intercepted groundwater needed to be treated before it could be re-injected into the aquifer. This gave rise to risks of groundwater pollution. CAO notes that these project deficiencies later motivated Chilean authorities to order the revision of the project RCA. The relationship between glacier melt and infiltration, the effect of tunneling activities, and groundwater recharge were considered in the project's framework for adaptive management. The latter, however, was not sufficient to avoid significant issues regarding the management of important volumes of water infiltration and the pollution of groundwater intercepted by the tunnels during construction. Therefore, CAO finds that IFC's supervision of the project's management of impacts of tunneling activities on groundwater failed to ensure compliance with PS3 requirements.

65. As pointed out by the CAO, the company carried out assessments to identify and assess potential impacts on water resources. The technical analysis identified the potential impacts of tunneling activities on groundwater depletion and surface water contamination, and during appraisal, the IFC team reviewed mitigation measures aligned with GIIP to comply with PS3. **Management is of the opinion that (i) the pre-investment review was adequately carried out and was informed by technically sound studies by competent experts, taking into consideration the complex geology crossed by the tunnels, and (ii) the availability of a hydrogeological model in the context of the project would not have changed the conclusions of IFC's review and the ESAP. Management holds that the assessments done met the objectives of PS3.**

66. During construction, there were events of groundwater interception (interception of water pockets, in Spanish *bolsones de agua*) by tunnels where water ingress was higher in volume than predicted in the ESIA; the events that occurred up until IFC's exit were within a reasonable range of the prediction, although there were instances when permitted discharge levels were exceeded and corrective actions had to be taken. Irrespective of the hydrogeological studies at design, such events are to be expected during tunneling in these types of projects and the mitigation measures are well known in tunnel engineering. Given the nature and complexity of the geology of the Andes, the adaptive management approach implemented by the company represented GIIP for evaluating risks, monitoring groundwater infiltration, and adopting effective mitigation measures accordingly. Relevant management measures, in this case, included groundwater infiltration monitoring and discharge monitoring; adapting the capacity of the sedimentation ponds and infiltration water treatment situated at the tunnel water discharge points, including the installation of additional treatment units; and fine-tuning tunnel advancement and grouting procedures.

67. With respect to CAO's observation that adaptive management failed to adequately characterize the rock to identify whether ARD was present, geological face mapping was routinely

conducted by the company's geologists, as part of tunnel advancement, to describe the geological conditions, including the potential for acid rock.<sup>2</sup> The company also was required to submit a formal report to the relevant authority (*Superintendencia de Medio Ambiente*, SMA - Environmental Superintendency) according to the RCA. Reviews carried out during supervision concluded that the measures were considered appropriate to allow identification of any batch that corresponded to a sample with confirmed positive results from the laboratory. For example, ARD material was found in February 2017 and June 2017 at one of the work fronts; in both events the results were disclosed to the Senior Lenders and the IESC reported that the contingency procedure was correctly applied and SMA was notified.

68. Groundwater intercepted was not reinjected into the aquifer but collected and treated before discharging to surface water bodies. All measures taken to minimize risks and adverse impacts of tunneling activities on groundwater, including potential generation of ARD from the rock deposits in the long term, were consistent with good practice (see, for example, World Bank Group (WBG) Environmental, Health, and Safety (EHS) Guidelines for Mining) and adequately documented. The company's reporting to and engagement with local authorities were consistent. The Chilean authorities closely monitored the management of the discharge of infiltration water and revised the project RCA to enforce any corrective action required to address deficiencies identified by the monitoring.

**69. Management considers that IFC supervision was effective in reviewing and documenting all actions undertaken by the client to meet the objectives of PS3. Compliance with discharge levels specified at project approval was achieved.**

### **Performance Standard 3 (3/4): Air Quality**

#### ***Summary of CAO Observations (CAO Report, pg. 50)***

- **Pre-Investment Review**: CAO notes that IFC did not enquire about the lack of characterization of the air quality baseline in the area of the project, despite the fact that it was acknowledged through the ESDD that alteration of air quality would likely occur during construction. The client put in place measures to compensate for and mitigate the project's impact on air quality, however, only dust reduction measures were expected to be monitored, and no quantitative monitoring of other air quality indicators was required. GIIP would require impacts to be estimated through qualitative or quantitative assessments using baseline air quality assessments and atmospheric dispersion models to assess potential ground-level concentrations, and monitoring thereafter to ensure the effectiveness of emissions management measures (WBG General EHS Guidelines, 1.1). In the context of this project, this is particularly relevant in community areas located in close proximity to construction

---

<sup>2</sup> Rock samples were taken by the company every 25-30 meters or when new rock types appeared, then sent to a certified laboratory for acid-base accounting (ABA) and Toxicity Characteristic Leaching Procedure (TCLP) tests, and also tested for Net Acid Generation (NAG) and Synthetic Precipitation Leaching Procedure (SPLP) if there was a potential for ARD. Samples were properly handled and marked with the specific location in the tunnel and the waste rock was temporarily stored in a controlled location, until testing results were received. A geological database was maintained by the project. If ABA or TCLP tests indicated potential for ARD, a specific procedure ("*Manejo del Riesgo de Potencial de Drenaje Ácido de Roca en Sitios de Acopio de Marina - 20160831-MA-RPT*") was to be implemented and verified in the field by the third party Technical Inspection (ITO).

sites, such as El Alfalfal. CAO thus finds that IFC's advice was not consistent with the requirements of PS3, para 4. CAO further finds that IFC did not discuss the need for the project to comply with more stringent standards, such as updated Chilean regulations or the WBG EHS Guidelines standards on ambient air quality and dust emissions, nor did IFC require the client to provide full and detailed justification for any proposed alternatives, as required by PS3, para. 5.

- **Supervision:** As reported by the ESMC, the air quality monitoring reports submitted by the client throughout the construction phase – up to IFC's exit in May 2018 – were considered satisfactory to implement the agreed dust reduction measures. However, CAO finds it challenging to assess the effectiveness of mitigation measures without measuring air quality in the areas that may be considered sensitive due to their proximity to construction works and thus exposure to potential impacts. Quantitative air quality monitoring in important receptors in the area of influence of the project represents GIIP in this context. Given the lack of quantitative air quality monitoring in relation to this project, CAO thus finds that IFC's supervision of the client's air quality monitoring did not ensure compliance with the requirements to meet GIIP in PS3, para. 4 and the WBG EHS Guidelines.

70. The ESDD identified deterioration of air quality during construction as a potential impact, especially for communities located in proximity to the work areas, and it concluded that the Air Quality Monitoring Plan met local legislation and was adequate. A parameter-based ambient air quality monitoring was not required by the national authorities and applicable regulations. **Management agrees that the development and availability of an ambient air quality baseline study and the inclusion of parameter-based air quality monitoring would have provided a better safeguard in mitigating risks and could have been included in the actions agreed between the client and IFC.** Such quantitative baseline study and monitoring would have allowed for the comparison of ambient air quality concentrations at offsite receptors during construction and with the relevant baseline. It also would have provided further evidence of the effectiveness of the mitigation measures.

71. The project was appraised against the 2007 WBG EHS Guidelines. The GPN: Environmental, Health, and Safety Approaches for Hydropower Projects was issued only in 2018. The GPN recommends monitoring of air quality/emissions, including particulate matter at project boundary, black smoke from construction equipment, and visible dust at construction sites. IFC recognizes the need for more detailed guidance to its E&S specialists on what is considered GIIP on air quality monitoring for significant construction activities to identify risks and potential impacts at residential receptors offsite, as discussed in para. 96.

72. For projects with potentially significant air quality impacts during the construction phase, due to their scope (e.g., temporal and spatial scope of the construction activities; presence of human receptors offsite and their location with respect to the work fronts; and pollution risks), IFC will develop guidance for specialists to identify such risks and ensure baseline studies are conducted by the client to identify site-specific measures and monitoring in line with GIIP and applicable internationally recognized standards, where they are more stringent than local standards.

### Performance Standard 3 (4/4): Noise and Vibrations

#### *Summary of CAO Observations (CAO Report, pg. 53)*

- Pre-Investment Review: CAO finds that IFC's pre-investment review over-relied on monitoring provisions that were approved by national authorities. IFC did not discuss with the client more stringent standards to be applied, particularly as some communities such as El Alfalfal were expected to be impacted due to their close proximity to construction sites. Consequently, IFC did not require the client to monitor noise impacts against the WBG EHS Guidelines (Section 1.7 on Noise) as required by PS3, para. 4, neither did IFC require the client to provide full and detailed justification for any proposed alternatives, as required by PS3, para. 5.
- Supervision: CAO notes that GIIP and adaptive management would have required the project to adopt the most recent national regulations or the WBG EHS Guidelines from the start of construction regarding noise monitoring. The frequency of noise monitoring could have also been acted upon, including a more frequent monitoring schedule in sensitive receptors such as El Alfalfal, considering that exceedances in noise levels were repeatedly measured. CAO further notes that the construction phase has been extended, which may constitute an additional factor of increased impact than initially considered in the ESIA, as it has extended the period during which the community will be affected by the effects of construction. The Lenders required the client several times to compare monitoring results with the WBG EHS Guidelines, which are more stringent than national law. However, it took three years for the client to meet this requirement. CAO further notes that the Lenders did not discuss additional measures to mitigate impacts on El Alfalfal, even though the existing mitigation measure (noise abatement wall) was considered ineffective. Therefore, CAO finds that IFC did not ensure that the project was taking adequate action to meet the requirements of PS3, para. 4 in relation to the mitigation and monitoring of noise impacts, particularly on the community of El Alfalfal.

73. WBG General EHS Guidelines require that noise impacts not exceed the levels presented in Table 1.7.1 of the Guidelines, or result in a maximum increase in background levels of 3 dB at the nearest receptor location offsite, whereas the Chilean regulations require that noise levels be kept within a maximum exceedance of 10 dB over baseline, making the WBG Guidelines more stringent. The applicable Chilean standards for rural areas are also higher than the applicable WBG Guideline levels for residential receptors. **Thus, Management agrees that, at pre-investment review, the development of a noise monitoring program based on WBG Guidelines should have been required.**

74. Management notes that the WBG EHS Guideline for noise does not specify a monitoring frequency but states the noise monitoring should be designed by trained specialists. **The project noise monitoring program was designed by experts. However, given limited, sporadic and temporary exceedances of the 3-dB incremental impact and the presence of residential receptors offsite, Management concurs that consideration should have been given to increasing the frequency of the monitoring.** However, Management notes that the requirement to compare noise levels measured with WBG EHS Guidelines was relayed by IFC's team to the

company on several occasions during supervision, although as pointed out by the CAO, it was only implemented in 2017.

75. Based on community interviews and as reported by the IESC, the noise abatement wall installed by the project did not solve the noise issue for the El Alfalfal community; however, this was not the only mitigation measure. The construction contractor Strabag engaged with the community on the noise issue and, to address community requests, started implementation of no-work hours and days. The project community relation teams consistently engaged with the El Alfalfal community and, at the time of IFC's exit, engagement on that matter was continuing. **Management considers that IFC supervision was consistent with the requirements and was instrumental in the identification and implementation by the project of noise mitigations, such as installation of the noise abatement wall, coupled with no-work hour/day measures, and noise monitoring, to address community concerns. Management acknowledges that engagement was ongoing at the time of IFC's exit.**

#### **Performance Standard 4: Impacts of Labor Influx on Project-Affected Communities**

##### ***Summary of CAO Observations (CAO Report, pg. 56)***

- **Pre-Investment Review:** CAO notes that the Lenders required the client to develop a PIIM to assess potential impacts of labor influx in the project area. CAO finds that IFC's pre-investment review was consistent with PS1 and PS4 requirements to adopt the mitigation hierarchy in defining measures to manage potential adverse impacts on the health and safety of affected communities.
- **Supervision:** As of IFC's exit in May 2018, CAO finds that IFC did not assure itself that the client's adaptive management strategy addressed changes in the workforce in a manner that ensured compliance with the objective of PS4 to "avoid adverse impacts on the health and safety of the Affected Community during the project life from both routine and non-routine circumstances."

76. **Management concurs with the CAO observations at pre-investment review.** The client developed a PIIM assessment with further improvements tagged for implementation during supervision.

77. Throughout IFC's supervision, the company maintained a Social Indicators Monitoring Program, reported on its implementation on a quarterly basis, and disclosed it through the environmental authorities (SMA). The analysis of the indicators was instrumental for management of the measures to mitigate social risks and impacts. Indicators monitored included impact on health care and education services, impact on infrastructure (roads, water and waste disposal) traffic accident and crime rates as well as community members' perceptions of the impact of worker influx and community grievances. The monitoring reports were reviewed by IFC and the IESC and did not identify incremental adverse impact on the communities from the influx of workers. In addition, the quarterly visits by the IESC included interviews with community members addressing the issue of worker influx and did not report on significant concerns raised by the affected communities. However, the PIIM assessment was based on a total maximum

worker number of 2,500, and no additional assessment for the significantly excess number of workers was made to update the PIIM.

78. **Management agrees that an update of the PIIM could have been requested by IFC and could have represented good practice in the implementation of the adaptive management strategy by the company, to reflect the findings of the Monitoring Program and the increased worker numbers.** Management, however, considers that IFC’s supervision was consistent with the policy requirements and ensured that adequate safeguards (monitoring, assessing impacts on communities from worker influx, and disclosing indicators) were in place to address worker influx.

#### **Performance Standard 5: Resettlement, Economic Displacement, and Restrictions on Land Use**

##### ***Summary of CAO Observations (CAO Report, pg. 59)***

- **Pre-Investment Review:** CAO finds that IFC’s pre-investment review of the client’s approach to land acquisition and economic displacement was consistent with the requirements of PS5 to “avoid or minimize physical and/or economic displacement” (para. 8).
- **Supervision:** CAO finds that IFC’s supervision of the project’s performance related to land acquisition, economic displacement, and restrictions on land use was adequate to ensure compliance with PS5, paras. 8 and 26, as relevant to the issues raised in the complaint.

79. **Management concurs with the CAO observations.** The client commissioned a report entitled Access to Land, Acquisitions, and Easement to address all outstanding land use issues. Supervision of land acquisition processes was in line with PS5.

#### **Performance Standard 6 (1/3): Habitat Classification, Endangered Species, and Ecological Flow**

##### ***Summary of CAO Observations (CAO Report, pg. 62)***

- **Pre-Investment Review:** CAO finds that IFC’s pre-investment review and advice in relation to the conservation of aquatic biodiversity was consistent with the requirements of PS6, paras. 6 and 7.
- **Supervision:** CAO notes that for several years during supervision, the client did not comply with the requirement included in the ESAP to provide documentation that assessed whether the “sensitive areas” included in the ESIA were considered critical habitats under IFC standards. Nevertheless, the ESMC and IFC indicated that the project had not carried out construction works in areas identified as critical habitat. It is unclear to CAO how this conclusion was reached without the client having implemented the required actions to conduct such assessment. CAO thus finds that IFC’s supervision did not provide assurance of the project’s compliance with the requirements of PS6, para. 17, to ensure that the client does not implement any project activities in areas of critical habitat. CAO acknowledges IFC’s supervision of the client’s implementation of adaptive management measures during the construction phase, as required in the ESAP. This consisted in collecting data regarding

aquatic species and adapting the project's monitoring program as needed. CAO notes, however, that the client did not monitor water flow during construction and the Lenders did not require the client to monitor discharges from construction works in a way that would allow effective verification of construction impacts on the aquatic biota. In 2017, the ESMC reported that the client conducted monthly surface water monitoring. However, the ESMC also noted that several stations were not monitored during winter months due to unsafe sampling conditions for the laboratory technicians. CAO notes that monthly water monitoring is too infrequent to assess impacts on the biota. More frequent monitoring, including in relation to flow, could provide relevant data to inform the baseline flow necessary to protect aquatic species during the operational phase of the project, and a lack thereof could compromise future compliance with PS6 requirements for biodiversity conservation.

80. **Management concurs with the CAO observations at pre-investment review.** The identification and assessment of the conversion or degradation of aquatic habitats and the establishment of an ecological flow management strategy were completed to IFC's satisfaction and additional measures provided as part of the ESAP. There were no areas of critical habitat identified by the assessments carried out by the project and reviewed at appraisal.

81. During IFC's supervision, the relevant studies were conducted per requirements and further improved by the project following review by the Senior Lenders and the IESC. During project implementation, there was no change in footprint triggering the need for another PS6 assessment at supervision. At an early stage of project construction, following the IESC's recommendation, the company updated the Environmental Clearance Form, which was used by the company E&S team as part of the authorization process to proceed with construction work fronts, to include screening and identification of sensitive habitats or endangered species. Throughout supervision, the environmental clearance process and the ongoing studies did not identify any new ecologically sensitive areas or areas of critical habitat. This was reviewed and monitored by the IESC.

82. Ecological monitoring was ongoing and reported throughout supervision and no adverse impact on sensitive species was identified. The IESC reviewed the findings of the monitoring program and did not identify any concern or risk in that respect. Surface water quality and discharges were subject to continuous parameter-based monitoring against discharge criteria. The Ecological Flow Study concluded (i) that the operation of the project did not appear to significantly convert or degrade the aquatic habitat for the average hydrologic condition; and (ii) that the mitigation and adaptive management measures adopted would provide the level of control needed for monitoring and re-assessing the significance of the impacts and, as needed, adjusting the flow during operations.

83. **Management considers that the aquatic species monitoring, surface water quality monitoring and discharge monitoring, which were required by the Senior Lenders, were commensurate with the risks and potential impacts of the construction phase, and adequate to provide the needed baseline conditions.** The monitoring was adequately informed by the studies on the ecological flow and consistent with GIIP. IFC's supervision was consistent with the policy requirements. Management takes note of the CAO's observation that frequent water monitoring could help to assess potential impacts on biota and provide relevant data to inform the baseline flow necessary to protect aquatic species during the operational phase of the project. As

pointed out by the CAO, adoption of the adaptive management approach was specifically designed to adequately capture indicators of changes from the monitoring campaigns well ahead of the operations phase. Throughout supervision and until IFC's exit, the IESC's review did not raise any specific concerns relevant to the protection of aquatic species during project operations and compliance with PS6 requirements.

### **Performance Standard 6 (2/3): Impacts on Protected Areas, including Glaciers**

#### ***Summary of CAO Observations (CAO Report, pg. 66)***

- **Pre-Investment Review**: CAO finds that IFC's review of issues related to the project's location in protected areas was consistent with the requirements of PS6, para. 20, to (1) ensure the project's activities in protected areas are legally permitted, (2) ensure collaboration with relevant authorities, and (3) consult protected area sponsors and managers, affected communities, and other stakeholders.
- **Supervision**: CAO notes that, through the ESMC, IFC monitored closely the choice of technologies to be used when tunneling under the El Morado glacier. The ESMC reviewed the client's additional studies and vibration monitoring results, and relevant conditions were included in the ESAP in case the client should diverge from initially planned technologies for construction. In this respect, CAO finds that IFC's supervision of the client's activities in protected areas was consistent with PS6, para. 20. However, as of IFC's exit in May 2018, CAO finds that IFC had not ensured that the client met the requirements of PS1 regarding disclosure of information to relevant stakeholders, in particular the disclosure of the vibration monitoring results as required by the ESAP and ESMC. While the tunneling had not reached the El Morado National Monument by the time of IFC's exit, the objective of the vibration monitoring was to measure vibration prior to reaching the El Morado section. Therefore, it was not necessary to reach this point to disclose the information.

#### **84. Management concurs with the CAO observations at pre-investment review.**

85. With regard to CAO's observation on supervision of the client's activities with potential adverse impact on protected areas and particularly the glaciers of the El Morado Natural Monument, it is important to clarify that the tunnel crossing the area of the National Monument was a section about 3,200 m long, at a depth of 600-1,500 m beneath the Monument. This section included 363 m underneath the San Francisco Glacier and 572 m underneath the Mirador El Morado Glacier. There was no intervention on the surface. The RCA stipulated that excavation methods be selected to minimize the impacts of vibration from blasting that could affect the glaciers. The company and its contractor studied alternatives for tunneling under El Morado, taking into account concerns relevant to the use of the drill-and-blast method and the complex geology of the area, which could prevent the use of other methods, such as a tunnel boring machine. It was planned that the selection of the tunneling method was to be finalized when the actual geological area had been reached. The seismic study carried out in 2015 and the relevant vibration measurements referred to by the IESC reports (conducted from December 2015 to February 2016) were part of the actions implemented by the company to measure vibration propagation, assess potential vibration impacts of tunneling activities, support the selection of the tunneling method,

and design the relevant monitoring program, ahead of tunneling through the section located underneath the National Monument. At the time of IFC's exit, tunneling underneath the National Monument was expected to begin at the end of 2018 and a decision on the tunneling method was still to be made and approved under the RCA. Any associated monitoring was also still under final design. **Management is of the opinion that IFC's supervision was consistent with its policies and ensured that the required seismic study and vibration measurements were underway. The vibration monitoring program was also still to be finalized for disclosure and implementation at the time of IFC's exit. Management notes that, post IFC's exit, the required vibration monitoring was carried out and disclosed per Chilean requirements.**

### **Performance Standard 6 (3/3): Impacts on Ecosystem Services, including Recreational Water Users**

#### ***Summary of CAO Observations (CAO Report, pg. 69)***

- **Pre-Investment Review:** CAO finds that IFC's pre-investment review of potential project impacts on ecosystem services was commensurate to the level of risks and impacts of the project, and the advice given to the client was consistent with the requirements of PS6, paras. 24 and 25.
- **Supervision:** At the time of IFC's exit, CAO finds that IFC had not ensured that the client took adequate action to meet the requirements of PS6, para. 25, in relation to potential project impacts on recreational activities. In relation to potential impacts of sediment transport, CAO notes that the client has completed the Advanced Sediment Transport Study and shared a summary of results with the participatory monitoring panel. However, a number of gaps needed to be addressed to meet PS6 requirements and were still pending at the time of IFC's exit from the project. CAO finds that IFC's supervision did not ensure that impacts of sediment transport on ecosystem services were assessed and monitored in accordance with PS1 and PS6 requirements.

#### **86. Management concurs with the CAO observations at pre-investment review.**

87. At the time of IFC's exit in May 2018, the recreational water use study, including the relevant monitoring, was ongoing with the involvement of an independent expert. The ESAP on recreational water use required the program to be completed by 60 days prior to start of operations. Until IFC's exit, progress was monitored by IFC and the IESC on behalf of Senior Lenders. **Management maintains that IFC ensured that the client took adequate action to meet the requirements of PS6, para. 25, in relation to potential project impacts on recreational activities.**

88. Management notes that the client submitted the full Advanced Sediment Transport Study in 2016 and the DOH had yet to issue observations or to approve the study by the end of 2017. Once approved by DOH, a summary presentation was required to be disclosed to other relevant stakeholders, including the public. The Senior Lenders provided recommendations for updates to the presentation to improve the communication of key information and such recommendations were accepted by the company and incorporated into the draft document. Senior Lenders also had required supplemental information to close gaps identified by the review carried out with the

support of the IESC. As of IFC's exit, the pending items to supplement the study were still subject to further discussions with Senior Lenders. **Management maintains that IFC's supervision was compliant with its policies and was consistent in ensuring that impacts of sediment transport were assessed and monitored in accordance with PS1 and PS6 requirements. CAO observed that "the study methodology did not meet GIIP" but it failed to consider that the study was still to be approved by IFC, together with other Senior Lenders, and that supplemental information had been required by Senior Lenders. Management notes that, after IFC's exit, the study was finalized, its Executive Summary was disclosed, and the monitoring program was approved by the relevant authority.**

89. With respect to CAO's observations on the impact of sediment transport on ecosystem services, the relevant assessments, subject to IFC's supervision and approval, as well as the identification of monitoring requirements based on these assessments, were still ongoing at the time of IFC's exit. The studies were aimed at identifying control and monitoring measures for the operation phase, which was yet to start at the time of IFC's exit (and is currently expected to occur only by the end of 2021). The relevant ESAP item was tied to the operations phase for completion, and there was adequate time until operation for completion as of IFC's exit. **Therefore, Management holds that IFC took the required actions to ensure that the client would meet the requirements of PS6 in relation to assessment, mitigation and management of potential impacts on recreational activities and sediment transport during operations of the project.**

#### **IFC's Determination of Applicability of Performance Standard 8 on Cultural Heritage**

##### ***Summary of CAO Observations (CAO Report, pg. 72)***

- **Pre-Investment Review and Supervision:** CAO finds that IFC's determination that PS8 does not apply to the project was not consistent with the evidence provided by the ESDD. CAO notes, however, that throughout project supervision, the ESMC monitored the client's management of project impacts on cultural heritage on behalf of the Lenders and found the client's approach to be adequate. No damages to sites of cultural heritage value were reported during the time of IFC's involvement in the project, and no non-compliances were found regarding the client's management of PS8-related issues.

90. **Management acknowledges that the project ESRS in the IFC Disclosure Portal did erroneously refer to PS8 as not applicable.** While all PSs are applicable to IFC's projects, it is acknowledged that the ESRS should have described the studies carried out and the mitigation measures adopted by the project to avoid and minimize risks and impacts or to manage them, consistent with the requirements of PS8. Management concurs with the CAO observation that monitoring of the project was adequate. The client's management of project impacts on cultural heritage was found to be adequate.

## **IV. LESSONS LEARNED AND ACTIONS**

### **Lessons Learned**

91. IFC seeks to continuously refine and broaden its E&S risk management practices and to incorporate these into updated procedures and guidance materials where relevant, based on insights

and lessons drawn from project experience. This section lists the key lessons learned from issues raised by the Alto Maipo project and the two complaints. Some of these lessons have already been translated into changes to IFC E&S procedures and guidance that came into effect since the Alto Maipo appraisal was undertaken (2012-2013) and supervision commenced (2014). Others will require new revisions to IFC procedures, as noted below.

92. **General approach to hydropower projects:** Based on the lessons learned from the portfolio of hydropower projects, IFC is aware of the complexity and challenges related to the management of E&S risks and impacts for such projects. Building on project experience, industry guidelines, and observations from stakeholders, including observations from relevant CAO assessments, IFC issued in March 2018 the **Good Practice Note (GPN): Environmental, Health, and Safety Approaches for Hydropower Projects** which outlines GIIP for hydropower projects. The GPN includes guidance for several of the EHS topics covered under this Management Response.

93. **Enhanced stakeholder engagement in CIA:** IFC recognizes the importance of effective stakeholder engagement, including for the process of CIA. IFC issued in August 2013 the **Good Practice Handbook on Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets**. This handbook includes detailed guidance on stakeholder engagement for CIA processes. In the years since, IFC has broadened and deepened its experience and guidance to clients to assess cumulative impacts, particularly in the hydropower sector and other renewable energy projects, and its requirements for clients' efforts to engage, inform and enable feedback from all its stakeholders.

94. **Enhanced management of GBV:** Supporting clients in the effective management of measures against GBV is a key priority for IFC. Over the last two years, IFC has developed **specific guidance for E&S specialists on GBV and sexual harassment**. This includes tools and training provided by expert consultants. In 2020, IFC retained a full-time senior GBV expert who supports E&S teams in conducting focused GBV assessments and in the implementation of recommendations.

95. **More precise BCS disclosure requirement:** Although IFC has been consistent in disclosing the outcome of BCS assessments as part of the ESRS disclosure, in compliance with the AIP, Management agrees that it is an area of continuous improvement. **The CAO observation is helpful in highlighting the importance of adequate and consistent disclosure of relevant and meaningful information as part of the BCS section of the ESRS. In the years since the project underwent IFC's determination of BCS, the practice has already evolved and disclosure has been improved. The staff guidance is being updated to reflect the evolution and improved practices as well as other organizational and procedural changes. It will include guidance to specialists on how to improve the disclosure of meaningful information with respect to the BCS assessment and determination.**

96. **Enhanced ambient air quality monitoring:** As indicated in para. 711, the project was appraised against the 2007 WBG EHS Guidelines, whereas the GPN: Environmental, Health, and Safety Approaches for Hydropower Projects was issued only in 2018. The GPN recommends monitoring of air quality/emissions, including particulate matter at project boundary, black smoke from construction equipment, and visible dust at construction sites. **For projects with potentially significant air quality impacts during the construction phase, due to their scope (e.g.,**

**temporal and spatial scope of the construction activities; presence of human receptors offsite and their location with respect to the work fronts; pollution risks), IFC will develop guidance for E&S specialists to identify such risks and ensure baseline studies are conducted by the client to identify site-specific measures and monitoring in line with GIIP and applicable internationally recognized standards, where they are more stringent than local standards.** Such guidance will be considered for inclusion in the update of the General EHS Guidelines.

## V. MANAGEMENT ACTION PLAN (MAP)

97. Actions already completed that respond to the issues raised include the following:

Completed Action	Related Activities
General approach to hydropower projects.	Good Practice Note: Environmental, Health, and Safety Approaches for Hydropower Projects – 2018. <i>Completed.</i>
Enhanced stakeholder engagement for CIA.	Good Practice Handbook on Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets - 2013. <i>Completed.</i>
Enhanced guidance on management of GBV for staff.	Over the last two years IFC has developed clear guidance for E&S specialists on GBV and sexual harassment. This includes tools and training provided by expert consultants. In addition, in cases where GBV or sexual harassment are a key risk, IFC is conducting more focused assessments done by experts in the area. <i>Completed.</i>

98. An IFC/MIGA Independent Accountability Mechanism (CAO) Policy took effect July 1, 2021. CAO’s investigation on the Alto Maipo project predates the Policy effectiveness date, and was conducted under the CAO 2013 Operational Guidelines. In line with agreed transitional arrangements, the Policy will apply for the Alto Maipo CAO case beginning with Compliance Monitoring. Under the Policy, the scope of CAO’s compliance monitoring will be the corrective action approved as part of the MAP.

99. The MAP IFC proposes is as follows:

Action	Related Activities and Timeline
Enhancement of BCS Matrix and BCS disclosure required.	Update the guidance to social development specialists to ensure the section of BCS matrix “key evidence of support and/or objection to the project” describes the key underlying reasons for support or objection. Provide updated guidance on BCS disclosure in the ESRS to improve the quality of the summary information to describe the BCS process and IFC’s determination. <i>Updated guidance to be completed by December 31, 2021.</i>

Action	Related Activities and Timeline
Enhanced ambient air quality monitoring required.	<p>Develop guidance for IFC specialists to identify the parameters for ambient air quality baseline studies and parameter-based monitoring requirements in line with GIIP during construction, based on project characteristics (e.g., large scope of construction activities; presence of sensitive receptors in the area of influence; construction risks). As needed, include such guidance in the ongoing update of the General EHS Guidelines.</p> <p><i>Guidance to be completed by December 31, 2021.</i></p>
Enhance IFC's disclosure system.	<p>Enhance IFC's systems so that relevant E&amp;S information during project supervision is made available, if applicable and where required, in a timely manner, and project status is correctly reflected on IFC's disclosure website.</p> <p><i>Update of systems by FY22.</i></p>
Disclose relevant ESIA-related documentation on the IFC project disclosure website.	<p>IFC will update its website to disclose electronic copies or web links, where available, to any relevant ESIA documents prepared by or on behalf of Alto Maipo SpA, on which IFC based its pre-investment assessment review and supervision of the project, in accordance with the AIP.</p> <p><i>Disclosure update by one month following disclosure of this Management Response.</i></p>
Engage with Itaú Corpbanca, other financiers, Alto Maipo and US-based AES Corporation.	<p>IFC will engage with Itaú Corpbanca, other financiers, Alto Maipo SpA and US-based AES Corporation to share the CAO report and conclusions.</p> <p><i>Engagement with all parties by two months following disclosure of this Management Response.</i></p>

100. IFC will submit annual progress reports to the Board, to provide an update on progress made against its commitments per the Action Plan, which CAO will take into consideration in its monitoring.

## VI. CONCLUSION

101. Management appreciates the CAO's thorough and comprehensive compliance assessment of IFC's investment in the Alto Maipo project. The assessment raises important points, some of which IFC has already addressed and others which will be addressed as a result of this assessment. Although IFC is no longer able to influence the company's current actions, having exited the investment in 2018, Management is nonetheless committed to continuing to improve on IFC's internal processes and delivery of its E&S Policy obligations and objectives. Management believes that the Action Plan contained in this Response is an appropriate means of addressing CAO's observations in this regard.

102. Management holds that IFC generally managed the E&S impact of a complex project, with significant cost overruns and delays, in a manner that achieved outcomes in line with IFC's E&S sustainability policy objectives. Given the multiple areas and issues that needed to be addressed through the implementation of the E&S process, there were areas, identified as part of the CAO's investigation, that could have been improved upon review and, as noted in this response, IFC will incorporate these lessons in the future E&S management of these types of projects.

103. Management thanks the CAO for its observations and suggestions in terms of evolving GIIP, which identify areas of improvement in keeping with the implementation of IFC's Sustainability Policy and guiding clients to meet IFC's PS. The process, including engagement with CAO and hearing the complainants' voices, is one which helps IFC learn from these instances and continue being at the forefront of ESG good practice. Management would like to highlight that following IFC's exit, Senior Lenders and the IESC have continued working with the company and have monitored the implementation of the ESAP. IFC remains available to work with Senior Lenders should they require any consultation in this regard with respect to the implementation of the WBG EHS Guidelines and the relevant guidance notes and handbooks issued by IFC.

## ANNEX 1 – SUMMARY OF MANAGEMENT RESPONSES

The following table summarizes IFC Management responses to CAO’s key observations outlined in the table of Annex 2 on pages 79 to 90 of CAO’s Compliance Investigation Report.

No.	CAO Observation	IFC Response and Action Plan
	<b>IFC’s Review of the Environmental and Social Impact Assessment (ESIA) Process: Area of Influence, Alternatives Analysis and Cumulative Impact Assessment</b>	
1	<p><b>Area of Influence:</b> IFC’s review and advice to the client in relation to the definition of the project’s area of influence was consistent with PS1, para. 8 requirements.</p>	<p><b>Pre-Investment: Management agrees with the CAO observation.</b> As part of the ESDD and appraisal process, a total of eight critical gaps and corresponding actions were identified, which collectively redefined suitable areas of influence for all major impact aspects, including a CIA and its associated areas of influence, thus closing the gap with PS1.</p>
2	<p><b>Cumulative Impact Assessment:</b> Noting shortcomings in the identification and assessment of potential project risks and impacts, the Lenders required the client to conduct a CIA to meet international standards. The Lenders participated in the selection of a competent external expert to carry out the CIA, as required by PS1, para. 19. However, CAO notes that no additional consultation with relevant stakeholders was done in the context of the CIA study to identify any recent or recurring issues of concern. IFC did not require the client to carry out further consultation in the context of the preparation of the CIA, therefore in relation to the CIA, CAO finds that IFC did not ensure compliance with PS1 requirements for the client to “undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them” (PS1, para. 30).</p>	<p><b>Pre-Investment: Management partially agrees with the CAO observation.</b> It is correct that IFC did not require the client to carry out separate consultations specifically for the preparation of the CIA, which could be considered good practice. However, IFC does not consider that this constitutes a material non-compliance with PS1, given that the CIA was informed by expert opinion and an extensive multi-year consultation process carried out for the project as part of the ESIA, which allowed identification of the valued environmental components per PS1, fn. 16, which states that “Cumulative impacts are limited to those impacts generally recognized as important on the basis of scientific concerns and/or concerns from Affected Communities.” Additionally, the CIA was updated multiple times, including specific improvements concerning stakeholder comments provided during the disclosure period. Finally, the outcomes of any additional separate consultation for the CIA would necessarily have been the same given the significant overlap between the areas of study and influence and the stakeholders consulted for the ESIA.</p>
3	<p><b>Alternatives Analysis:</b> As required by PS1, the Lenders required an alternatives analysis as none was included in the project ESIA. The study was completed in June 2013 and its</p>	<p><b>Pre-Investment: Management disagrees with the CAO observation.</b> As detailed by the ESDD (August 2013), five alternatives, including major changes to Las Lajas</p>

No.	CAO Observation	IFC Response and Action Plan
	<p>content was considered by the Lenders to meet international standards. However, the Alternatives Analysis Report does not consider alternative locations for the Las Lajas forebay, which may have further reduced or avoided the otherwise significant impact that the project was expected to have on the community during the construction phase. CAO notes IFC's view that this design change was based on a comprehensive review of alternatives, however, no documentation of this analysis was provided. In not ensuring a comprehensive alternatives analysis for this specific and potentially high impact element of the project, CAO finds that IFC's review of the client's ESIA process fell short of good international industry practice and thus did not meet the requirements of PS1, para. 7.</p>	<p>components (relocation of Las Lajas powerhouse and surge shaft, access roads, location of discharge point of Las Lajas, elimination of the Laguna Lo Encañado) were assessed. The alternative analysis is disclosed on IFC's project disclosure website. Each alternative was subject to detailed assessments covering hydrology and flow contributions, E&amp;S impacts, feasibility and economic aspects, stakeholder concerns and technical aspects, and suggested design modifications aimed at minimizing impacts. Overall, a robust alternatives analysis, in compliance with PS1 para. 7, fn. 11, was completed, including assessments based on stakeholder engagement and community concerns and design modifications aimed at minimizing impacts were made.</p>
<b>IFC's Review and Supervision of the Project's Compliance with National Law</b>		
4	<p><b>Pre-Investment Review:</b> CAO finds that IFC's review of the project's approach to compliance with national law, and measures taken to monitor it, were consistent with PS1, para. 5 requirements.</p>	<p><b>Pre-Investment: Management agrees with the CAO observation.</b> A project permit registry was developed, with further improvement recommendations scheduled for supervision period.</p>
5	<p><b>Supervision:</b> Though actions were taken to strengthen the client's permit tracking systems in 2015, these were not sufficient to prevent further construction permitting breaches in 2016. From 2014 to 2016, IFC did not have assurance that the client was fully compliant with national legal requirements in relation to permitting as required under PS1, paras. 5 and 24. CAO notes that no further permitting noncompliance was reported in 2017 through to IFC's exit from the project in May 2018.</p>	<p><b>Supervision: Management disagrees with the CAO observation.</b> To ensure compliance with para. 5 of the preamble of the PS (compliance with applicable national law), the company established a permit registry in 2015 for all requirements and conditions of the RCA and permits, with a mechanism for tracking compliance with over 700 permitting requirements; appointed dedicated staff to maintain it; commissioned a specialized consultant to align the permitting requirements to the Project Execution Plan and Master Schedule; migrated the permits and authorizations to the project management database for effective management; and worked with a group appointed by the Ministry of Energy to enable dedicated review of permits for Alto Maipo SpA. To assess compliance with PS1, paras. 22, 23 and 24, internal and external audits were conducted by the company and their results were used to improve the permit follow-up system, as</p>

No.	CAO Observation	IFC Response and Action Plan
		monitored by the IESC. During supervision, permitting compliance was carefully reviewed by the IESC and when gaps identified, their closure was monitored both by IESC as part of its ongoing monitoring, as well as by IFC as part of its own supervision. IFC raised permitting issues with the Sponsor through regular feedback as part of the supervision activities and these issues were duly resolved prior to IFC's exit.
<b>IFC's Determination of Broad Community Support (BCS), Review and Supervision of the Project's Consultation and Information Disclosure Activities, and Grievance Mechanism</b>		
6	<b>Pre-Investment Review:</b> CAO finds that the Lenders' recommendations for the client to strengthen the project's community relations capacity, to formalize an approach to stakeholder engagement through a SEP and a social management system, and to develop and implement a GM for the project and its contractors, were consistent with the requirements of PS1.	<b>Pre-Investment: Management agrees with the CAO observation.</b> Multiple studies conducted and relevant management documentation (i.e., SEP, GM) were developed. The client also maintained adequate resources to implement stakeholder engagement throughout the project cycle.
7	<b>IFC's Determination of Broad Community Support: (a)</b> CAO finds that IFC provided a reasoned decision leading to a conclusion that the client conducted a process of ICP, leading to a BCS for the project., in line with the requirements of PS1, para. 30. While IFC's conclusions in relation to ICP (BCS Stream 1) were supported by evidence in line with IFC guidance to staff, less detail was provided under the heading of "key evidence of support and/or objection to the project" (BCS stream 2). <b>(b)</b> CAO further notes that IFC disclosed a summary of its determination of BCS as part of the ESRS, as required, albeit in a form that is so limited as to provide little useful information to the reader (ESRP 4, para. 2.12, Version 7, April 2013).	<b>Pre-Investment: (a) Management agrees with the CAO observation.</b> Whereas the matrix outlined the key categories of stakeholders interviewed, and the conclusions were correct and supported by adequate evidence, it did not provide detailed information about which communities the stakeholders represented and whether they were directly or indirectly affected. While there was a detailed description of the opposition to the project, there was not a clear description of who was in support of the project, the reasons for support, whether these concerns were valid, nor was there a discussion on potential mitigation if necessary (with the exception of a recommendation for the company to disseminate information and build trust).  <b>(b) Management agrees with the CAO observation.</b> The AIP, para. 32, describes BCS disclosure as "IFC will disclose a summary of the process outlining how it made a determination of BCS." Information provided for BCS in the ESRS for the project (disclosed under Alto Maipo #31632 in IFC Disclosure Portal) complies with the AIP, however it is

No.	CAO Observation	IFC Response and Action Plan
		<p>acknowledged that it is brief and could have benefitted from more details on the conclusions, noting that relevant information regarding support and opposition to the project was provided in other parts of the ESRS.</p> <p><b>Action Plan:</b> Update the guidance to social development specialists to ensure this section of BCS matrix describes the key underlying reasons for support/objection. Provide updated guidance on BCS disclosure in the ESRS to ensure consistent provision of sufficient information to describe the BCS process and IFC’s determination.</p>
8	<p><b>Supervision: (a)</b> CAO finds that the advice provided by IFC up to May 2018 was consistent with the requirements of PS1 for a continued ICP process, and implementation of a PS-compliant GM. <b>(b)</b> CAO notes that IFC did not consistently apply its own disclosure requirements to this project. In particular, IFC’s Access to Information Policy requires that IFC update the ESRS with E&amp;S information as it becomes available, including any additional E&amp;S assessments conducted for the project, and “third-party monitoring reports where required by IFC, in accordance with the Performance Standards.” (AIP 2012, para. 41). For instance, disclosure of the final versions of the CIA, the “Critical Path Gaps” reports, the Advance Sediment Transport Study, the PIIM, the study on Potential for Contamination of Water from Tunneling Activities and Rock Disposal in Waste Heaps, and E&amp;S management plans, were required under these provisions and would have provided up-to-date information on the project to interested stakeholders, including the complainants and other project-affected communities. CAO notes IFC’s assertion that the ESMC reports are confidential in nature and were not disclosed on this basis. However, the ESMC [reports] were also disclosable under the AIP as third-party monitoring reports.</p>	<p><b>Supervision: (a) Management agrees with the CAO observation.</b> The SEP and GM were developed and further improved throughout supervision. Disclosure and meaningful stakeholder engagement were adequately in place as indicated by the IESC’s community interviews up to IFC’s exit.</p> <p>(b) Management acknowledges that the relevant studies complementing the original ESIA’s to address the critical gaps were not disclosed on IFC’s project disclosure webpage, although they were completed prior to approval of the project by IFC’s Board. While the lack of disclosure should have been addressed, Management notes that Alto Maipo SpA produced summary documents of each one of the Critical Path Gaps that were disclosed to project stakeholders, and the same documents were available to the public through the website of the Inter-American Development Bank.</p> <p><b>Action Plan:</b> IFC will update its website to disclose electronic copies or web links, where available, to any relevant ESIA documents prepared by or on behalf of Alto Maipo SpA, on which IFC based its pre-investment assessment review and supervision of the project in accordance with the AIP.</p>
<b>IFC’s Review and Supervision of the Project’s Approach to Climate Change Impacts</b>		
9	<p><b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review of the client’s</p>	<p><b>Pre-Investment: Management agrees with the CAO observation.</b> The client conducted a</p>

No.	CAO Observation	IFC Response and Action Plan
	<p>approach to climate change was consistent with the requirement to “identify those risks and potential impacts on priority ecosystem services that may be exacerbated by climate change” and to “implement mitigation measures” (PS4, para. 8).</p>	<p>Climate Change Study during the pre-investment phase and a related ESAP item was included for continued engagement with relevant stakeholders on potential impacts associated with climate change.</p>
10	<p><b>Supervision:</b> CAO finds that IFC’s supervision of the client’s engagement with climate change issues as they relate to the project was consistent with the requirements of the Sustainability Policy (para. 11) and Performance Standards.</p>	<p><b>Supervision: Management agrees with the CAO observation.</b> Client engagement per the ESAP was ensured and follow-up actions were ongoing through to IFC’s exit.</p>
<p><b>Performance Standard 2: Harassment on the Workplace and Worker Grievance Mechanism</b></p>		
11	<p><b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review of the project’s approach to preventing harassment, intimidation, and/or exploitation, and employee GM, was consistent with the requirements of PS2, paras. 15 and 20.</p>	<p><b>Pre-investment: Management agrees with the CAO observation.</b> The client developed a human resources management system, inclusive of human resources policy in line with PS2, prior to first disbursement.</p>
12	<p><b>Supervision: (a)</b> CAO found no evidence that the actions required by the ESMC and the Lenders in relation to addressing sexual harassment in the workplace had been satisfactorily completed as of IFC’s exit in May 2018, in particular recommendations in relation to investigations of cases of sexual harassment on the workplace were not actioned. CAO found no evidence either that IFC shared with the client relevant guidance on addressing issues of sexual harassment on the workplace. <b>(b)</b> Finally, there is no indication that IFC and/or the ESMC reviewed the client’s investigation into the CAO complainant’s case specifically. <b>(c)</b> In this context, CAO finds that IFC’s supervision did not ensure that the client took appropriate measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women (PS2, para. 15). <b>(d)</b> CAO further finds that IFC’s supervision did not ensure that the client had in place a GM for workers of the company and its contractors that involved an appropriate level of management and addressed concerns promptly, using an understandable and transparent process, including in relation to</p>	<p><b>Supervision: (a) Management disagrees with the CAO observation.</b> Actions required by the Senior Lenders included the implementation of actions to enhance the management of Gender-based Violence (GBV), including the development of an awareness-raising program addressing sexual harassment, which was required as a condition of subsequent disbursement. Evidence of implementation of this program was provided to both the IESC and IFC. This effort culminated in the company rolling out an awareness-raising program for staff and contractors on sexual harassment in early 2018. The program was active and ongoing at the time of IFC’s exit</p> <p><b>(b) Management agrees with the CAO observation.</b> With respect to AES Gener’s investigation of the sexual harassment case involving the complainant it is important to note that it was not an investigation conducted by the client. The AES Gener Foundation, the entity within which the related grievance was lodged, is a corporate-level foundation that supports community development programs and initiatives in all areas where AES Gener develops projects and operates power plants in</p>

No.	CAO Observation	IFC Response and Action Plan
	<p>the case of sexual harassment brought by the CAO complainant (PS2, para. 20). Given that CAO was not granted access to documentation of the client’s investigation in response to the CAO complainant’s allegations of sexual harassment, and there is no IFC supervision record in relation to this issue, CAO is not in a position to comment on the client’s response to the specific issues raised.</p>	<p>Chile (including Alto Maipo). However, Management acknowledges that once the issue became known to IFC and was the subject of a CAO complaint, IFC could have done more to seek a copy of the investigation report and its outcomes.</p> <p><b>(c) Management disagrees with the CAO observation.</b></p> <p>Over the years, IFC’s supervision until the time of its exit resulted in that: a comprehensive awareness raising program was developed and implemented; and the GM was made available to all direct and indirect employees, including addressing informal grievances; Alto Maipo SpA and the contractors developed policies on sexual harassment; and the topic of sexual harassment was included in the onboarding of new staff as an issue that was eligible to be raised through the grievance mechanism.,</p> <p><b>(d) Management partially agrees with the CAO observation.</b></p> <p>The enhancements of the GM, especially related to handling of anonymous grievance and grievances related to sexual harassment, could have been introduced by the company earlier, IFC’s supervision required the client to implement mitigation measures and enhanced procedures as soon as the team became aware of concerns related to sexual harassment. Management believes that para. 20 of PS2 was eventually met by the client.</p> <p><b><u>Actions Taken:</u></b></p> <p>Over the last two years IFC has developed guidance for E&amp;S specialists on how to support clients in addressing GBV and sexual harassment. This includes tools and training provided by expert GBV consultants. In addition, in April 2020 IFC hired a senior GBV specialist to lead further efforts in this regard and support E&amp;S specialists during project appraisals and supervision to identify and review GBV and sexual harassment risks.</p>

No.	CAO Observation	IFC Response and Action Plan
<b>Performance Standard 3 (1/4): Impacts of Waste Rock Disposal on Soil and Water Pollution</b>		
13	<b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review of potential impacts of waste rock disposal on water contamination was commensurate with the level of risks, and consistent with PS3 requirements.	<b>Pre-investment: Management agrees with the CAO observation.</b> In addition to specific ESAP items on general waste rock management and incorporation of waste rock management in ESMPs, the final project alternative also considered impacts of waste rock disposal on communities and relocated various components
14	<b>Supervision:</b> CAO finds that IFC’s supervision ensured that the client was given advice consistent with the requirements of PS3 in relation to the management of waste rock disposal during the period up to IFC’s exit from the project in May 2018.	<b>Supervision: Management agrees with the CAO observation.</b> The client implemented specific measures for waste rock management arising from monitoring results. Geological mapping was conducted to identify ARD potential of rocks. Hydrological Risk Analysis in Waste Rocks Heaps was conducted by a third-party consultant to identify aquifer vulnerability associated with fourteen Waste Rock Heaps.
<b>Performance Standard 3 (2/4): Impacts of Tunneling Activities on Groundwater</b>		
15	<b>Pre-Investment Review: (a)</b> The Lenders identified the issue of impacts of tunneling activities on groundwater as a significant one for the project. Consequently, an in-depth ESDD was carried out in relation to groundwater impacts, additional assessments were conducted, and mitigation measures were included in the ESAP. <b>(b)</b> CAO notes, however, that while IFC took steps during appraisal to assess and prevent the risk of groundwater interception and pollution, certain elements were not raised in the ESDD, including the absence of hydrogeological modeling to be carried out during tunneling activities. Considering that the ESIA had weak baseline information, conducting modeling during tunneling activities would represent GIIP by allowing for an accurate estimation of impacts on groundwater and aquifers and subsequent development of a monitoring plan for groundwater interception, pollution control and treatment. <b>(c)</b> In this context, CAO finds that IFC did not require the client to use GIIP techniques, such as monitoring tunneling activities, which would provide data regarding potential impacts on	<b>Pre-investment: (a) Management agrees with the CAO observation.</b> The client conducted multiple assessments to identify impacts on water resources. <b>(b) Management agrees with the CAO observation.</b> It is correct that a hydrogeological model was not required from the client. However, performing modeling with the objective of “an accurate estimation of impacts on groundwater and aquifers and subsequent development of a monitoring plan for groundwater interception and pollution” was technically offset by the comprehensive studies performed by the client. Such modeling would have provided highly uncertain results in consideration of the complex Andean geomorphological and hydrogeological setting and the thickness of the formations crossed by the tunnels at significant depths from surface, and would not have added any significant value. <b>(c) Management disagrees with the CAO observation.</b> Management maintains that a comprehensive technical analysis was conducted and consequently the potential impacts of tunneling activities due to

No.	CAO Observation	IFC Response and Action Plan
	groundwater, thus IFC did not ensure project compliance with PS3, para. 4.	groundwater infiltration and discharge to surface water were understood; further, mitigation measures aligned with GIIP to comply with PS3 were adequately identified during appraisal. Specific measures based on technical assessments were developed within the scope of the tunnel excavation procedures to address potential impacts and subsequently adapted based on the extensive amount of data collected during tunneling.
16	<p><b>Supervision: (a)</b> CAO notes that, during construction, several events of groundwater interception by tunnels demonstrated that discharges were higher than expected in the ESIA, <b>(b)</b> which as noted above, contained a weak baseline in hydrogeology. <b>(c)</b> In several instances, adaptive management failed to adequately characterize the rock to identify whether acid rock drainage (ARD) was present, and therefore whether intercepted groundwater needed to be treated before it could be re-injected into the aquifer. This gave rise to the risk of groundwater pollution. <b>(d)</b> CAO notes that these project deficiencies later motivated Chilean authorities to order the revision of the project RCA. The relationship between glacier melt and infiltration, the effect of tunneling activities, and groundwater recharge were considered in the project’s framework for adaptive management. The latter, however, was not sufficient to avoid significant issues regarding the management of important volumes of water infiltration and the pollution of groundwater intercepted by the tunnels during construction. <b>(e)</b> Therefore, CAO finds that IFC’s supervision of the project’s management of groundwater impacts of tunneling activities failed to ensure compliance with PS3 requirements.</p>	<p><b>Supervision: (a) Management agrees with the CAO observation.</b> There were events of groundwater interception by tunnels where water infiltration into the tunnels was higher than predicted in the ESIA, but all were within a reasonable range of the prediction. These events are to be expected in this type of project and the mitigation measures are well known in tunnel engineering.</p> <p><b>(b) Management disagrees with the CAO observation.</b> Given the complexity of the geology of the Andes, the company applied GIIP to assess potential impacts and plan mitigation measures accordingly.</p> <p><b>(c) Management disagrees with the CAO observation.</b> Adaptive management measures in this case included adapting the capacity of the sedimentation ponds and infiltration water treatment situated at the tunnel water discharge points, including installation of additional treatment units, and fine-tuning the tunnel advancement and the required grouting procedures, which was done and is well documented. With respect to CAO’s observation that adaptive management failed to adequately characterize the rock to identify whether ARD was present, geological face mapping was routinely conducted, as part of tunnel advancement, by the company’s geologists to describe the geological conditions, including the potential for acid rock.</p> <p><b>(d) Management partially agrees with the CAO observation.</b> The management of the infiltration water discharge was closely monitored by the Chilean authorities and some deficiencies identified caused the revision of</p>

No.	CAO Observation	IFC Response and Action Plan
		<p>the project RCA. However, the company followed GIIP in assessing and monitoring groundwater infiltration and defining groundwater control, and in designing the project’s framework for adaptive management. Groundwater intercepted was not reinjected into the aquifer but collected and treated before discharging to surface water bodies. The process had to deal with natural variations due to a highly complex geological setting and indeed there were instances when discharge levels were exceeded, but the Adaptive Management Framework was effective at identifying corrective measures and mitigating them.</p> <p><b>(e) Management disagrees with the CAO observation.</b> CAO’s assessment does not take into consideration the complexity of the geology of the Andes, and the fact that the company applied GIIP to assess potential impacts and plan mitigation measures accordingly. Multiple actions were taken by the client, including the development of management plans, procedures, action plans, construction of additional wastewater treatment plants, monitoring of the plants and of emergency discharges, tunnel monitoring, calibration of grouting procedures and reporting to and engagement with local authorities. All actions undertaken were captured in the supervision documentation which is comprehensive and demonstrates material compliance of the project with PS3.</p>
<b>Performance Standard 3 (3/4): Air Quality</b>		
17	<p><b>Pre-Investment Review:</b> CAO notes that IFC did not enquire about the lack of characterization of the air quality baseline in the area of the project, despite the fact that it was acknowledged through the ESDD that alteration of air quality would likely occur during construction. The client put in place measures to compensate for and mitigate the project’s impact on air quality, however, only dust reduction measures were expected to be monitored, and no quantitative monitoring of other air quality indicators was required.</p>	<p><b>Pre-investment: Management agrees with the CAO observation.</b> The ESDD identified deterioration of air quality as an impact especially for nearby communities located in proximity to the work areas, and it concluded that the Air Quality Monitoring Plan met local legislation and was adequate. No additional baseline study to identify existing conditions, or inclusion of parameter-based monitoring at these communities, was requested. Per local legislation, the air quality monitoring requirement consisted only of monitoring of mitigation measures taken within the scope of the ESIA-based Air Quality Monitoring Plan</p>

No.	CAO Observation	IFC Response and Action Plan
	<p>Good international industry practice would require impacts to be estimated through qualitative or quantitative assessments by the use of baseline air quality assessments and atmospheric dispersion models to assess potential ground-level concentrations, and monitoring thereafter to ensure the effectiveness of emissions management measures (WBG General EHS Guidelines, 1.1). In the context of this project, this is particularly relevant in community areas located in close proximity to construction sites, such as El Alfalfal. CAO thus finds that IFC’s advice was not consistent with the requirements of PS3, para 4. CAO further finds that IFC did not discuss the need for the project to comply with more stringent standards such as updated Chilean regulations or the WBG EHS Guidelines standards on ambient air quality and dust emissions, nor did IFC require the client to provide full and detailed justification for any proposed alternatives, as required by PS3, para. 5.</p>	<p>and not a parameter-based ambient air quality monitoring. Although such monitoring is standard practice during construction of infrastructure projects, it is acknowledged that, given the significant scope of the construction and tunneling activities, the development of an ambient air quality baseline study and the requirement to implement a parameter-based air quality monitoring program would have provided a better safeguard in mitigating risks and could have been included in the actions agreed between the client and IFC, allowing during construction for a quantitative comparison of ambient quality at sensitive receptors with respect to the baseline and more solid evidence that impacts due to construction activities were effectively mitigated.</p> <p><b>Action Plan:</b> Develop guidance for IFC’s specialists to identify the parameters for ambient air quality baseline studies and parameter-based monitoring requirements in line with GIIP during construction, based on project characteristics (e.g., large scope of construction activities; presence of sensitive receptors in the area of influence; construction risks). As needed, include such guidance in the ongoing update of the General EHS Guidelines.</p>
18	<p><b>Supervision:</b> As reported by the ESMC, the air quality monitoring reports submitted by the client throughout the construction phase – up to IFC’s exit in May 2018 – were considered satisfactory to implement the agreed dust reduction measures. However, CAO finds it challenging to assess the effectiveness of mitigation measures without measuring air quality in the areas that may be considered sensitive due to their proximity to construction works and thus exposure to potential impacts. Quantitative air quality monitoring in important receptors in the area of influence of the project represents good international industry practice in this context. Given the lack of quantitative air quality monitoring in relation to this project, CAO thus finds that IFC’s supervision of the client’s air quality monitoring did not ensure compliance with the requirements to meet</p>	<p><b>Supervision: Management agrees with the CAO observation.</b> As detailed under “Pre-Investment” just above, no quantitative air quality monitoring in line with GIIP was required. Such monitoring, especially at representative locations with respect to sensitive receptors (communities) in the project area of influence, would have been a useful tool to supplement the qualitative monitoring of emissions, identify potential exceedances, and provide evidence of the effectiveness of the mitigation measures that were implemented by the project.</p> <p><b>Action Plan:</b> Same as for the prior point.</p>

No.	CAO Observation	IFC Response and Action Plan
	GIIP in PS3, para. 4 and the WBG EHS Guidelines.	
<b>Performance Standard 3 (4/4): Noise and Vibrations</b>		
19	<p><b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review over-relied on monitoring provisions that were approved by national authorities. IFC did not discuss with the client more stringent standards to be applied, particularly as some communities such as El Alfalfal were expected to be impacted due to their close proximity to construction sites. Consequently, IFC did not require the client to monitor noise impacts against the WBG EHS Guidelines (Section 1.7 on Noise) as required by PS3, para. 4, neither did IFC require the client to provide full and detailed justification for any proposed alternatives, as required by PS3, para. 5.</p>	<p><b>Pre-investment: Management agrees with the CAO observation.</b> The WBG General EHS Guidelines require that noise impacts not exceed the levels presented in Table 1.7.1 of the Guidelines, or result in a maximum increase in background levels of 3 dB at the nearest receptor location offsite, whereas the Chilean regulations require that noise levels be kept within a maximum exceedance of 10 dB over baseline, making the WBG guidelines more stringent. The applicable Chilean standards for rural areas are also higher than the applicable WBG Guideline levels for residential receptors. Thus, the development of a noise monitoring program based on WBG Guidelines should have been required. However, as indicated below, monitoring results indicated that the project impacts at the nearest receptors were indeed within WBG EHS Guideline values – either within the daytime/nighttime values and/or the +3dB incremental impact.</p>
20	<p><b>Supervision:</b> CAO notes that GIIP and adaptive management would have required the project to adopt the most recent national regulations or the WBG EHS Guidelines from the start of construction regarding noise monitoring. <b>(a)</b> The frequency of noise monitoring could have also been acted upon, including a more frequent monitoring schedule in sensitive receptors such as El Alfalfal, considering that exceedances in noise levels were repeatedly measured. CAO further notes that the construction phase has been extended, which may constitute an additional factor of increased impact than initially considered in the ESIA, as it has extended the period during which the community will be affected by the effects of construction. <b>(b)</b> The Lenders required the client several times to compare monitoring results with the WBG EHS Guidelines, which are more stringent than national law. However, it took three years for the client to meet this requirement. <b>(c)</b> CAO further notes</p>	<p><b>Supervision: (a) Management partially agrees with the CAO observation.</b> The WBG EHS Guideline for noise does not specify a monitoring frequency but states the noise monitoring should be designed by trained specialists. In this regard, given limited, sporadic and temporary exceedances identified and the presence of potentially affected communities, consideration should have been given to increasing the frequency of the monitoring. However, the monitoring program was designed by experts.</p> <p><b>(b) Management agrees with the CAO observation.</b> The requirement to compare measurement results with WBG EHS Guidelines was relayed to the company many times but was only implemented in Q2-3 2017.</p> <p><b>(c) Management disagrees with the CAO observation.</b> As evidenced in IESC reports and through community interviews, the barrier did not solve the noise issue for the El Alfalfal community. However, this was not the only</p>

No.	CAO Observation	IFC Response and Action Plan
	<p>that the Lenders did not discuss additional measures to mitigate impacts on El Alfalfal, even though the existing mitigation measure (noise abatement wall) was considered ineffective. Therefore, CAO finds that IFC did not ensure that the project was taking adequate action to meet the requirements of PS3, para. 4 in relation to the mitigation and monitoring of noise impacts, particularly on the community of El Alfalfal.</p>	<p>mitigation measure. The relevant construction contractor Strabag initiated a community engagement program focused specifically on the noise issue and started implementation of no-work hours and days to address community requests. During IFC’s supervision, community relation teams were in close coordination with the El Alfalfal community and negotiations were continuing on a case-by-case basis. Actions taken included bimonthly noise monitoring appropriate to the scale of construction works put in place, and additional noise measures, including implementation of “no-work hours/days” agreed with communities.</p>
<b>Performance Standard 4: Impacts of Labor Influx on Project-Affected Communities</b>		
21	<p><b>Pre-Investment Review:</b> CAO notes that the Lenders required the client to develop a PIIM to assess potential impacts of labor influx in the project area. CAO finds that IFC’s pre-investment review was consistent with PS1 and PS4 requirements to adopt the mitigation hierarchy in defining measures to manage potential adverse impacts on the health and safety of affected communities.</p>	<p><b>Pre-investment: Management agrees with the CAO observation.</b> The client developed a PIIM assessment with further improvements tagged for implementation during supervision.</p>
22	<p><b>Supervision:</b> As of IFC’s exit in May 2018, CAO finds that IFC did not assure itself that the client’s adaptive management strategy addressed changes in the workforce in a manner that ensured compliance with the objective of PS4 to “avoid adverse impacts on the health and safety of the Affected Community during the project life from both routine and non-routine circumstances.”</p>	<p><b>Supervision: Management partially agrees with the CAO observation.</b> Throughout IFC’s supervision, the Social Indicators Monitoring Program was implemented on a quarterly basis and disclosed. Indicators monitored include impact on health care and education services, impact on infrastructure (roads, water and waste disposal), traffic accident and crime rates as well as community members’ perceptions of the impact of worker influx and community grievances. These monitoring reports did not identify incremental adverse impact on the communities from influx of workers. In addition, the quarterly visits by the IESC included interviews with community members addressing the issue of worker influx. However, the PIIM assessment was based on a total maximum worker number of 2,500, and no additional assessment for the significantly excess number of workers was made to update the PIIM.</p>

No.	CAO Observation	IFC Response and Action Plan
	<b>Performance Standard 5: Resettlement, Economic Displacement, and Restrictions on Land Use</b>	
23	<b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review of the client’s approach to land acquisition and economic displacement was consistent with the requirements of PS5 to “avoid or minimize physical and/or economic displacement” (para. 8).	<b>Pre-investment: Management agrees with the CAO observation.</b> The client commissioned a report entitled Access to Land, Acquisitions, and Easement to address all outstanding land use issues.
24	<b>Supervision:</b> CAO finds that IFC’s supervision of the project’s performance related to land acquisition, economic displacement, and restrictions on land use, was adequate to ensure compliance with PS5, paras. 8 and 26 as relevant to the issues raised in the complaint.	<b>Supervision: Management agrees with the CAO observation.</b> Supervision of land acquisition processes were in line with PS5.
	<b>Performance Standard 6 (1/3): Habitat Classification, Endangered Species, and Ecological Flow</b>	
25	<b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review and advice in relation to the conservation of aquatic biodiversity was consistent with the requirements of PS6, paras 6 and 7.	<b>Pre-investment: Management agrees with the CAO observation.</b> Relevant studies were conducted and further improved based on IESC review.
26	<b>Supervision: (a)</b> CAO notes that for several years during supervision, the client did not comply with the requirement included in the ESAP to provide documentation that assesses whether the “sensitive areas” included in the ESIA were considered critical habitats under IFC standards. Nevertheless, the ESMC and IFC indicated that the project had not carried out construction works in areas identified as critical habitat. It is unclear to CAO how this conclusion was reached without the client having implemented the required actions to conduct such assessment. CAO thus finds that IFC’s supervision did not provide assurance of the project’s compliance with the requirements of PS6, para. 17, to ensure that the client does not implement any project activities in areas of critical habitat. <b>(b)</b> CAO acknowledges IFC’s supervision of the client’s implementation of adaptive management measures during the construction phase as required in the ESAP. This consisted in collecting data regarding aquatic species and adapting the project’s monitoring	<b>Supervision: (a) Management disagrees with the CAO observation.</b> There was no critical habitat identified during the assessment phase and there was no change in footprint triggering the need for another PS6 assessment.  <b>(b) Management disagrees with the CAO observation.</b> Quarterly monitoring according to the Integrated Management Plan was ongoing throughout supervision and no impact on sensitive species was identified. Discharges were subject to monitoring against discharge criteria, including daily monitoring of any emergency discharge. Furthermore, the Ecological Flow Study concluded that “the operation of project does not appear to significantly convert or degrade the aquatic habitat of the average hydrologic condition and the mitigation and adaptive management measures provide a level of control for re-assessing the impacts and adjusting the flow needs.” The aquatic species monitoring and monitoring of discharge from construction activities were commensurate to construction

No.	CAO Observation	IFC Response and Action Plan
	<p>program as needed. CAO notes, however, that the client did not monitor water flow during construction and the Lenders did not require the client to monitor discharges from construction works in a way that would allow effective verification of construction impacts on the aquatic biota. In 2017 the ESMC reported that the client conducted monthly surface water monitoring. However, the ESMC also noted that several stations were not monitored during winter months due to unsafe sampling conditions for the laboratory technicians. CAO notes that the monthly water monitoring is too infrequent to assess impact on the biota. More frequent monitoring, including in relation to flow, could provide relevant data to inform a baseline flow necessary to protect aquatic species during the operational phase of the project, and a lack thereof could compromise future compliance with PS6 requirements for biodiversity conservation.</p>	<p>phase impacts and the level of monitoring in place was adequate to identify baseline conditions during construction for further use in operation, as the Ecological Flow Study identified no significant impacts associated with operations.</p>
<b>Performance Standard 6 (2/3): Impacts on Protected Areas, including Glaciers</b>		
27	<p><b>Pre-Investment Review:</b> CAO finds that IFC’s review of issues related to the project’s location in protected areas was consistent with the requirements of PS6, para. 20 to (1) ensure the project’s activities in protected areas are legally permitted, (2) ensure collaboration with relevant authorities, and (3) consult protected area sponsors and managers, affected communities, and other stakeholders.</p>	<p><b>Pre-investment: Management agrees with the CAO observation.</b> Identification and Assessment of the Conversion or Degradation of Aquatic Habitats and Establishment of an Ecological Flow Management Strategy was completed to IFC’s satisfaction and additional measures provided as part of ESAP.</p>
28	<p><b>Supervision:</b> CAO finds that IFC’s supervision of the client’s activities in protected areas was consistent with PS6, para. 20. However, as of IFC’s exit in May 2018, CAO finds that IFC had not ensured that the client met the requirements of PS1 regarding disclosure of information to relevant stakeholders, in particular the disclosure of the vibration monitoring results as required by the ESAP and ESMC. While the tunneling had not reached the El Morado National Monument by the time of IFC’s exit, the objective of the vibration monitoring was to measure vibration prior to reaching the El Morado section. Therefore, it was not</p>	<p><b>Supervision: Management disagrees with the CAO observation.</b> The monitoring referred to by the IESC reports, conducted from December 2015 to February 2016, was a measurement campaign as part of the study to assess potential vibration impacts of future activities under El Morado National Monument and design the relevant monitoring program. According to the last IESC Report IFC received (Q2-3 2017), tunneling beneath El Morado National Monument was expected to begin at the end of 2018, together with its associated monitoring and thus, no monitoring data was available for disclosure before IFC’s exit. Post IFC’s exit, the vibration monitoring</p>

No.	CAO Observation	IFC Response and Action Plan
	necessary to reach this point to disclose the information.	was carried out and disclosed per Chilean requirements.
<b>Performance Standard 6 (3/3): Impacts on Ecosystem Services, including Recreational Water Users</b>		
29	<b>Pre-Investment Review:</b> CAO finds that IFC’s pre-investment review of potential project impacts on ecosystem services was commensurate to the level of risks and impacts of the project, and the advice given to the client was consistent with the requirements of PS6, paras. 24 and 25.	<b>Pre-investment: Management agrees with the CAO observation.</b> Identified impacts and assessment gaps and the requirements set based on these were adequate to comply with relevant requirements of PS6.
30	<b>Supervision: (a)</b> CAO notes that up to IFC’s exit in May 2018, the client had not completed a satisfactory study regarding recreational water uses, as required in the ESAP. CAO further notes that the adaptive management monitoring framework developed for the project required an increase of the minimum streamflow if monitoring results show negative impacts on aquatic species. However, there was no similar requirement to ensure water flow to mitigate project impacts on recreational activities. Therefore, at the time of IFC’s exit, CAO finds that IFC had not ensured that the client took adequate action to meet the requirements of PS6, para. 25 in relation to potential project impacts on recreational activities. <b>(b)</b> In relation to potential impacts of sediment transport, CAO notes that the client has completed the Advanced Sediment Transport Study, and shared a summary of results with the participatory monitoring panel. However, a number of gaps needed to be addressed to meet PS6 requirements and were still pending at the time of IFC’s exit from the project. CAO further notes that the study’s methodology did not meet GIIP, as required by PS6: because measurements of sediment transport were not performed in all the rivers and streams of the project area, and results on the river morphodynamics were made based on assumptions that did not meet standard methods of analysis. GIIP is well documented in relation to sediment transport assessment and monitoring, and was further documented in IFC’s March 2018 Good Practice Note on EHS Approaches to Hydropower Projects. <b>(c)</b>	<b>Supervision: (a) Management disagrees with the CAO observation.</b> At the time of IFC’s exit, the recreational water use study was ongoing with involvement of a River Recreation Specialist, as well as ongoing monitoring conducted by the consultant FDC to inform the study. The ESAP #37 on Recreational Water Use required the Program to be complete by 60 days prior to start of operations or January 31, 2018. Until the point of IFC’s exit, progress was monitored by IFC and reported in the IESC Monitoring Reports. Therefore, Management disagrees that IFC did not ensure that the client took adequate action to meet the requirements of PS6, para. 25, in relation to potential project impacts on recreational activities.  <b>(b) Management disagrees with the CAO observation.</b> The Advanced Sediment Transport Study was provided but an addendum was requested to further improve it. As of IFC’s exit, the pending addendum items to complement the study were identified as subject to further discussions with Lenders. Management disagrees that the study methodology and scope did not meet GIIP, as the addendum was to bring the study in line with GIIP of the time. The study was finalized, its Executive Summary was disclosed, and the monitoring program was approved by the relevant authority after IFC’s exit.  <b>(c) Management disagrees with the CAO observation.</b> The relevant assessments subject to IFC’s supervision and approval, as well as identification of monitoring requirements based on these assessments, were ongoing at

No.	CAO Observation	IFC Response and Action Plan
	CAO finds that IFC’s supervision did not ensure that impacts of sediment transport on ecosystem services were assessed and monitored in accordance PS1 and PS6 requirements.	the time of IFC’s exit. It should also be noted that both studies aimed at identifying control and monitoring measures for the operation phase, which was yet to start at the time of IFC’s exit.
<b>IFC’s Determination of Applicability of Performance Standard 8 on Cultural Heritage</b>		
31	While CAO acknowledges IFC’s assessment that the project is not expected to affect any known archeological, cultural heritage or paleontological sites, CAO notes that the ESIA identified sites with cultural heritage value within the project’s area of influence, and that the project design was modified on the basis of concerns regarding a cultural heritage finding. CAO further notes that the ESDD report indicated that PS8 should be triggered by the project, and that the company has implemented measures to manage potential impacts on cultural heritage. CAO thus finds that IFC’s determination that PS8 does not apply to the project was not consistent with the evidence provided by the ESDD. CAO notes, however, that throughout project supervision on behalf of the Lenders, the ESMC monitored the client’s management of project impacts on cultural heritage and found the client’s approach to be adequate. No damages to sites of cultural heritage value were reported in the documentation made available to CAO during the time of IFC’s involvement in the project, and no non-compliances were found regarding the client’s management of PS8-related issues.	<b>Management agrees with the CAO observation.</b> The project ESRS in the IFC Disclosure Portal did erroneously refer to PS8 as not applicable. While all PSs are applicable to IFC’s projects, it is acknowledged that the ESRS would have been clearer by describing the studies carried out and the avoidance of PS8 impacts under the PS8 tab of the ESRS and disclosed accordingly, given that the project design was modified to avoid such impacts. Nevertheless, Management concludes that this was more of an oversight in terms of disclosure, as relevant mitigation measures, including Alternatives Analysis and subsequent design changes considering cultural heritage among other subjects, relocation of project components, implementation of a Chance Find Procedure, and implementation of an Environmental Clearance System inclusive of identification of sensitive cultural heritage assets were developed and implemented.

**Disclaimer**

The IFC Management Response is provided in response to the Investigation Report of the Office of the Compliance Advisor Ombudsman (CAO) relating to complaints of alleged non-compliance by IFC with its Performance Standards on Environmental and Social Sustainability in a project supported by IFC finance or investment.

The CAO administers IFC's accountability mechanism in order to address complaints by people affected by IFC supported projects. As noted in paragraph 9 of the IFC/MIGA Independent Accountability Mechanism (CAO) Policy, CAO has no authority with respect to judicial processes. CAO is not a judicial or legal enforcement mechanism, nor is CAO a substitute for courts or regulatory processes, and CAO's analyses, conclusions, and reports are not intended or designed to be used in judicial or regulatory proceedings or for purposes of attributing legal fault or liability.

Nothing contained in the CAO's Investigation Report or in the IFC Management Response (1) creates any legal duty, (2) asserts or waives any legal position, (3) determines any legal responsibility, liability or wrongdoing, (4) constitutes an acknowledgment or acceptance of any factual circumstance or evidence of any mistake or wrongdoing, or (5) constitute any waiver of any of IFC's rights, privileges or immunities under its Articles of Agreement, international conventions or any other applicable law. IFC expressly reserves all rights.

While reasonable efforts have been made to determine that the information contained in the reports is accurate, no representation or warranty is given as to the accuracy or completeness of such information.

In preparing the Management Response, IFC does not intend to create, accept or assume any legal obligation or duty, or to identify or accept any allegation of breach of any legal obligation or duty. No part of the CAO's Investigation Report or IFC's Management Response may be used or referred to in any judicial, arbitral, regulatory or other process without IFC's express written consent.