

INTERNATIONAL FINANCE CORPORATION

**SECOND MANAGEMENT
PROGRESS REPORT**

ON

**IMPLEMENTATION OF THE
MANAGEMENT ACTION PLAN**

FOR

**PANAMA ELECTRICITY TRANSMISSION LINE IV
PANAMA – LATIN AMERICA AND THE CARIBBEAN
PROJECT NO.602084**

November 9, 2023

CONTENTS

- I. MAP IMPLEMENTATION OVERVIEW
- II. UPDATE ON IMPLEMENTATION OF MAP ACTIONS
- III. UPDATE ON IMPLEMENTATION OF STAFF STATEMENT COMMITMENTS
- IV. UPDATE ON SYSTEMIC RECOMMENDATIONS

ABBREVIATIONS AND ACRONYMS

CAO	Compliance Advisor Ombudsman
CEO	Chief Executive Officer
E&S	Environmental and Social
ESIA	Environmental and Social Impact Assessment
ESRP	Environmental and Social Review Procedures
ETESA	<i>Empresa de Transmisión Eléctrica</i> (Electric Transmission Company)
FPIC	Free, Prior and Informed Consent
GoP	Government of Panama
IFC	International Finance Corporation
IP	Indigenous Peoples
MAP	Management Action Plan
MPR	Management Progress Report
PPP	Public-Private Partnership
PSs	IFC's Performance Standards

I. MAP IMPLEMENTATION OVERVIEW

1. This is the 2nd Management Progress Report (“MPR”) of the International Finance Corporation (“IFC”), which provides an update on the implementation of the Management Action Plan (“MAP”), in response to the CAO Compliance Investigation Report, finalized on February 28, 2022, concerning the Panama Electricity Transmission Line IV (Project No. 602084: the “Project”).
2. Since 2017, IFC has been providing Advisory Services to the state-owned enterprise, *Empresa de Transmisión Eléctrica* (“ETESA” or the “Client”) related to the 330 km Panama Transmission Line IV Project. The expected Project cost is \$780 million, and it is ETESA’s first Public-Private Partnership (“PPP”). Since the 1st Progress Report, which was submitted to the Board on December 16, 2022, this MPR covers activities from mid-December 2022 to mid-October 2023. As such, some actions are in implementation, while others have been completed.
3. The MAP, which was approved by the Board on June 9, 2022, included actions for IFC to support ETESA in the application of the Performance Standards (“PSs”), specifically PS1 and PS7 in relation to: (i) the engagement with Indigenous Peoples (“IPs”) in the area of influence of the Project, living both in officially recognized territories and outside of them; (ii) inclusive, informed consultations and a participatory process; and (iii) a process to obtain Free, Prior, Informed Consent (“FPIC”).
4. The proposed transmission line passes through areas in which IPs reside, some of which are officially recognized by the Government of Panama (“GoP”) as a *Comarca* (a region that is semi-autonomously governed by the resident IPs). Consistent with the requirements of IFC’s PS7, IFC advised that the Client undertake a process of informed consultation and participation with all indigenous communities affected by the Project, regardless of their official recognition as IPs by national authorities. IFC also advised that, where there are impacts on IP land and natural resources, FPIC should be obtained.
5. Under IFC’s Sustainability Policy, IFC’s role and commitments with respect to Advisory Services projects differ from Investment projects. IFC is committed to review each advisory activity for environmental and social (“E&S”) risks and to provide advice to clients which is consistent with the PSs. Paragraph 39 of IFC’s Sustainability Policy recognizes that IFC can work with advisory clients to achieve improvements and move towards greater consistency with the PSs, even if they are not able to meet their full intent during the life of the advisory activity. IFC welcomes CAO’s recognition in its *Compliance Monitoring Omnibus Case Report: Q4, FY23*, issued in May 2023, that “that IFC provided advice consistent with the PS to the client and its E&S consultant on the work plan for the project’s Environmental and Social Impact Assessment (ESIA).”

A. MAP Implementation Status

6. As indicated in the first MPR, the actions in the Board-approved MAP pertaining to IFC were fully implemented during the first half of FY23. During the period covered by this 2nd MPR (mid-

December 2022 to mid-October 2023), IFC has proactively worked to advise ETESA with regards to the Environmental and Social Impact Assessment (“ESIA”) that ETESA was preparing. IFC also conducted additional capacity building for ETESA’s E&S unit and the Consultant hired to prepare the ESIA (CAMSA-Engimore), through the delivery of a second workshop in February 2023 focused on the implementation of PS1 related to stakeholder engagement, PS7 related to FPIC and engagement with IPs within the area of influence of the Project, as well as ESIA-related activities that were carried out. The workshop included 19 participants from ETESA and their consultant.

7. IFC provided continued advice on the draft ESIA chapters that ETESA has shared with IFC since October 2022. IFC identified shortcomings in the deliverables which did not meet the full intent of IFC’s PSs including: (i) inadequate stakeholder mapping of affected communities; (ii) insufficient information provided to IPs during the ESIA development; (iii) inaccurate definition of the Project area of influence; (iv) inadequate environmental and socio-economic baseline data; (v) lack of planning to continue the FPIC process with IPs living inside the Comarca; and (vi) lack of progress with planning the FPIC process with IPs living outside the Comarca.

8. To enable the Project to address the identified issues, IFC also advised, and is continuing to engage with, ETESA to explicitly include a requirement in the draft PPP contract for the concessionaire to carry out a supplemental ESIA, aligned with IFC’s PSs, and to explicitly refer to IFC’s PSs as the required standard.

9. In early June 2023, ETESA submitted the draft ESIA to the Ministry of the Environment (or “MiAmbiente”), which disclosed it on its website. The document still does not meet the full intent of the IFC PSs. The draft included inaccuracies with regards to IFC’s role in the process (which were corrected in July 2023) and incorrectly stated that the ESIA was compliant with IFC’s PSs, the WBG’s Environment, Health & Safety Guidelines, and that the FPIC process with IPs inside the Comarca had been completed.

10. At the time of this writing, IFC recognizes that the Client is unlikely to complete the ESIA process in a manner that is consistent with the full intent of IFC’s PSs during the life of the advisory engagement.

11. IFC’s efforts are now directed toward advising ETESA to: (i) enhance its stakeholder engagement and FPIC process; and (ii) position the Project to meet the PSs with the support of the future concessionaire through a supplemental ESIA.

C. Implementation of IFC commitments in the Staff Statement to the Board

12. During this reporting period, IFC has met with the Complainants on three occasions, both virtually (January and July 2023) and in-person (March 2023). This allowed IFC to hear directly from the Complainants and communicate their concerns to the Client, thus providing ETESA with timely and tailored advice.

13. The Complainants reiterated concerns related to the limited technical capacity of ETESA’s ESIA Consultant in relation to IFC’s PSs, a lack of information to communities about the Project and corresponding stakeholder engagement, and the ESIA and FPIC processes. The Complainants shared five resolutions (petitions) from indigenous communities (in Norte de Santa Fe and Kankintu) opposing the Project. Complainants also shared the reports of two United Nations committees, the UN Committee on Economic, Social and Cultural Rights¹ and the UN Human Rights Committee,² which have raised concerns with the FPIC process. IFC is following up with ETESA and the GoP on these concerns (see Next Steps below).

14. Throughout ETESA’s preparation of the ESIA, IFC provided ETESA with extensive and detailed written recommendations, consistent with PSs requirements to improve: (i) stakeholder engagement activities; and (ii) the FPIC process. Detailed comments on ESIA deliverables were provided throughout the MAP implementation. All documentation relating to the MAP implementation has been made available to CAO staff. As information becomes available, it is shared with CAO.

15. In March 2023, the World Bank President and IFC’s Regional Vice-President met with GoP and ETESA management representatives to reiterate the importance of IFC’s PSs in developing this Project.

16. In late July 2023, senior IFC management visited GoP and ETESA officials to stress IFC’s concerns about the lack of progress in key areas of the ESIA, stakeholder consultations with IP communities and FPIC. These discussions enumerated the risks to the Project and recognized that further external expertise could support ETESA and its Consultant to enhance the stakeholder engagement process. Furthermore, IFC advised ETESA to specify obligations on the concessionaire to carry out a supplemental ESIA in line with good international practices, including IFC’s PSs.

17. In October 2023, IFC’s Regional Vice President and senior IFC management met with senior GoP officials and discussed IFC’s recommendation that ETESA progresses its stakeholder engagement activities.

18. Based on the above meetings, IFC expects ETESA to have advanced its stakeholder engagement with all communities, inside and outside the Comarca, prior to the deadline for receiving bids in the Project’s tender which is currently expected to be in the first half of 2024.

E. Implementation of Systemic Recommendations

19. CAO’s systemic recommendations in its investigation related to: (i) providing guidance to staff on the scope of IFC’s role when a client implements project development activities with E&S risks or impacts during an Advisory Services engagement; and (ii) incorporating the need for

¹ “Concluding observations on the third periodic report from Panama.” March 31, 2023.

² “Concluding observations on the fourth periodic report from Panama.” April 12, 2023.

contextual risk analysis in Advisory Services projects in the Environmental and Social Review Procedures (ESRP).

20. On June 4, 2023, IFC delivered its fourth update to the Board on its commitments to non-policy actions in response to the External Review of IFC/MIGA E&S Accountability, including CAO's Role and Effectiveness. As part of that update, IFC provided a report on progress in the development of the ESRP and the accompanying ESRP Handbook to the Board, which includes detailed implementation guidance to specialists on new business processing, portfolio monitoring and advisory services, as well as an update on mainstreaming contextual risk screening.

21. The ESRP were revised between January and May 2023 to include the chapter on Advisory Services. The revised ESRP were finalized in September 2023 and are being socialized internally; Tip Sheets for Advisory Services are under development. The Advisory Services section of the ESRP includes specific guidance on IFC's role in the review of E&S activities throughout the advisory project cycle. Where the review results in the identification of E&S risks, IFC will provide advice to the client consistent with the PSs.

22. Contextual risk analysis is being mainstreamed across project appraisal and supervision of advisory activities and reflected in the ESRP and the ESRP Handbook. In April 2022, IFC released for public consultation its Good Practice Note on contextual risk screening. The Note has been updated to reflect comments from more than 60 organizations representing, amongst others, multilateral and development finance institutions, the private sector, civil society organizations, and CAO. The updated Note is expected to be published in the second quarter of FY24. A central repository of country contextual risk analyses for due diligence was also developed and an updated contextual risk data portal is available to all World Bank Group users.

D. Next Steps

23. IFC expects to continue to engage with the Complainants every 6 months and has been doing so more frequently given the nature of the challenges in ETESA's preparation of the ESIA.

24. As per the requirement of a biannual progress report submission, the next MPR is due in April 2024. The MAP actions pertaining to IFC have been implemented; and IFC is currently implementing and will report on the commitments in its Staff Written Statement to the Board. The next MPR will include updates on the status of implementation of the recommendations provided by IFC to ETESA in this reporting cycle and IFC's measures to mitigate risks deriving from any partial implementation. The next MPR will also summarize any advice provided by IFC to ETESA in the next reporting cycle with respect to the issues of concern.

25. IFC recognizes that its role as an advisor is limited to providing advice consistent with the PSs and will continue to seek constructive engagement with the Client (and by extension with the ESIA Consultant), the Complainants, and CAO.

II. UPDATE ON MAP IMPLEMENTATION ACTIONS

The section below provides an update to the Board regarding actions included in the MAP. The MAP actions pertaining to IFC have been implemented.

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
A. Enhance the advice on the consultation process with IPs inside and outside the Comarca in line with IFC PSs	<u>Action A.1.</u> IFC will advise ETESA on measures to be undertaken to align the ongoing stakeholder engagement process with PS1 and PS7 requirements.	IFC	1. Letter to ETESA's Chief Executive Officer with IFC recommendations	1. As soon as MAP is approved by the Board	Completed on July 19, 2022. ETESA's confirmation of IFC's letter and MAP, including PSs requirements for the ESIA received on November 8, 2022.	The letter was delivered to ETESA's CEO in person on July 18 and sent electronically on July 19, 2022. Advice focused on a methodology for stakeholder identification and analysis, disclosure, and inclusive consultation. It specified engaging traditional leaders, promoting the use of indigenous languages and culturally appropriate communication. IFC also advised ETESA to use translators from the IP region and female consultants to improve engagement with indigenous women.
	<u>Action A.2.</u> IFC will advise ETESA to undertake an engagement process with IPs outside the Comarca consistent with IFC PSs.	IFC	2. Letter to ETESA's Chief Executive Officer with IFC recommendations	2. As soon as MAP is approved by the Board	Letter delivered on July 19, 2022. Ongoing advice provided as part of IFC's advisory role. ETESA's confirmation of IFC's letter and MAP, including PSs requirements received on	The above-referenced letter to ETESA's CEO included advice on the engagement process with IPs outside the Comarca, consistent with IFC PSs.

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
					November 8, 2022.	
<p>B. Enhance the advice on the development of the ESIA to be in line with IFC PSs.</p>	<p>Action B.1 IFC will hold a 2-day workshop with ETESA and its selected E&S consultant to explain in more detail the requirements of PSs to be used in the ESIA.</p>	<p>IFC</p>	<p>1. A 2-day workshop with ETESA and its E&S consultant. Minutes of workshop and agreements on workshop conclusions by ETESA.</p>	<p>1. First month after ETESA's E&S consultant is selected.</p>	<p>1. Completed on July 21, 2022.</p>	<p>1. During July 20-21, 2022, IFC, ETESA and the E&S consultant participated in an “Updating Social & Environmental Issues Workshop,” which covered the eight IFC PSs. The workshop included a discussion of a bottom-up approach to stakeholder consultations, specifically in the context of indigenous communities, both inside and outside the Comarca.</p> <p>In February 2023, IFC conducted a second workshop with ETESA, its E&S unit and ESIA Consultant, and followed up with a written summary with recommendations and a letter in May 2023.</p> <p>Gender-inclusive assessments and consultations covering the Project area of influence and the need to ensure disclosure of information in local languages were also discussed, as was the importance of involving translators and hiring indigenous staff from the areas of consultation.</p> <p>The workshops were documented through a list of all participants, presentations, and a summary and agreed next steps.</p>

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
			2. Inclusion of key outcomes of workshop in ETESA's E&S consultant work plan for the ESIA.		2. IFC advice to ETESA was provided; the work plan did not reflect IFC's advice.	2. IFC reviewed the E&S consultant's first deliverable, which included the work plan. It provided its recommendations to ETESA to align the work plan with IFC's PSs on October 25, 2022. However, the work plan has not been updated to reflect IFC's advice.

III. UPDATE ON STAFF WRITTEN STATEMENT IMPLEMENTATION ACTIONS

The section below provides an update to the Board regarding actions included in the Staff Written Statement to the Board, which was submitted separate from the Management Action Plan.

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
C. Feedback to Complainants	Action C.1 To provide feedback to the Complainants, IFC will send a letter within 30 days after the MAP approval, outlining which suggestions have been taken on board and explaining the reasons why others cannot be incorporated. IFC will also propose a follow up meeting, within 30 days after sending the letter, to	IFC	1. IFC's written response to Complainants' suggestions on the MAP. 2. IFC meeting with the Complainants to explain IFC response to Complainants' suggestions to MAP. 3. IFC meeting with Complainants to request feedback.	1. Within 30 days of MAP approval 2. Within 30 days of MAP approval. 3. Every six months, at the time of	1. Completed on July 11, 2022. 2. Completed on August 4, 2022. 3. Ongoing.	1. IFC's written response was sent on July 11, 2022. 2. The meeting with the Complainants was held on August 4, 2022. 3. IFC has held three substantive meetings with the Complainants, two virtually and the other in-

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
	go over its content with the complainants. Finally, IFC will seek feedback from the complainants every 6 months, at the time of reporting to the Board and CAO.			reporting to the Board.		person, including with IFC management.
D. Review the various outputs of the ESIA process.	<p>Action D.1 As part of IFC overall engagement, IFC will review the various outputs of the ESIA process, starting with the consultant's work plan, to provide recommendations on closing PSs gaps, including recommending supplemental consultant expertise and/or resources as necessary to carry out the ESIA in accordance with the PSs and achieve FPIC.</p>	IFC	<p>1. IFC recommendations on first deliverable, E&S consultant's work plan.</p> <p>2. IFC advice to ETESA on E&S consultant technical capacity.</p> <p>3. IFC review and advice on additional outputs of the ESIA process.</p>	<p>1. After submission by the E&S consultant.</p> <p>2. As soon as required.</p>	<p>1. Completed on October 25, 2022, with ongoing advice as per IFC's advisory role.</p> <p>2. Completed on September 24, 2022, with ongoing advice as per IFC's advisory role.</p> <p>3. Ongoing.</p>	<p>1. IFC sent its recommendations to ETESA on October 25, 2022. However, the work plan has not been updated to reflect IFC's advice.</p> <p>2. IFC recommended that ETESA strengthen the E&S consultant's technical capacity on the PSs, in a meeting held on September 24, confirmed by email on September 29, 2022.</p> <p>3. IFC reviewed Product 1-3 of the ESIA and provided written comments in February 2023.</p> <p>IFC reviewed Product 4 of the ESIA and provided written comments in April 2023.</p> <p>IFC reviewed Products 4-12 of the ESIA and provided written comments in June 2023.</p>

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
						As indicated in Section II, IFC conducted a February 2023 workshop with ETESA, its E&S unit and ESIA Consultant.
E. Continue to advise ETESA on engagement and FPIC.	<p>Action E.1 As part of IFC overall engagement, IFC will continue advising ETESA on stakeholder engagement, PS7, and FPIC, and review the design documentation for, and outputs of, the FPIC process, for consistency with the PSs.</p>	IFC	<p>1. IFC recommendations on E&S consultant's first deliverable.</p> <p>2. IFC advises ETESA on E&S consultant technical capacity.</p> <p>2. IFC request to ETESA to continue engagement with indigenous groups.</p>	<p>1. After submission by the E&S consultant.</p> <p>2. As soon as required.</p> <p>3 As soon as required.</p>	<p>Completed on October 25, 2022 with ongoing advice as per IFC's advisory role.</p> <p>Ongoing advice as per IFC's advisory role.</p> <p>Ongoing advice as per IFC's advisory role.</p>	<p>1. IFC sent its recommendations to ETESA, including on the FPIC process, on October 25, 2022.</p> <p>2. IFC recommended that ETESA strengthen the E&S consultant's technical capacity on the PSs in a meeting held on September 24, and confirmed by email on September 29, 2022.</p> <p>3. IFC has continued providing advice to ETESA and its ESIA Consultant through meetings, including the February 2023 workshop, and written communications, including the summary of the workshop and the four rounds of comments to the ESIA deliverables.</p> <p>In addition, the World Bank President and IFC's Senior Management met with ETESA in March 2023 to reiterate the importance of IFC's PSs particularly as it relates to FPIC (PS1) and ongoing ESIA activities which include discussions with IPs.</p>

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
						<p>IFC senior management again met with ETESA and GoP officials in July 2023 to discuss these issues.</p> <p>In its written advice, IFC advised ETESA to develop a roadmap to: (1) continue the FPIC process with IPs living inside the Comarca and align the process with PS7 requirements; and (2) commence an Informed Consultation and Participation process with IPs living outside the Comarca and set the basis for an FPIC process.</p>

Disclaimer

The IFC Management Progress Report 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.

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