

INTERNATIONAL FINANCE CORPORATION

**THIRD 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**

September 4th 2024

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ABBREVIATIONS AND ACRONYMS

AS	Advisory Services
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
GPN	Good Practice Note
IFC	International Finance Corporation
IACHR	Inter-American Commission of Human Rights of the OAS
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 3rd Management Progress Report (“MPR”) of the International Finance Corporation (“IFC”) which provides an update on the implementation of the Management Action Plan (“MAP”), designed in response to the CAO Compliance Investigation Report of February 28, 2022 regarding the Panama Electricity Transmission Line IV (Project No. 602084, the “Project”).
2. Since 2017, IFC has been providing Advisory Services (“AS”) to the State-owned enterprise, *Empresa de Transmisión Eléctrica* (“ETESA” or the “Client”) related to the 330 km transmission line project. The expected Project cost is \$780 million and is ETESA’s first Public-Private Partnership (“PPP”).
3. IFC’s Board of Directors approved the MAP on June 9, 2022, which included actions for IFC to support ETESA in the application of IFC’s 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 known as Comarcas as well as outside of them; (ii) inclusive, informed consultations through a robust participatory process; and, (iii) a process to obtain Free, Prior, Informed Consent (“FPIC”). This MPR covers activities from mid-November 2023 to August 2024.
4. In reviewing this MPR, it should be noted that IFC’s role in AS projects differs from that in Investment projects. Nonetheless, under the Sustainability Policy, IFC is committed to reviewing each advisory activity for environmental and social (“E&S”) risks and to provide advice to clients which is consistent with the PSs. The 2020 Agreement signed between IFC and ETESA requires the Client to “make best efforts” to apply IFC’s PS.

A. MAP Implementation Status

5. With regard to the MAP implementation, IFC has completed all its actions, and in the most recent Compliance Monitoring Report (May 2024), CAO has decided to close monitoring of the action related to the two-day technical workshop on the PSs for ETESA and its E&S consultant, which was carried out in 2022.¹ However, CAO’s rating was “partly unsatisfactory,” given that the pending MAP actions by the Client, such as incorporating key outcomes in the workplan of the ESIA consultant, have not been completed in its preparation of the Environmental and Social Impact Assessment (“ESIA”). During this MPR period, as the transaction advisor, IFC has consistently advised ETESA of the importance of applying the PSs, expressing its concerns about the incomplete status of E&S actions pending by the Client. IFC recommended that ETESA address outstanding E&S issues with: (i) a more thorough mapping of stakeholder engagement, (ii) fulfilling the FPIC process with Indigenous communities to align with IFC’s PS7, and (iii) requiring the concessionaire to develop a supplemental ESIA that reflects a detailed design of the transmission line and is aligned with IFC’s PSs. IFC’s team and senior management have

¹https://www.cao-ombudsman.org/sites/default/files/downloads/CAO%20Omnibus%20Monitoring%20Report%20May%202023_1.pdf (the “CAO Compliance Monitoring Report, May 2024”).

consistently emphasized the need to address these concerns to ETESA's management and other Government of Panama ("GoP") officials including the Minister of Finance to ensure IFC's continued support for the Project.

6. As noted in the 2nd MPR, a draft ESIA was disclosed on the Ministry of Environment's website, which included several inaccuracies relating to: (a) IFC's role in the FPIC process, (b) that the ESIA was compliant with IFC's PSs, and (c) that the FPIC process with IPs inside the Comarcas was completed in a manner consistent with PS7. IFC communicated these inaccuracies to the GoP, and, while the Client corrected the errors related to IFC's role, serious shortcomings regarding compliance with IFC's PSs and the completion of the FPIC process and supplemental ESIA remained.

7. Regarding the FPIC process, ETESA considers that it has fulfilled its obligation through consultations with Traditional Authorities in the *No Kribo* area, who have given their consent to the Project.

8. IFC has informed ETESA on the following:

- the consultation process was not aligned with the FPIC requirements of PS7.
- the disclosed ESIA has not followed IFC's recommendations in applying the PSs and the following gaps were communicated to the Client: (i) inadequate stakeholder mapping of IP communities; (ii) insufficient Project information provided to IPs; (iii) inaccurate definition of the Project area of influence; and, (iv) inadequate environmental and socio-economic baseline data.
- In view of the above-listed deficiencies, as mentioned above, IFC has advised ETESA of the need for a supplemental ESIA which can be carried out by the concessionaire under the PPP contract to address the above-mentioned gaps.

9. Following postponement from November 2023, in mid-March 2024, ETESA carried out public fora (*foros públicos*) in: (i) La Chorrera (to cover Panamá and Panamá Oeste provinces), Las Marías (for Coclé and Colón provinces), (ii) Calovébora (Veraguas province), and (iii) Comarca Ngöbe-Buglé. According to CAO's Compliance Monitoring Report, these forums were "...without adequate and timely public communication and with no justification given" as to the rescheduling.²

10. At present, IFC has been informed that the Technical Report and tender documents for the Project are with the national PPP agency for their approval as per Panamanian regulations. Once approved by the PPP agency, they would then need to be approved by a ministerial council in order to be finalized. If the Project is approved, the newly elected government, which has taken office on July 1st, can decide how to proceed, including in relation to the implementation of IFC's

² CAO Compliance Monitoring Report, May 2024, pg. 85.

recommendations on the various E&S issues of concern (e.g. public consultations and a supplemental ESIA by the concessionaire).

11. Based on the above, IFC's senior management through its Country Office in Panama are in contact with representatives of the new GoP to discuss IFC's portfolio, including AS projects, and with particular emphasis on the E&S concerns related to this Project. During the high-level meetings with the newly appointed ministers of GoP in late August, IFC reiterated its continued support to the project subject to GoP's commitment to the highest E&S standards, especially on communities' consultation process and engagement with IP's. Follow-up discussions with ETESA's new incoming management are being scheduled in coming months.

12. All relevant documentation relating to the MAP's implementation is shared with CAO as it becomes available.

B. Additional developments related to the Project

13. Over this MPR period, there have been some developments involving E&S issues, which IFC's team continues to observe. For instance, in response to a petition filed by the same Complainants in the CAO case, the Inter-American Commission on Human Rights (IACHR) of the Organization of American States held a public, thematic hearing on March 1, 2024 on the impact of businesses on the human rights of IPs in Panama.³ The Project was included in the hearing, along with two other infrastructure projects. Testimony was presented by the Complainants and officials of the State of Panama, including ETESA representatives and Comarca Traditional Authorities. The hearing included questions related to the FPIC process and consultations in the IP communities of Ngöbe-Buglé, Bocas del Toro, and Norte Veraguas. In addition to reiterating their concerns that the Project has fallen short of the consultation requirements of FPIC under IFC's PSs, the Complainants specifically requested that the IACHR's Special Rapporteur on the Rights of Indigenous Peoples visit the communities involved in the Project. ETESA has indicated to IFC, that should such a visit occur, it would support the Special Rapporteur to coordinate the visit to the communities.

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

14. During the MPR period, IFC shared the Spanish translation of the 2nd MPR with the Complainants in January 2024. While IFC and the Complainants exchanged several dates to coordinate a meeting within the 6-month timeframe, a mutually convenient day/time could not be found. Hence, the most recent meeting with the Complainants took place on May 17th, during which IFC and the Complainants agreed on the value that such exchanges bring. IFC and the Complainants recognized that although previous dates didn't result in a meeting within the 6-month period, both recommitted to ensuring that the joint sessions continue on track moving forward.

³ <https://www.oas.org/en/iachr/Sessions/Default.asp?S=189>

15. The Complainants, the Center for International Environmental Law (“CIEL”) and MODETEAB recognized the importance of IFC’s engagement in the Project, and specifically expressed that they do not want to see IFC exiting the Project.

16. Following a summary of human rights concerns shared by an Indigenous Complainant, IFC stated that such issues should be reviewed by the GoP. Specifically, in engaging with the newly elected government, IFC will continue to recommend that the Client and GoP follow IFC’s PSs in stakeholder engagement activities. IFC will also continue highlighting the importance of the E&S aspects of the Project, which need to include a more thorough stakeholder mapping, a PS7 aligned FPIC process, and a supplemental ESIA to address the identified gaps.

17. In response to the Complainants’ recommendations that IFC’s team visit the Indigenous communities, and consider including UN experts, IFC clarified that it would welcome the opportunity to coordinate such a visit with the newly elected government, including exploring the possibility of experts from the United Nations joining the same.

D. Implementation of Systemic Recommendations

18. CAO’s Systemic-level recommendations 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 contextual risk analysis in Advisory Services projects in the Environmental and Social Review Procedures (ESRP).

19. In the last quarter of 2023, IFC committed to completing an Advisory Services guidance tip sheet for inclusion in the ESRP Handbook.

20. In addition, IFC updated CAO in March 2024 that the Good Practice Note (GPN) on Contextual Risk Screening is being finalized, with an expected completion timeline of early FY25. Contextual risk analysis is now being mainstreamed across advisory projects, and the GPN reflects comments received from more than 60 organizations, including civil society organizations, multilateral and development finance institutions, and the private sector. CAO stated that it welcomes the development of a contextual risk data portal available internally for use by World Bank Group staff and will continue to monitor its use.⁴

E. Next Steps

21. IFC’s senior management is currently reviewing the Project’s status regarding the outstanding E&S aspects, such as the FPIC process and the ESIA, and will consult with CAO as part of its evaluation, as required.

⁴ CAO Compliance Monitoring Report (May 2024), pg.104.

22. IFC expects to continue to engage with the Complainants every 6 months and will follow-up on pending actions required of ETESA with the newly elected government after it officially takes office.

23. As per the request for a biannual progress report submission, the next MPR is due in March 2025 and will include updates on the status of implementation of the recommendations provided by IFC to ETESA, specifically as related to a supplemental ESIA, the FPIC process and stakeholder mapping, specifically for IPs communities within and outside a Comarca.

24. IFC's role as an advisor is limited to providing advice consistent with the PSs. As such, IFC will continue to seek constructive engagement with the Client, the Complainants, and CAO, in accordance with the mandate.

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. CAO has closed this action for monitoring as "Partly Unsatisfactory" in its May 2024 Compliance Monitoring Report.	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	<p>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 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.</p>	IFC	<p>1. IFC’s written response to Complainants’ suggestions on the MAP.</p> <p>2. IFC meeting with the Complainants to explain IFC response to Complainants’ suggestions to MAP.</p> <p>3. IFC meeting with Complainants to request feedback.</p>	<p>1. Within 30 days of MAP approval</p> <p>2. Within 30 days of MAP approval.</p> <p>3. Every six months, at the time of reporting to the Board.</p>	<p>1. Completed on July 11, 2022.</p> <p>2. Completed on August 4, 2022.</p> <p>3. Ongoing.</p>	<p>1. IFC’s written response was sent on July 11, 2022.</p> <p>2. The meeting with the Complainants was held on August 4, 2022.</p> <p>3. IFC has held three substantive meetings with the Complainants, two virtually and the other in-person, including with IFC management.</p>
D. Review the various outputs of the ESIA process.	<p>Action D.1 As part of IFC overall engagement, IFC will review the various</p>	IFC	1. IFC recommendations on first deliverable, E&S consultant’s work plan.	1. After submission by the E&S consultant.	1. Completed on October 25, 2022, with ongoing advice	1. IFC sent its recommendations to ETESA on October 25, 2022. However, the work plan has not been updated to reflect IFC’s

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
	<p>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>		<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>2. As soon as required.</p>	<p>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. Completed with gaps needing to be addressed.</p>	<p>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> <p>As indicated in Section II, IFC conducted a February 2023 workshop with ETESA, its E&S unit and ESIA Consultant.</p>
<p>E. Continue to advise ETESA on engagement and FPIC.</p>	<p>Action E.1 As part of IFC overall engagement, IFC will continue advising ETESA on stakeholder engagement, PS7, and FPIC, and review the</p>	<p>IFC</p>	<p>1. IFC recommendations on E&S consultant's first deliverable.</p>	<p>1. After submission by the E&S consultant.</p>	<p>Completed on October 25, 2022 with 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</p>

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
	design documentation for, and outputs of, the FPIC process, for consistency with the PSs.		<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>2. As soon as required.</p> <p>3 As soon as required.</p>	<p>Ongoing advice as per IFC's advisory role.</p> <p>Ongoing advice as per IFC's advisory role.</p>	<p>meeting held on September 24, and confirmed by email on September 29, 2022.</p> <p>3. IFC has continued providing advice to ETESA, including a November 2023 letter.</p> <p>4. 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. 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</p>

Area of Improvement	Action / activity	Responsibility	Deliverable / expected outcome	Timeframe	Status	Summary of Implementation
						Informed Consultation and Participation process with IPs living outside the Comarca and set the basis for an FPIC process.