

INTERNATIONAL FINANCE CORPORATION

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

LATIN AMERICA AND CARIBBEAN

**CORPORACION INTERAMERICANA PARA EL
FINANCIAMIENTO DE INFRAESTRUCTURA, S.A.
(PROJECT #26031)**

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ABBREVIATIONS AND ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
CIFI	<i>Corporación Interamericana para el Financiamiento de Infraestructura, S.A.</i> (Inter-American Corporation for Infrastructure Financing)
E&S	Environmental and Social
EHS	Environmental, Health, and Safety
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESMS	Environmental and Social Management System
ESRP	Environmental and Social Review Procedure
FI	Financial Intermediary
FY	Fiscal Year
HSC	Hidro Santa Cruz, S.A.
IFC	International Finance Corporation
LAC	Latin America and the Caribbean
LESS	Lead Environmental and Social Specialist
MW	Megawatt
Norfund	Norwegian Investment Fund for Developing Countries
SPV	Special Purpose Vehicle
USD	United States Dollar

EXECUTIVE SUMMARY

Introduction

- i. Management is deeply troubled by the unfortunate events that occurred in Santa Cruz Barillas, Guatemala. A small hydropower project that was intended to bring renewable energy to one of the poorest parts of the country became embroiled in conflict, including communal violence that led to a state of siege by government forces. Multiple arrests and detentions took place. Two people died in separate incidents – a community member and a soldier. And in the end, the project, which could have brought much needed low-cost, carbon-neutral electricity generation to an impoverished region, was never built.
- ii. IFC was an indirect investor in this hydropower project via its 2008 investment in the *Corporación Interamericana para el Financiamiento de Infraestructura, S.A. (CIFI)*, a non-banking financial institution focused on providing financing to small and medium infrastructure sub-projects across Latin America and the Caribbean (LAC). The lessons of this difficult case are serious ones both for IFC's financial intermediary (FI) business and for its approach in fragile, conflict and violent contexts. Better communication and stakeholder engagement would have led to a better understanding of the local context in this case. Management recognizes the important contribution of the complainants in bringing these issues to light and the Compliance Advisor Ombudsman (CAO) for its engagement with this case.
- iii. The CAO's compliance investigation report (CAO report) details complainant concerns as to unaddressed impacts of the proposed hydropower project on the community, including: escalation of social conflict, the death of a community member, and detainment of other community members in relation to the civil unrest. It also notes ongoing limitations to community access posed by a perimeter fence at the abandoned project site.
- iv. Management is deeply empathetic to these concerns and appreciates that the incidents and allegations related to the state of siege have been investigated and reviewed by the relevant United Nations and Guatemalan human rights bodies. The killing of a community member is especially deplorable and must be addressed within the context of the Guatemalan judicial system. Since the CAO report was issued, Management understands that the question of access seems to have been resolved as recent photographic evidence suggests communal access and use of the site..
- v. IFC has learned from its investment in CIFI and will continue to modify its practices and procedures in order to improve on implementation of the Performance Standards with respect to FI clients going forward. IFC has made significant improvements in its FI approach since 2008 when it invested in CIFI. Key enhancements include:
 - Expanding environmental and social (E&S) risk classification from one FI risk category to three;
 - Becoming much more selective in equity investments in FIs;
 - Placing a greater focus on loans with specified use of proceeds where there are environmental and social risks;

- Increasing the intensity of monitoring of its FI portfolio;
 - Initiating targeted capacity building for FI clients investing in high-risk activities; and
 - Increasing the number of E&S staff and consultants focused on FIs by six-fold, from five full-time equivalent in 2008 to about 30 today.
- vi. The issues that the IFC investment in CIFI raises are broad and complex. This Management Response addresses the findings and observations of the CAO report and is necessarily limited in scope. In keeping with the CAO compliance process, the Management Response focuses largely on IFC's compliance with its policies and procedures applicable at the time of the investment in CIFI. It also describes in greater detail the significant improvements undertaken in IFC's approach and practices since this investment, as well as lessons learned and forward-looking actions.
- vii. CAO's mandate and purpose does not include any determination of the nature and extent of IFC's legal duties or whether or not IFC breached any duties to affected communities. Rather, CAO oversees investigations into IFC's compliance with its own E&S policies and procedures. CAO provides findings with respect to IFC's compliance or noncompliance. CAO also reviews affected communities' claims of adverse environmental and/or social outcomes, and the extent to which these are verifiable, but does not make any findings of causal link between non-compliance and harm.

Background

- viii. In July 2015, a group of community representatives filed a complaint with the CAO on behalf of themselves and other community members in the Municipality of Santa Cruz Barillas in Northwest Guatemala. The complaint focused on a small 5MW run-of-river hydropower development.
- ix. The complainants raised concerns regarding, dissemination and disclosure of project information, lack of consultation, and potential impacts of the small hydropower project on indigenous populations. The complaint also raised concerns regarding the potential for project-related displacement and impacts on local water resources. Further, the complainants maintained that the fatality and other violence constituted project impacts that remained unaddressed.
- x. Following CAO's assessment, the complainants declined the option of a CAO-facilitated dispute resolution process, although the project developers were willing to participate. Accordingly, the complaint was transferred to CAO's compliance function for appraisal and, subsequently, investigation.

Hidro Santa Cruz (HSC)

- xi. The Hidro Santa Cruz (HSC) development project (the “Sub-project”)¹ was owned by two Spanish renewable energy companies and received direct financing from Norfund, the Norwegian Investment Fund for developing countries, and CIFI. IFC was not a direct lender to or investor in HSC. Instead it was indirectly connected via its minority shareholding in CIFI between 2008 and 2019.
- xii. The Sub-project was to be located in one of the poorest areas of the country, identified as a priority for investment in Guatemala’s official poverty reduction strategy. It offered the potential to deliver energy security and a lower cost of electricity to support economic development in this post-civil-war country that was reliant for power generation on expensive and polluting imported oil. The expansion of small hydropower also offered an alternative to a large coal-fired power plant that was under consideration at that time.
- xiii. The Sub-project never materialized. Following a series of community protests in late 2011 and early 2012, culminating in civil unrest and a police and military response by the government, CIFI suspended disbursements of its loan to the project and in 2015 cancelled its loan. The sponsors terminated the Sub-project in 2016, writing off their equity investment, and in 2017, the Ministry of Energy cancelled the license.

IFC’s Investment in CIFI

- xiv. IFC’s connection to HSC was indirect via its 2008 investment in CIFI. IFC’s investment consisted of an A Loan of USD 20 million for IFC’s own account, a B Loan of USD 48.5 million for the account of participants, and an equity investment of USD 10 million for 16 percent of the Company’s share capital (in the form of a share purchase from existing shareholders).
- xv. Over the course of its relationship with IFC, CIFI provided loans to a total of 156 sub-projects in 22 countries, committing a total of USD 1.4 billion to small and medium infrastructure in LAC. Out of these loans, 38 sub-projects were for renewable energy, adding more than 1600 MW of generating capacity across LAC. The CAO complaint focuses on HSC – one of those 156 sub-projects.

Roles and Accountabilities

- xvi. Since it involves a sub-project of an IFC FI client (as opposed to an IFC direct investment), this case brings an extra layer of complexity due to multiple actors with different responsibilities and accountabilities. According to IFC’s Sustainability Framework, each of these – IFC, CIFI and the Sub-project company, HSC – has a distinct role:
 - As a shareholder and lender of CIFI, IFC was accountable for requiring CIFI to develop an E&S management system (ESMS), commensurate to the E&S risks of its financing operations, and for monitoring CIFI’s implementation of that system.
 - CIFI, as an IFC client, was accountable for implementing the ESMS, appraising and monitoring the operations of the sub-projects it finances and requiring its borrowers to

¹ IFC refers to the business operations supported with financing by IFC’s financial intermediary clients as “sub-projects” to reflect that they are not projects that are directly financed by IFC.

progressively align their operations with the Performance Standards within a reasonable period of time.

- HSC, as a borrower of CIFI, was accountable for its compliance with local laws and for progressively aligning its operations with IFC's Performance Standards which require that a company identify social and environmental risks associated with its business activity and seek to mitigate them through application of a mitigation hierarchy.²

Management Response to Key Findings of CAO

IFC's Appraisal of CIFI

- xvii. **Management is of the view that IFC's due diligence of CIFI's ESMS track record was in accordance with procedures at that time and commensurate with the E&S risks identified.** A sample of environmental and social due diligence (ESDD) reports conducted by CIFI on its sub-project investments was reviewed by IFC, consistent with the practice codified in the E&S review procedures at the time (ESRP 7).
- xviii. **Management agrees that its environmental and social due diligence of CIFI could have been better documented.** This was a systemic issue at the time, which IFC improved in mid-2008 with development of an E&S Review Document for FI projects, and which it continues to enhance.
- xix. **Management agrees with CAO that a formal Environmental and Social Action Plan (ESAP) should have been included in the legal documentation** but notes that alternative contractual provisions were included to the same effect.
- xx. **Management recognizes that this investment underscores the importance of contextual risk assessments, particularly in post-conflict environments such as the one prevalent in Guatemala in 2008.** IFC has since introduced systematic screening of contextual risks as part of its environmental and social review procedures and is currently piloting a new online tool to enhance staff analysis and awareness of contextual factors.

IFC's Supervision of CIFI

- xxi. **Management agrees that closer and more timely monitoring of CIFI would have been beneficial to E&S risk management.** Practices and procedures to address some of the monitoring issues identified in this project have become increasingly regularized over the last decade. This includes measures to ensure timely review of client reports, and, where needed, engagement of specialist staff and visits to sample sub-project sites to provide FI training and capacity building.
- xxii. **Management notes that, despite identified performance issues along the way, CIFI's E&S risk management systems and capacity improved significantly** between 2008,

² 2006 Performance Standard 1, paragraph 14: "The measures and actions to address identified impacts and risks will favor the avoidance and prevention of impacts over minimization, mitigation, or compensation, wherever technically and financially feasible."

when IFC invested, and 2019, when it exited. This reflects progressive improvement and E&S capacity building.

IFC's Monitoring of Findings on CIFI's Due Diligence of Hidro Santa Cruz

- xxiii. **At the time of CIFI's appraisal of HSC, the due diligence concluded that the Sub-project was generally in alignment with the Performance Standards.** The ESDD, including a site visit undertaken by international E&S consultants, confirmed that the Sub-project conducted adequate stakeholder mapping, disclosure, consultation and informed participation of Indigenous Peoples in line with IFC's Performance Standards 1, 5 and 7 and that, despite some opposition, there was "broad understanding of and general support for the project." The consultant report identified a number of additional actions, which CIFI required HSC to complete prior to financial close. In hindsight, more community consultation and efforts to confirm broad community support for the Sub-project would have been beneficial.
- xxiv. **Management affirms the importance of appropriate measures for security management.** CIFI's ESDD recommendations to HSC included adding emergency preparedness and response, and security personnel requirements to the Community Health and Safety Plan. According to the subsequent monitoring reports, this item was completed prior to start of construction. It is noted, however, that as per existing policies, IFC did not receive or review the security assessment.
- xxv. **Management agrees with CAO on the importance of an appropriate socioeconomic baseline and that HSC's should have been more extensive.** CIFI required HSC to expand its existing socioeconomic baseline study and impact assessment prior to loan commitment. However, the expanded social baseline study should have provided a stronger focus on the assessment of indigenous communities in the area.

CIFI's Supervision of HSC and Response to Incidents

- xxvi. **Management is of the view that its client, CIFI, acted appropriately in response to the incidents and in its supervision of HSC.** Following the violent incidents, CIFI (along with its co-investor, Norfund) took decisive and appropriate steps, stopping disbursements and commissioning an in-depth review by a qualified consulting firm. It then mandated corrective actions by HSC as well as resolution of other impacts as a condition of resuming disbursements. CIFI monitored HSC's progress over the next three years and when community support for the Sub-project could not be re-established, it cancelled the loan at considerable financial cost. This was an appropriate response and consistent with the expectations of the IFC Sustainability Framework.
- xxvii. **In accordance with requirements, CIFI requested HSC to look into allegations of a connection between the death of a community member and HSC.** HSC subsequently determined that of the two individuals allegedly involved in the death, one had worked as a security guard previously, but was not employed there at the time of the incident. Management understands that there are multiple and contradictory accounts regarding the connection between the company and the two accused individuals. Both individuals were acquitted of the charges on February 28, 2020 by the Guatemalan court.

IFC's Response to HSC Incidents

- xxviii. **Management notes that IFC's 2006 Sustainability Policy does not envisage direct involvement by IFC in FI sub-projects.** The 2006 IFC Sustainability Policy³ defines IFC's role as requiring its FI clients to have and implement adequate E&S systems which IFC monitors at a *systems* level. IFC contractually required CIFI to respond to incidents arising in sub-projects and IFC verified that CIFI did so.
- xxix. **While Management believes that existing policies to monitor the FI client's response at the systems and portfolio level were followed, the lessons of this IFC investment prompt questions about the sufficiency of incident response in the FI client context.** In response to CAO's findings, IFC will consider whether certain "incident triggers" at the sub-project level merit greater oversight and attention by IFC and will also develop guidance for its FI clients on *Incident Response*.

Residual Impacts

- xxx. **The CAO report details what the complainants indicate as unaddressed impacts of the Sub-project:** "(i) escalation of social conflict within the community; (ii) death of one community member, injuries to two community members, and detainment of seventeen community members in relation to the protests that followed the killing; and (iii) limitations to access to land and natural resources due to the construction of a perimeter fence around the project site."⁴
- xxxi. **Management is deeply troubled by the impacts that stemmed from the civil unrest and subsequent state of siege in Santa Cruz Barillas, while noting that these impacts have not been attributed to HSC.** The incidents and allegations related to these events have been investigated and reviewed by the relevant authorities: the United Nations Office of the High Commissioner on Human Rights and the Guatemalan Human Rights Ombudsman. The United Nations review did not identify HSC as a responsible party, while the Guatemalan Human Rights Ombudsman references the HSC project as contributing to the wider conflict in Barillas. Charges against project opponents accused of vandalism or violence against the Sub-project (and the evidence thereof) are being addressed within the Guatemalan judicial system.
- xxxii. **Management deplores the death of the community member as well as injuries to others.** Management is aware of the multiple and conflicting accounts about what transpired, including the details and circumstances surrounding the incident, the victim and the alleged perpetrators. The current understanding, as of February 28, 2020, is that the two suspects arrested and tried in connection with the death and injuries were acquitted of all charges by the Guatemalan court, but an appeal is still possible. Neither the police investigation nor the prosecution attributes the death to HSC's actions.
- xxxiii. **In response to complainant concerns about a perimeter fence preventing access to the former project site, follow-up indicates that this no longer appears to be the case.**

³ IFC's [2006 Sustainability Framework](#), Policy on Social & Environmental Sustainability.

⁴ CAO Investigation Report.

Photographs taken at the site in January 2020 do not show evidence of a fence preventing access. The photos also indicate communal use of the site, for example, as a soccer field.

I. INTRODUCTION

1. In July 2015, the Compliance Advisor Ombudsman (CAO) accepted a complaint from community members regarding IFC's investment in the *Corporación Interamericana para el Financiamiento de Infraestructura* (CIFI), a financial institution that invested in Hidro Santa Cruz (HSC) for the Canbalam hydropower project (the "Sub-project") located in Santa Cruz Barillas, Huehuetenango, Guatemala. IFC was *indirectly* exposed to HSC via its 2008 investment in CIFI.
2. The complainants raised concerns about the dissemination and disclosure of Sub-project information, lack of consultation, potential impacts of the Sub-project on indigenous populations, potential for Sub-project-related displacement and impacts on local water resources. According to the CAO report, the complainants said that due to their opposition to the Sub-project, their community was subject to violence, persecution, threats, and intimidation. They also claimed that an employee of the security company hired by the Sub-project killed a local landowner/Sub-project opponent in May 2012 and injured two other community members. This incident resulted in violence in the community and a state of siege declared by the national government of Guatemala, leading to mobilization of police and military and the detainment of seventeen community members, of whom nine were jailed for a period of nine months.
3. The complainants indicated to CAO that the unaddressed impacts of the Sub-project were (i) escalation of social conflict within the community; (ii) death of one community member, injuries to two community members, and detainment of seventeen community members in relation to the protests that followed the killing; and (iii) limitations to access to land and natural resources due to the construction of a perimeter fence around the Sub-project site.
4. CAO found the complaint eligible in August 2015. During the initial CAO Assessment phase, HSC expressed its willingness to participate in a dispute resolution process convened by CAO. The IFC project team and Management also met with complainants in Washington to discuss their concerns. However, the complainants declined to participate in dispute resolution, indicating that it was "not worth initiating a new dialogue process with [the Sub-project sponsor] in light of the violent events and damages suffered."⁵ In accordance with CAO's Operational Guidelines, the case was then automatically transferred to CAO's Compliance function for CAO appraisal.
5. CAO released a Compliance Appraisal Report in August 2016, concluding that further investigation was warranted. The focus of a CAO Compliance Investigation is on IFC's compliance with its own policies and procedures. In this case, the key applicable policy and procedures for IFC included the 2006 Sustainability Policy and the 2010 Environmental and Social Review Procedures (ESRP), which in turn refer to the 2006 IFC Performance Standards that were applicable to projects financed by CIFI.
6. The CAO team travelled to Guatemala City and Panama City in February 2017 to meet with the complainants and their representatives, with CIFI, and with other stakeholders. The CAO team then met with IFC staff. Management received a draft CAO report in July 2018, and a final version in December 2018. Management submitted its response to CAO in January 2019. Subsequent discussions between CAO, Management, the World Bank Group President's Office and the IFC

⁵ CAO Assessment Report, May 2016.

Board of Executive Directors, raised important issues related to the IFC investment in CIFI and the CIFI investment in the Sub-project. Following constructive engagement by these parties, Management is submitting this updated Management Response in March 2020.

7. This report addresses the CAO's investigation findings and observations and is organized in five sections. Section II provides background on the Sub-project, including IFC's investment in its client, CIFI, CIFI's investment in HSC, and the unfortunate events that occurred in Santa Cruz Barillas. 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 BACKGROUND AND THE DUE DILIGENCE AND SUPERVISION PROCESS

8. ***IFC investment in CIFI.*** In 2008, IFC's Board of Directors approved an investment in CIFI, a non-banking financial institution focused on providing financing to small and medium infrastructure sub-projects across Latin America and the Caribbean (LAC). CIFI was established in 2001 as an initiative of Caja Madrid and the Inter-American Investment Corporation, as a vehicle through which the shareholders could reach a wide range of infrastructure sub-projects, while diversifying country and sector risk.

9. IFC's investment consisted of an A Loan of USD 20 million for IFC's own account, a B Loan of USD 48.5 million for the account of participants, and an equity investment of USD 10 million for 16 percent of CIFI's share capital (in the form of a share purchase from existing shareholders). IFC's debt and equity financing was expected to support the expansion of CIFI's infrastructure lending in the region, with the equity purchase allowing consolidation of its shareholding and the debt being at longer tenors than was otherwise available.

10. IFC's support to CIFI was expected to generate a high development impact as it would enhance CIFI's ability to contribute to reducing the infrastructure investment gap in LAC, and increase access to infrastructure finance, thereby allowing better access by people to basic services like water and electricity. CIFI was also expected to maintain a large part of its operations in the region's smaller countries, hence facilitating the financing of viable infrastructure that otherwise might not be of interest to international financial institutions.

11. Over the course of its relationship with IFC, CIFI provided loans to a total of 156 sub-projects in 22 countries, committing a total of USD 1.4 billion to small and medium infrastructure in LAC. Out of these loans, 38 sub-projects were for renewable energy, adding more than 1,600 MW of generating capacity across LAC.

12. ***HSC Sub-project.***⁶ The CAO complaint focuses on one of these 156 sub-projects: a 5MW run-of-river hydropower project that was ultimately never built. The total project cost was estimated at USD 12.5 million. CIFI's loan was half of a total package of USD 10.6 million, of

⁶ IFC refers to the business operations supported with financing by IFC's financial intermediary clients as "sub-projects" to reflect that they are not projects that are directly financed by IFC.

which only a first disbursement of USD 1.75 million by CIFI was made. The remaining amounts were never disbursed, and the loan was eventually cancelled.

13. **Key entities and roles.** Because it involves a sub-project of an IFC Financial Intermediary (FI) client (as opposed to an IFC direct investment), and therefore multiple actors with different responsibilities and accountabilities, this case has extra layers of complexity. Three key entities are mentioned frequently throughout this document: IFC, CIFI and the Sub-project company, HSC. According to IFC's Sustainability Framework, each has a distinct role:

- IFC, as a shareholder and lender of CIFI, was accountable for requiring CIFI to develop an environmental and social management system (ESMS), commensurate to the environmental and social (E&S) risk of its financing operations, and for monitoring CIFI's implementation of that system.
- CIFI, as an IFC client, was accountable for implementing its ESMS, appraising and monitoring the operations of the sub-projects it financed and requiring its borrowers to progressively align their operations with the Performance Standards within a reasonable period of time.
- HSC, as a borrower of CIFI, was accountable for its compliance with local laws and for progressively aligning its operations with IFC's Performance Standards, which require that a company identify social and environmental risks associated with its business activity and seek to mitigate them through application of a mitigation hierarchy.⁷

14. The fulfilment of each of these roles is described in more detail below.

IFC's E&S Appraisal and Supervision of CIFI

E&S Appraisal

15. IFC's investment in CIFI was appraised under the 2006 Sustainability Framework, which requires IFC's FI clients "to establish and maintain a Social and Environmental Management System to ensure that its investments meet IFC's requirements" and requires IFC to "monitor the FI's performance on the basis of the Management System."⁸

16. The E&S Review Procedure (ESRP) in effect at the time⁹ required IFC to "determine the significance of business activities that have potential [environmental and social] impact by reviewing the portfolio and sectoral information" and when "FI's investments could have potentially significant [E&S] impact, the FI will ensure that its sub-projects meet the relevant

⁷ 2006 Performance Standard 1, paragraph 14: "The measures and actions to address identified impacts and risks will favor the avoidance and prevention of impacts over minimization, mitigation, or compensation, wherever technically and financially feasible."

⁸ IFC's [2006 Sustainability Framework](#), Policy on Social & Environmental Sustainability.

⁹ IFC's [E&S Review Procedure Manual](#), July 2007.

elements of the IFC Performance Standards in addition to applicable national [social and environmental] laws and regulations” (Paragraph 7.2.12).

17. The scope of IFC’s review of its FI client covered: (i) E&S policies and procedures of the prospective client; (ii) organizational structure and staffing; (iii) skills and competencies in E&S areas; (iv) training and awareness of the client’s investment, legal, and credit officers on the organization’s environmental, health, and safety (EHS) requirements and the ESMS; (v) reporting of results to management; (vi) track record to date in ESMS implementation; and (vii) performance monitoring procedure (Paragraph 7.2.16).

18. IFC was then required to “identify any [ESMS] enhancements the client would need to undertake to address gaps in these areas, and incorporate this in the [ESMS] Plan to be included in the legal agreements and obtain approval from the Team Leader” (Paragraph 7.2.17). IFC’s approach to environmental and social due diligence (ESDD) differed from its credit due diligence due to the expectation of progressive achievement of its requirements by the client with ongoing, dynamic monitoring by IFC.

19. IFC’s appraisal started in mid-2007. As part of its due diligence, IFC staff reviewed the client’s ESMS and visited the client at its offices in Arlington, Virginia, USA. The Lead E&S Specialist (LESS) assigned to the CIFI project had experience working both in FIs and small infrastructure projects.

20. CIFI provided investment and E&S documentation to IFC. The team reviewed CIFI’s ESMS, assessed whether CIFI had sufficient staff capacity to implement its ESMS and reviewed samples of ESDD conducted by CIFI to assess CIFI’s track record on E&S risk management.

21. IFC’s review confirmed that in 2005 CIFI had adopted an ESMS to review, categorize, and supervise prospective and approved sub-projects. On April 6, 2007, CIFI had become a signatory to the Equator Principles, which required the adoption of an ESMS and, for certain transactions, required CIFI’s borrowers to apply IFC’s 2006 Performance Standards and applicable World Bank Group EHS Guidelines.

22. While CIFI did not employ a full-time E&S officer, it did have a staff member (1 of 11 staff) with responsibility for ESMS oversight. The absence of a dedicated E&S officer was mitigated by the fact that CIFI consistently made use of external qualified consultants to conduct ESDD and monitoring.

Results of E&S Appraisal

23. As a result of its review, IFC required CIFI to implement ESMS improvements beyond those already required by its existing institutional investors. The Conditions of IFC Subscription and Purchase Agreement, dated June 30, 2008, referenced the improvements CIFI was required to make prior to IFC’s investment. These included several changes to its ESMS, including application of the Performance Standards to all investments (under the Equator Principles CIFI had only had to apply the Performance Standards to a subset of its loans), application of more up-to-date guidelines to assess and categorize the risk of investments, establishment of a process to incorporate ongoing recommendations made by IFC (and other investors in CIFI), and identification of training opportunities to maintain the E&S capacity of CIFI up to date.

24. As outlined in Annex B of the CAO report, based on the findings of its ESDD, IFC also included the following contractual requirements in its investment agreements with CIFI:

- “Use all reasonable efforts to ensure continuing operation of ESMS to identify, assess, and manage E&S performance of its operations and any operations financed by the client in compliance with E&S requirements. E&S requirements defined as: (a) IFC’s Exclusion List; (b) applicable E&S national law; (c) IFC Performance Standards; and (d) other requirements established by the ESMS.
- Where a new ESMS officer is appointed, ensure that officer shall be reasonably acceptable to IFC. The ESMS officer shall: (a) be a full-time employee; (b) report directly to the client’s general manager; (c) have managerial oversight of the ESMS; and (d) demonstrate qualifications and training to handle the applicable duties.
- Establish the position of ESMS manager with a requirement for that individual to complete a training program on the E&S requirements within 12 months of IFC’s commitment.
- Submit an annual E&S performance report to IFC within 120 days after the end of each fiscal year. This report should note any material social, labor, health and safety, security or environmental incident, accidents or circumstances related to the client or any of its key subsidiaries. The report should describe in reasonable detail: (a) implementation and operation of the ESMS; and (b) E&S performance of the client’s project investments.”

25. Further, in anticipation of potential events and consistent with the expectation of CIFI implementing a dynamic ESMS, IFC included the following contractual requirements in its investment agreements:

- “Notify IFC within 3 days of becoming aware of any serious E&S incidents. Notify IFC of the details of the incident and measures taken, or plans to be taken, to address issues. Keep IFC informed of the on-going implementation of those measures. If the client becomes aware that a proposed investment is classified Category A, promptly notify IFC and provide IFC with information concerning such matter as IFC may reasonably request.
- If the client becomes aware that any project it supports is not operating in accordance with E&S requirements, the client shall promptly: (a) agree with the project, or require the project to undertake corrective measures to remedy such inconsistency or breach; and (b) if the project does not implement corrective measures, use reasonable efforts to dispose of the project investment on commercially reasonable terms.”

IFC's Supervision of CIFI

26. IFC's policy requires IFC to "monitor the FI's performance on the basis of the Management System." The ESRP in effect at the beginning of supervision¹⁰ required the "ongoing review of a client's E&S performance, including: (i) review of the annual report, (ii) status of implementation of the ESMS Plan, including any enhancements, (iii) measurement and verification of E&S compliance, (iv) client performance with reference to project performance indicators, and (v) generation of the Environmental and Social Risk Rating (ESRR)" (Paragraph 10.1.1).

27. The review of the annual report should focus on: "(i) the client's performance against the applicable performance requirements, (ii) the status of the client's ESMS Plan and timeline, (iii) performance against the performance indicators, (iv) previous annual report reviews and ESRR scores, (v) key performance gaps, (vi) key steps the client may need to take to improve performance, and (vii) follow up with client" (Paragraph 10.2.6). As part of the supervision IFC should seek to "ascertain whether: a. The nature of the client's business has changed significantly to attract different performance requirements from IFC; b. There is sufficient evidence that the client is operating the [ESMS] as envisaged at the time of appraisal; and c. There is sufficient evidence that the client has applied the applicable performance requirements to their sub-projects" (Paragraph 10.2.7).

28. The ESRP was revised in August 2009 and again in June 2014. The 2009 version added a provision for communicating with the client when needed to further review performance, stating that "Where it is considered necessary to further review the client's performance and verify its compliance with the Applicable Performance Requirements, communicate with the client or carry out a supervision visit to the FI and/or its subprojects" (Paragraph 10.2.9).

29. The 2014 version makes explicit the need to review sub-project ESDD from clients as a means to assess implementation of the ESMS and clarifies the criteria for triggering a review of the FI client's sub-project ESDDs as well as FI client and sub-project visits, outlining that "For supervision of Private Equity Funds, the LESS will select 1–3 sub-projects to visit to assess the Fund Manager's implementation of the ESMS and compliance of the sub-projects with the applicable requirements" but that "For all other FI investments, the supervision will include a review of ESDD prepared by the client" and "visits to sub-projects can be added if required" (Paragraph 9.2.9). (CIFI was not a private equity fund and these procedural changes were only required from the sixth year of IFC's eleven-year investment in CIFI.)

30. IFC's first disbursement to CIFI occurred on August 20, 2008, marking the start of IFC's supervision of CIFI. During the course of IFC's investment, CIFI reported every year to IFC on its ESMS and provided a summary of the key E&S issues relevant to its sub-projects. In addition to reviewing these reports, albeit sometimes with delays, IFC also conducted regular supervision visits to CIFI's office to discuss the latter's E&S performance and the performance of sub-projects where E&S performance posed concerns, and provide overall recommendations for improving CIFI's ESMS.

¹⁰ IFC's [E&S Review Procedure Manual](#), July 2007.

31. In addition to IFC's reporting requirements, CIFI voluntarily submitted to an annual independent audit of its ESMS to help it identify areas for improvement and corrective action. This reflected positive intent for continuous improvement.

Review of CIFI's Annual E&S Reports

32. The first annual E&S report covering CIFI's 2008 operations was received in July 2009, and the review was completed in December of that year. In its review, IFC identified various shortcomings in CIFI's E&S performance during the reporting period and communicated them to the client.

33. In its subsequent review of CIFI's 2009 annual report, received in mid-2010 and completed in November of that year, IFC concluded that CIFI adequately followed up where information had been missing and/or issues had arisen and that CIFI's performance in 2009 appeared significantly improved. At that time IFC considered the client's performance to be adequate.

34. During the supervision period, IFC met with CIFI in advance of IFC's final disbursement to discuss additional improvements in CIFI's ESMS, which were addressed prior to the final disbursement date in April 2010. In its monitoring review, IFC determined that while there was no dedicated E&S officer, CIFI was successfully outsourcing the review to a consulting firm with adequate capacity to assess the E&S risks.

35. Despite IFC's close coordination with CIFI during this period, IFC's review of CIFI's E&S reports lagged, with formal reviews of the reports from 2010 and 2011 completed more than a year after receipt of the documents.

36. In the review of CIFI's 2010 report, IFC identified some deficiencies in several sub-projects of CIFI's growing portfolio. IFC's review of CIFI's 2011 annual report noted that previous IFC feedback had not been fully implemented. Following this review, IFC met with CIFI in May 2013 to discuss E&S improvements in the client's ESMS as well as the performance of individual sub-projects, including HSC.

37. After these discussions, CIFI's performance showed improvements in some areas, such as improved capacity by adding E&S experts to the team and the voluntary adoption of the updated version of IFC's Performance Standards in 2013, which went beyond the contractual requirements with IFC.

38. In 2015, IFC and CIFI agreed on a Supplementary Corrective Action Plan to further improve E&S performance. Among other things, CIFI agreed to: (i) complete a full ESDD prior to investing, as originally required at the time of IFC's investment (as opposed to a more limited "fatal flaws assessment" that was sometimes conducted when CIFI faced timing constraints); (ii) use an improved approach to screening transactions where CIFI had limited leverage; (iii) provide additional information to IFC regarding projects it had exited; (iv) consult with IFC in regard to incidents in a CIFI investment involving high reputational risk; and (v) use external environmental/social consultants for all due diligence for Category A investments, which was something CIFI had already committed to but for which IFC monitoring had identified a lack of consistency.

IFC's Exit

39. IFC continued to engage with CIFI during its supervision cycle, reviewing its annual reports, visiting the client and providing training for its staff in 2016 and through the annual Community of Learning events that IFC hosts for practitioners using the Performance Standards at Equator Principles banks, development banks, export credit agencies and IFC clients.

40. IFC's last visit to CIFI occurred in February 2019, after completion of the CAO report. During that visit, in addition to visiting two sub-projects with CIFI's staff, IFC observed several good practices and ongoing activities to improve the management of E&S risks including: (i) a risk scoring matrix under development, which included the consideration of contextual risks; (ii) a comprehensive portfolio monitoring system to proactively flag sub-projects before they become problematic, which includes monitoring of compliance of individual sub-projects with their environmental and social action plans (ESAPs) and an internal watch list to monitor problematic sub-projects; and (iii) an E&S team of technically qualified environmental practitioners, which counts on the support of qualified E&S consultants to assist with ESDD. The visit observed that CIFI was actively engaged with other FIs on environmental and social governance leadership initiatives, being a member of task forces on biodiversity and climate change with the Equator Principles Association.

41. IFC's loan to CIFI was fully paid off and half of its equity was sold in 2014, with the remaining equity sold alongside other minority shareholders in 2019 as part of IFC's strategy of divesting from small equities. While IFC at various points in time had shared comments with CIFI regarding areas for improvement in CIFI's E&S performance during its monitoring, overall CIFI made significant improvements in its capacity and systems over the 11 years of IFC's investment.

The Sub-Project

42. HSC was a special purpose vehicle (SPV) created to develop, construct, own and operate the Sub-project, a 5MW run-of-river Canbalam hydropower plant on a small river (c.10m wide), 2.5km downstream of the small town of Barillas in the province of Huehuetenango in Guatemala. The Sub-project had a footprint of 0.1km² and was developed by two Spanish renewable energy companies. It was envisaged to involve the construction of a 2m high diversion, a 1m diameter pipe running 1.3km to the machine house, and a 2.4km long access road. The Sub-project was located in one of the poorest areas of the country, identified as a priority for investment in Guatemala's official poverty reduction strategy. See Figure 1 below.

43. Like much of Central America, Guatemala was at the time heavily reliant on expensive, imported diesel and heavy fuel oil for generating electricity and the expansion of small, run-of-river hydropower projects offered the potential for improved sustainability, energy security, and lower costs of electricity to support economic development. HSC was also expected to generate greenhouse reduction credits under the Clean Development Mechanism of the United Nations.

GUATEMALA HIDRO SANTA CRUZ SUB-PROJECT


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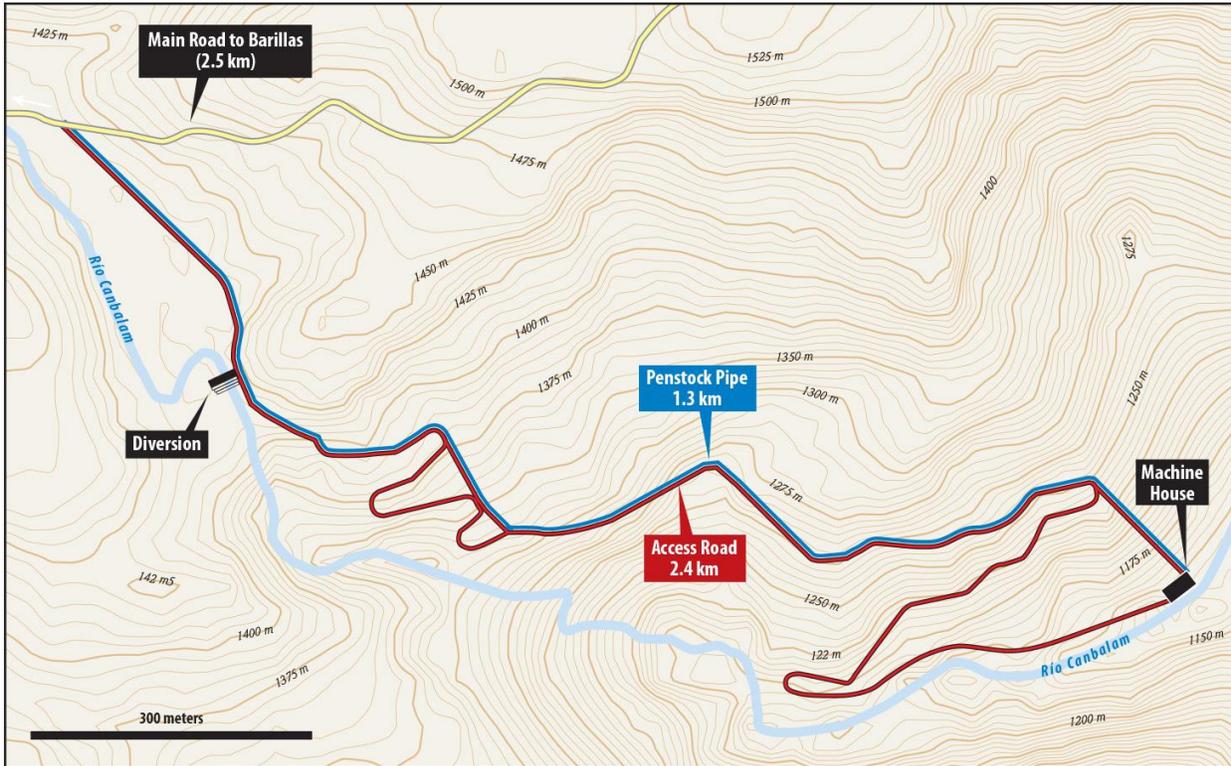


Figure 1. Hidro Santa Cruz (Canbalam) Sub-Project Map

CIFI E&S Due Diligence

44. In 2010 CIFI performed an ESDD of the Sub-project against local E&S requirements and IFC's Performance Standards.¹¹ Along with the co-investor, Norfund, CIFI relied on the services of a well-regarded international E&S consulting firm to conduct the ESDD on their behalf and to independently monitor the construction phase of the Sub-project. The firm performed its due diligence based on desk research, which identified key areas for further analysis during a site visit by an environmental specialist and a social specialist in October 2010. The site visit included meetings with all stakeholders and key areas of focus included social issues such as baseline information, land acquisition process, consultation and Indigenous Peoples.

45. The consultant's ESDD report does not discuss the wider contextual risks of post-war Guatemala but does note that consultation was made more difficult by confusion in the community between the Sub-project and "mega extractives projects," concern for which created hesitancy towards any project. It also noted the concerted efforts of a national NGO to proactively promote misinformation against the Sub-project and illustrated the violent context of the region by referencing a mob killing of two suspected thieves close to the Sub-project site.

46. The consultant's ESDD identified gaps in the Sub-project's studies and E&S management plans against the Performance Standard requirements and its report included recommended actions to close these gaps. These actions were required by CIFI and implemented over the course of the next year and were either completed prior to CIFI committing its loan and releasing a first disbursement in December 2011, or expected to be completed prior to the start of major Sub-project construction activities. Completion of each applicable item was confirmed by the lenders' consultant in an email prior to closing and in the first monitoring report.

47. HSC fulfilled lender requirements to document stakeholder mapping, using a mediator to engage Indigenous Peoples and communicating via traditional community administrative structures. It developed a grievance mechanism to receive and respond to concerns. During the ESDD, HSC also submitted a Social Management Program with 14 annexes including: presentations of the Sub-project to the communities, legality and structure of the community councils, community mapping, municipal acts, several support letters, a certification from the local Indigenous association, surveys, voluntary sale letters, and certifications.

48. As a new SPV developing a greenfield sub-project, HSC was required to develop an ESMS and associated capacity. The due diligence confirmed that multiple mitigation measures and management plans were in place. It concluded that the majority of the ESMS actions related to Performance Standard 1 (which covers E&S risk management requirements) had been addressed, including the E&S assessment, management programs, organizational capacity, community engagement, monitoring and reporting.

49. The ESDD report recommended the development of an "Expanded and Integrated Action Plan and ESMS" and outlined that "the ESMS should include specific information on

¹¹ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

organizational capacity and implementation structures, timing and responsible parties,”¹² to which HSC agreed. The first monitoring report stated that all required actions prior to project financing were completed by HSC as described in the Complementary Documentation Report,¹³ noting that “the majority of the applicable components of the Action Plan and Management Systems as defined by PS 1 *have* been addressed,” however, “a comprehensive and integrated [ESMS] has yet to be developed or implemented,” but that “HSC has assigned internal personnel to finalize the ESMS and ensure implementation at the [Sub-project] site as soon as possible, and prior to major construction activities.”¹⁴

50. The ESDD report commissioned by CIFI also recommended the addition of emergency preparedness and response and security personnel requirements to the Community Health and Safety Plan. This item was completed prior to financial close according to monitoring reports, which confirmed that “HSC has contracted site safety and control personnel responsible for controlling access to the [Sub-project] site and ensuring that unauthorized individuals, vehicles and machinery are not permitted within the construction area. Safety and control measures have been designed to minimize the risks to [Sub-project] staff and facilities as well as community residents. Safety and control personnel have received training from HSC and are primarily from the communities surrounding the [Sub-project] area.”¹⁵

51. The ESDD report also recommended expanding the socioeconomic baseline and impact assessment that had already been developed by HSC. This was completed by HSC and presented in the “Complementary Documentation Report”¹⁶ as part of the “closing checklist” on CIFI’s loan commitment. The document includes a review of the socioeconomic baseline of the municipality, communities in the area of influence of the Sub-project, and the property owners. The socioeconomic impacts on these three groups was also reviewed, however, the expanded social baseline study should have provided stronger focus on the assessment of communities of indigenous descent living in the area.

Sub-project Impacts

52. ***Land acquisition.*** The ESDD report considered the direct impacts of the Sub-project to be limited. The footprint was small, involved no resettlement and all required land (0.1km²) was acquired or leased from private owners on a willing-buyer-willing-seller basis. The ESDD report noted that 12 communities had been identified as key stakeholders, the closest one being 800 to 1,000 meters from the Sub-project site. The ESDD report confirmed that none of the communities

¹² ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

¹³ Complementary studies and plans prepared on behalf of the Sub-project developer. Shared with IFC by CIFI under confidentiality agreement.

¹⁴ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

¹⁵ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

¹⁶ Complementary studies and plans prepared on behalf of the Sub-project developer. Shared with IFC by CIFI under confidentiality agreement.

were expected to experience direct negative social or environmental impacts as a result of the Sub-project but that they were especially identified and engaged by HSC due to their proximity.

53. According to the ESDD report, the land acquisition did not involve physical displacement, voluntary or involuntary. Land use patterns prior to the acquisition consisted of limited cultivation of coffee, cattle grazing and pasture and limited patches of forest. The ESDD report recommended the preparation of a land acquisition and compensation report to better document the land acquisition process (completed prior to CIFI commitment and disbursement, according to the first monitoring report). The ESDD report provided details about each individual sale and documented the previous use of the properties. The “Complementary Documentation Report”¹⁷ prepared as a follow-up to the ESDD report recognized that by selling their land, some landowners would lose part of their income, but that they considered the amount received for their land (at five times the market price) was sufficient compensation and afforded them the opportunity to invest in more accessible land or pay existing debts.

54. **Indigenous Peoples.** The ESDD report concluded that the Sub-project was aligned with Performance Standard 7 (Indigenous Peoples) at the time of the appraisal. The ESDD report specified that the Sub-project avoided impacts on Indigenous Peoples and concluded that there were no expected negative impacts with regard to traditional or customary land use, water use, cultural resources or livelihoods. None of the land near the Sub-project site or in nearby areas of the Canbalam River watershed were communal or indigenous territories. The ESDD report indicated that, according to previous landowners, as well as indigenous and non-indigenous stakeholders, the stretch of the Canbalam River to be used by the Sub-project was not used by local residents for any productive, domestic or cultural purpose.

55. The ESDD report also concluded that the Sub-project conducted adequate stakeholder mapping, disclosure, consultation and informed participation of Indigenous Peoples in line with IFC’s Performance Standards 1, 5 and 7. According to the ESDD report, the Sub-project had “ensured disclosure of [Sub-project] information, inclusive consultation and informed participation of Indigenous Peoples as demonstrated by stakeholder mapping activities, respect for Indigenous cultural and communication practices, use of a respected mediator [...], participation in existing community administrative structures and ongoing communication between [HSC] and indigenous communities.”¹⁸ The review of the social consultant concluded that despite some opposition there was “broad understanding of and general support for the [Sub-project].”¹⁹ At the time of the site visit for the ESDD, “9 of the 12 communities considered to be in the indirect area of influence of the [Sub-project] had approved community resolutions acknowledging the potential benefits and impacts of the [Sub-project]”²⁰ and the remaining three were expected to approve similar resolutions in the near future. The ESDD assessed the Sub-project as meeting the 2006

¹⁷ Complementary studies and plans prepared on behalf of the Sub-project developer. Shared with IFC by CIFI under confidentiality agreement.

¹⁸ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

¹⁹ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

²⁰ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

Performance Standards requirement for Free, Prior and Informed Consultation. Free, Prior and Informed “Consent” did not become a requirement until the 2012 Sustainability Framework.

56. **Consultation and disclosure.** Early consultation and disclosure performed by HSC targeted three groups identified by a stakeholder mapping exercise: (i) land owners: formal and informal meetings were held with each land owner to explain the Sub-project and inform of plans prior to land acquisition; (ii) surrounding communities: meetings, presentations and question-and-answer sessions were held with communities adjacent to the Sub-project; a public opinion survey was made of 50 randomly selected residents; field trips to equivalent small hydropower projects were organized for community leaders; community meetings in the majority of adjacent communities were held to obtain resolutions of support; and (iii) municipality: meetings and presentations were held with the mayor and administration; and radio and television announcements disclosed Sub-project information.

57. **Grievance mechanism.** The ESDD reviewed the grievance mechanism of the Sub-project. It concluded that “given the scope of risks and adverse impacts of the [Sub-project]” the existing system was “a sufficient communication mechanism through which HSC may address stakeholder concerns promptly and transparently, in a culturally appropriate manner which is accessible to the community.”²¹ It also recommended improvements, such as formalizing the mechanism as a documented procedure and better recording of grievances and training of HSC staff, which it proposed to be included in a “Community Relations Plan with Communication/Grievance Procedure” already in preparation.

58. The first monitoring report acknowledged the completion of a Social Management Plan included in the “Complementary Documentation Report”²² completed prior to disbursement, which included “stakeholder mapping, consultation and disclosure procedures, a communications mechanism, and a framework for development initiatives” and confirmed that HSC had “established the framework for a communication mechanism and tracking database to receive, document, evaluate and resolve any stakeholder grievance or communication.”²³ However, despite the existence of a functioning grievance mechanism according to the ESDD report, and the finding in the first monitoring report that “no operational non-compliance” was identified with regard to the Sub-project, the first monitoring report recommended training of all project personnel and a more formal implementation of the grievance mechanism for full alignment with Sub-project requirements.

Events of 2011-2012

59. **Community support deterioration.** CIFI concluded its due diligence in November 2010 and spent the next year negotiating and finalizing the loan agreements. ESAP requirements were included in the “closing checklist” for the loan, which was signed in December 2011. CIFI relied

²¹ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

²² Complementary studies and plans prepared on behalf of the Sub-project developer. Shared with IFC by CIFI under confidentiality agreement.

²³ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

on the same international consulting firm that conducted the ESDD to perform quarterly site visits for construction phase monitoring, the first of which was conducted in February 2012. This monitoring report²⁴ indicated that community support had deteriorated throughout 2011 with misperceptions as to the objectives and legality of the Sub-project fueled by national and municipal elections and demonstrations organized across the country opposed to foreign investment.

60. A month before CIFI reached financial close on the Sub-project, a protest occurred on November 15, 2011, in which approximately 1,000 people blocked roads to the Sub-project site, 13 security guards were taken hostage for half a day and deprived of their weapons (which they surrendered, having been instructed not to resist), following which demonstrators entered the Sub-project site and vandalized equipment. According to the monitoring report, the protest was incited by a Guatemalan NGO opposed to foreign investment. The police arrived on November 16 and dispersed 500 people from the site. HSC confirmed in response to CIFI's enquiry after this event that from this point on HSC reduced security personnel numbers and required them not to carry firearms.

61. HSC ramped up consultation and disclosure in response, seeking to clarify to the community its legality and the difference between small hydropower and mining. Its communications were in both Spanish and the local indigenous language. Prior to this, HSC had sought community support in October 2011 for a Community Collaboration and Cooperation Agreement, which defined community benefit sharing for the 50-year project life.

62. ***Continued HSC engagement with community.*** According to the same monitoring report, continued community engagement efforts by HSC after the November 2011 events had significantly improved public perception of the Sub-project. "Multiple consultation and disclosure meetings have been conducted in each community in the [Sub-project] area of influence since November 2011. [...] All material presentations are conducted in both Spanish and [Q'anjob'al], the local indigenous language."²⁵ As a result, "Multiple sources, including community leaders and residents, have confirmed that the additional stakeholder consultation and disclosure activities carried out since November 2011 have significantly improved the [Sub-project's] public perception and the [Sub-project's] relation with communities."²⁶ The report concluded that the Sub-project was in alignment with the lender requirements but made multiple recommendations for further enhancement, especially on the social side with regard to communications with Indigenous Peoples, given the identified prior deterioration in community relations.

63. ***Protests in 2012.*** However, shortly after completion of the report, additional serious incidents²⁷ related to the Sub-project occurred. On the night of March 8, 2012, the roads to the HSC construction site were barricaded, allegedly by community members opposed to the Sub-project. When a convoy of three backhoes, a steamroller and three dump trucks arrived at the site,

²⁴ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

²⁵ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

²⁶ First supervision monitoring report (March 2012) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

²⁷ The description of these incidents in paragraphs 62 to 64 is taken from the Social Risk Monitoring Report, October 2012 Shared with IFC by CIFI under confidentiality agreement.

community members allegedly confronted the convoy, took the 28 individuals driving the machines and working at the site hostage, and made them set the machinery on fire. The 28 individuals were held hostage until a contingent of national police arrived at the site on the afternoon of March 9, 2012. Sub-project construction was stopped at this point of time by the sponsors and was never re-initiated.

64. On April 16, 2012, according to reports provided by the justice of the peace in Santa Cruz Barillas, a group of approximately 2,000 people gathered in front of the city's municipal office to denounce the alleged use of explosive devices at the Sub-project site. Rumors had spread that several explosions had been heard and that a dog had been killed by an explosion at the site. The authorities were forced to the site by the crowd but found no evidence to confirm any of the allegations; no signs of previous explosions or explosive materials were found at the site.

65. ***Armed confrontation, fatality and state of siege.*** On May 1, 2012, during the annual town festival (from April 29 to May 4) there was an armed confrontation involving community members, which resulted in the death of one person and injury to two others. News of the event spread through the festival, sparking riots and vandalism by large crowds, including to a hotel used by HSC staff. Two hundred rioters armed with machetes subsequently stormed the town's military outpost and three military staff were injured. In response, a state of siege was declared by the President of Guatemala and 260 national police and military were sent in to control and calm the situation.

66. The riots sparked by the death on May 1, 2012, resulted in a declaration of a state of siege by the national government of Guatemala, leading to the suspension of several rights and deployment of army and national police officers to Santa Cruz Barillas. According to a report by the United Nations High Commissioner for Human Rights,²⁸ "The decree establishing the state of siege lacked a clear justification and analysis of necessity, exceptionality and proportionality."

67. ***Review by the United Nations and Guatemalan Human Rights organizations.*** Following these events, the United Nations Office of the High Commissioner for Human Rights reviewed the state of siege and the legal processes applied in associated arrests. The report of the United Nations Office of the High Commissioner for Human Rights identified irregularities, including illegal detainment, inadequate judicial hearing, and inappropriate delay in court proceedings.

68. The Guatemalan Human Rights Ombudsman reviewed incidents in Santa Cruz Barillas. It noted the violence in the region, other incidents and allegations of illegal detentions by government security forces unrelated to the Sub-project. The report by the Guatemalan Human Rights Ombudsman highlighted that one of the Sub-project opponents was arrested in 2013, charged with 12 crimes, including burglary, abduction, kidnapping, and damage to private property. This individual was subsequently released due to insufficient evidence. HSC, which had filed the charges, appealed the decision, but lost the appeal.

69. After these incidents in 2012 at least one additional incident happened the following year, when according to the United Nations Report on Human Rights in Guatemala, the detention of a

²⁸ Annual report of the United Nations High Commissioner for Human Rights, Addendum Report of the United Nations High Commissioner for Human Rights on the activities of her office in Guatemala (January 7, 2013).

leader opposed to the Sub-project in September of 2013 led to renewed protests and roadblocks in the region, resulting in the death of a soldier and injury to a community member.

70. ***Trials following death of community member.*** Two individuals were arrested, tried and acquitted of the murder of the community member, but one was convicted of committing serious injury. The court decision was challenged on procedural grounds. IFC was informed that both accused individuals were acquitted on February 28, 2020.

71. ***Lack of linkage to HSC.*** There are conflicting accounts of the incident on May 1, 2012, and any links between the two accused and HSC as well as the role in the community of the person who died remain unclear. For example, while the CAO report mentions that the complainants characterize him as a “project opponent,” an interview with his family indicated that he was not a community leader and refrained from attending neighborhood meetings.²⁹ Some media reports linked this incident to the HSC Sub-project, including some that accused HSC of carrying out the attack. HSC involvement is not claimed by CAO and to the best of IFC’s knowledge there is no credible evidence to support this accusation.

72. Following the May 2012 death of the community member, CIFI requested HSC to look into allegations that security personnel working for HSC were involved. According to CIFI, HSC determined that of the two men originally implicated, one had previously worked for the security company (a contractor) that provided services to the Sub-project. HSC confirmed that neither of the men implicated in the case worked at the Sub-project at the time of the events, although Management understands that there are multiple and contradictory accounts regarding the connection between the company and the two accused individuals.

Suspension of Disbursements by CIFI

73. In reaction to these events, CIFI notified HSC that it was suspending disbursements and commissioned an in-depth review of the events and the local social situation by the international consultants that conducted the initial due diligence and the first monitoring report. This included desk research and a site visit, including extensive interviews. The resulting report³⁰ sought to provide clarity on the wide-ranging rumors and allegations in the community (refuting and confirming the various aspects). This third-party review found no evidence that the attack on May 1, 2012 was related to the Sub-project, but confirmed one of the accused had previously worked as a security guard at the Sub-project. The third-party review also determined that the victim was not, as subsequently alleged, a campaigner against the Sub-project.

74. While recognizing that before the incidents, the available information indicated that HSC was broadly aligned with IFC Performance Standards and that “no functional non-compliance was identified,” the subsequent in-depth review concluded that in retrospect a “lack of a proactive, culturally appropriate social management strategy” resulted in “difficulty in the successful management of social risks generated by insufficient and inadequate communication, consultation and engagement with [Sub-project] stakeholders” and that as a result HSC had “generated significant negative impacts in the social context of the [Sub-project] area.”³¹ Better “consultation,

²⁹ <https://www.prensalibre.com/ciudades/huehuetenango/familia-barillas-denuncia-amenazas-0-996500386/>

³⁰ Social Risk Monitoring Report, October 2012 Shared with IFC by CIFI under confidentiality agreement.

³¹ Social Risk Monitoring Report, October 2012 Shared with IFC by CIFI under confidentiality agreement.

communication and engagement” may have been helpful in hindsight. In addition, a detailed contextual risk assessment and stronger social baseline may have informed a better social strategy, but may still not have been sufficient in preventing the course of events given the dynamic and fast-changing nature of the situation.

75. The third-party review goes on to identify further shortcomings in the actions of HSC, saying HSC did not “appear to have taken proactive steps to increase communication with opposition stakeholders, clarify stakeholder concerns or take other actions to resolve confusion regarding the [Sub-project] and address the risks posed by decreasing public perception.”³²The third-party review also proposed a comprehensive set of corrective actions to restore community support for the Sub-project.

Corrective Actions Required of HSC

76. Following the completion of the third-party review, CIFI communicated to the Sub-project sponsors in a letter dated October 18, 2012, that it would not release further disbursements until the action items outlined in the third-party review were completed. These actions included: (i) implementing an acceptable stakeholder engagement strategy and demonstrating on-going positive communication with local communities; (ii) negotiating an acceptable agreement to reflect broad community support free from coercion or manipulation of any kind; (iii) establishment of a benefit sharing agreement without any conditions to obligate the municipalities to restrict or constrain protest against the Sub-project; and (iv) resolution of all pending legal cases related to the Sub-project and/or the events of March and May and completion of the human rights review by the Guatemalan Human Rights Ombudsman. These requirements reflected CIFI’s expectations of addressing past impacts and of restoring community support before re-starting construction.

77. HSC sought to implement the actions required by the lenders, focusing on effective stakeholder engagement and building community support. These included a dialogue forum convened by multiple government agencies called *Mesa de Dialogo* to “clarify misconceptions” about the [Sub-project] and to “reach an agreement which satisfies community demands,”³³ although the third-party review noted that human rights observers and the Catholic Church did not participate in this initiative and that participants were politically appointed. It also included parallel discussions with local civil society organizations (CSOs) and the presidents of all 16 microregions in the Municipality seeking to achieve broad community support.

Cancellation of the Sub-project

78. Ultimately, despite extensive efforts over the years following the suspension of the Sub-project, HSC was unable to build sufficient community support to the satisfaction of CIFI and in 2015 CIFI exited the Sub-project. Having decisively stopped disbursements putting its loan at risk, and having commissioned a detailed third-party review and required corrective actions based on that review, CIFI’s three years of patient oversight of HSC efforts, and ultimately the termination of its loan, are consistent with a reasonable exit approach. HSC pursued the Sub-project for a

³² Social Risk Monitoring Report, October 2012 Shared with IFC by CIFI under confidentiality agreement.

³³ Social Risk Monitoring Report, October 2012 Shared with IFC by CIFI under confidentiality agreement.

further year, seeking alternative lenders, before terminating it in December 2016. The government of Guatemala cancelled the Sub-project's license in 2017.

IFC's Supervision of CIFI With Regard to HSC

79. While not wishing to diminish the seriousness of the events and impacts that occurred in Santa Cruz Barillas, it is important to clarify the *indirect* nature of IFC's involvement with HSC. IFC's policies and procedures on FIs require it to monitor the FI client's E&S risk management systems rather than to get directly involved in sub-project E&S performance. The Board-approved 2006 Sustainability Policy is clear that IFC's role is to "monitor the FI's performance on the basis of the Management System" (Paragraph 29).

80. The ESRP for supervision of FIs in effect at the time³⁴ required IFC to ascertain whether "there is sufficient evidence that the client has applied [IFC's requirements] to their sub-projects" when reviewing the annual report. A separate provision of the same procedures says that IFC will "communicate with the client or carry out a supervision visit to the FI and/or its subprojects" where it is considered "necessary to further review the client's performance."

81. IFC's procedures for direct investments at the time³⁵ required IFC, following an incident, to monitor client activity to confirm that the root causes had been investigated, that remedial measures had been adequately developed and that the corresponding client action plan was fully responsive to remedial needs, committed to by the client's management, and fully funded. While the procedure was not drafted for FIs and dedicated procedures for FI clients in this context would be beneficial, IFC's practice then and today is to check that the client's response as the direct lender to the sub-project is aligned with this approach.

82. Consistent with this expectation, in IFC's legal agreement with CIFI, the responsibility for addressing sub-project E&S issues was described as follows: "If [CIFI] becomes aware that any [sub-project] has undertaken [sub-project] Operations in a manner that is not in accordance with the [sub-project] E&S Requirements, [CIFI] shall promptly: (i) agree an E&S Action Plan with the relevant [sub-project], or require the relevant [sub-project] to undertake, as appropriate or necessary in [CIFI's] reasonable judgment, corrective measures to remedy such inconsistency or breach; and (ii) if the relevant [sub-project] does not implement corrective measures as provided in (i), use reasonable efforts to dispose of [CIFI's] investment in such [sub-project] on commercially reasonable terms, taking into account liquidity, market constraints and fiduciary responsibilities."

83. IFC's actions with regard to HSC were consistent with its procedures to monitor its FI client on the basis of the procedures and in line with monitoring CIFI's legal requirements as described above. CIFI communicated the incident in writing to IFC in June of 2012. Following receipt of the letter, IFC set up a phone call with CIFI to discuss the response, which included stopping disbursements, asking HSC to assess the incident and commissioning an in-depth third-party review. IFC deemed this adequate and received an update on the status of the Sub-project at least every year until 2015, when CIFI exited the Sub-project. In May 2013, IFC visited CIFI to discuss the HSC Sub-project (after completion of the independent monitoring report) as well as other E&S

³⁴ IFC's [E&S Review Procedure Manual](#), August 2009.

³⁵ IFC's [E&S Review Procedure Manual](#), Chapter 5, August 2009.

issues. IFC reviewed updates on HSC in CIFI's annual reports from 2012, 2013, 2014 and 2015 (when CIFI exited) and also had email exchanges to inquire about the status of the Sub-project during that period.

84. In addition to its interactions with CIFI regarding HSC, IFC met directly with CSOs and a representative of the communities affected by the Sub-project during the 2015 Spring Meetings, when a local activist was brought to Washington by Oxfam. After the meeting, the IFC team had a conference call with the local activist to follow up. Shortly thereafter, the communities filed the CAO complaint with support of the same individual and IFC deferred to the CAO's assessment and attempt to offer a mediation between the communities and the Sub-project sponsor.

III. MANAGEMENT RESPONSE TO CAO FINDINGS

IFC Appraisal of CIFI

Summary of CAO Findings (CAO Report, pg. 17)

- IFC appropriately categorized the investment as FI and required the client to apply IFC's Performance Standards to its investments.
- IFC's pre-investment E&S review was not commensurate to risk. Specifically, CAO identified shortcomings in IFC's assessment of: (a) the client's track record of ESMS implementation; and (b) the client's capacity to implement its ESMS to IFC standards.
- CAO finds that IFC's pre-investment E&S review did not lead to the development of an action plan to address gaps in the client's ESMS, a requirement of IFC's ESRPs. As a result, IFC did not have assurance that the client's ESMS implementation was sufficient to ensure that higher risk investments it planned to finance, such as Canbalam I, would meet the requirements of the Performance Standards.

85. **Management is of the view that IFC's due diligence of CIFI's Environmental and Social Management System (ESMS) track record was in accordance with procedures at that time and commensurate with the E&S risks identified.** A sample of ESDD reports conducted by CIFI on its sub-project investments was reviewed, consistent with the practice codified in the E&S review procedures at the time (ESRP 7). **However, Management acknowledges that its ESDD of CIFI could have been better documented.** This was a systemic issue at the time, which IFC improved in mid-2008 with development of an E&S Review Document for FI projects. IFC now stores documented reviews of its appraisal records, including sample ESDD reports, in this database. This E&S document repository and retrieval system is regularly updated and continuous improvement in this area will be pursued.

86. **With regard to CIFI E&S capacity at the time of appraisal, Management notes that it was common among FIs at that time to rely on external qualified consultants to perform their ESDD and monitoring.** Today, in-house E&S capacity is a prerequisite for IFC's involvement with FIs performing higher-risk investments. Nonetheless, appropriate use of qualified consultants is a good practice and FI clients continue to be encouraged to outsource E&S

risk assessment for certain projects to external qualified consultants. This has a distinct advantage as consulting procurement can draw on a wider range of expertise to address the potential E&S risks experienced in investments, from biodiversity to stakeholder engagement, and Indigenous Peoples to pollution prevention, than can realistically be developed within an in-house team.

87. **Management agrees with CAO that a formal ESAP should have been included in the legal documentation** but notes that alternative contractual provisions were included to the same effect. The Conditions of IFC Subscription and Purchase (dated June 30, 2008) required CIFI to make several revisions to its ESMS as a condition of disbursement, and various other covenants addressed capacity, reporting and incident response expectations, all reflecting the findings from the earlier appraisal.

88. **Management recognizes that this investment underscores the importance of contextual risk assessments, particularly in post-conflict environments such as the one prevalent in Guatemala in 2008.** Such risk analysis was not part of IFC's approach at the time and not required by the ESRP for FIs. Since January 2017, IFC has regularly reviewed the contextual risks of the countries and sectors where its real sector and FI clients operate. The ERSP has been updated to reflect this requirement and IFC is currently piloting a new online tool to enhance staff analysis and awareness of contextual factors. Despite these improvements, **it should be understood that contextual risk is dynamic and will challenge any investor risk management system.**

IFC Supervision of CIFI

Summary of CAO Findings (CAO Report, pg. 22)

- IFC did not meet the requirements of the Sustainability Policy (para. 26) for project supervision, particularly requirements to identify and correct client non-compliance with its E&S requirements.
- Nine years after making its investment, IFC has yet to assure itself that the client is “operating the ESMS as envisaged at the time of appraisal” or its client has “applied the applicable performance requirements to its sub-projects.”
- IFC has taken insufficient action to support its client in establishing compliance with IFC's requirements. Thus, throughout the period of supervision, IFC has been at risk of exposure to [sub-projects] with E&S impacts that are not being managed in accordance with the Performance Standards.

89. **Management agrees that closer and more timely monitoring of CIFI would have been beneficial to E&S risk management.** Practices and procedures to address issues identified in this IFC FI investment have become increasingly regularized over the last decade. This includes measures to ensure timely review of FI client reports, and, where needed, engagement of specialist staff and visits to sample sub-project sites to provide FI training and capacity building.

90. **IFC engaged regularly with CIFI throughout the period of investment (2008-2019) to require improvements in its ESMS, through annual report reviews, multiple client meetings, as well as the agreement on a Supplemental Corrective Action Plan in 2015.** The impact of IFC's recommendations to improve CIFI's ESDD could have been more effective if the LESS had

visited a sample of CIFI sub-projects together with its staff to point to real-life, practical examples of poor performance or good practice. Such visits help client staff and systems improve at the aggregate level of their ESMS, rather than directly helping to manage the E&S risks of individual sub-projects. This practice was not common at the time of the IFC investment but became more consistent in later years. CIFI also would have benefited from additional support from a social specialist to advise on the risks associated with the more complex projects in CIFI's portfolio. This practice began in 2016 but has not yet been codified. IFC will do this in the next update of the ESRP.

91. **Management agrees that IFC's review of the client's E&S reports should have been more timely.** Formal reviews of the reports from 2010 and 2011 were completed more than a year after receipt of the documents, which is not acceptable practice. Today it is expected that reports of clients involved in higher-risk activities should be reviewed within 60 days of receipt. The Global FI Sector Lead, supported by an automated supervision tracker, monitors the pace of reviews of client annual reports and signals delays both to the responsible LESS as well as relevant Managers. Significant delays in review of client annual reports is a performance issue that is now also addressed at the annual staff performance review.

92. **Management notes that, despite identified performance issues along the way, CIFI's E&S risk management systems and capacity improved significantly** between 2008 when IFC invested and 2019 when it exited. This reflects the progressive improvement and E&S capacity building that IFC seeks to achieve with its clients.

IFC's Monitoring of Findings on CIFI's Due Diligence and Supervision of Hidro Santa Cruz

93. **CIFI's due diligence of HSC confirmed that HSC had developed the Sub-project generally in alignment with the Performance Standards, with multiple mitigation measures and management plans in place.** CIFI outsourced the ESDD to a qualified consulting firm which completed a full assessment of the E&S risks of the HSC investment prior to investment, requiring corrective actions that were completed to the satisfaction of that consulting firm prior to financial close and first disbursement. This is appropriate E&S risk management practice related to sub-project implementation of the Performance Standards, i.e., agreeing with the project sponsor on needed improvements and addressing gaps within a reasonable period of time. In terms of capacity sufficiency in this greenfield project that was mobilizing for construction, CIFI's due diligence recommended the development of an integrated Action Plan to address capacity-related issues, which HSC agreed to do and completed prior to financial close.

94. **Management affirms the importance of appropriate measures for security management.** CIFI's ESDD recommendations to HSC included adding emergency preparedness and response, and security personnel requirements to the Community Health and Safety Plan. According to the subsequent monitoring reports, this item was completed prior to the start of construction. It is noted, however, that as per existing policies, IFC did not receive or review the security assessment. **IFC confirmed that requirements for corrective actions relating to security personnel were identified by CIFI prior to financing and that subsequent monitoring reports concluded this item was completed.** In addition, HSC adapted its security strategy after an incident occurred early on. HSC had initially hired a security company with armed guards, but following an incident in 2011 where the security guards were held hostage and deprived

of their weapons by project opponents, HSC replaced the security service with another one to control and protect access to the Sub-project site without the need for armed personnel. CIFI sought and received confirmation of this change to non-armed and fewer security guards that HSC made to de-escalate the situation.

95. **Management agrees with CAO on the importance of an appropriate socioeconomic baseline and that HSC's should have been more extensive.** IFC found that as part of CIFI's ESDD process, the social specialist from the qualified consulting firm recommended that HSC's socioeconomic baseline and impact assessment be "expanded" prior to CIFI commitment. The documentation was then expanded to include a review of the socioeconomic baseline of the municipality, communities in the area of influence of the Sub-project, and the property owners, as well as the socioeconomic impacts on these three groups. In hindsight, **the social baseline study should have been more extensive in assessing indigenous communities living in the area.**

96. **Management affirms the importance of alignment with Performance Standard 7 (Indigenous Peoples). At the time of appraisal, a site visit by a social specialist from the qualified consulting firm concluded that the Sub-project was aligned with Performance Standard 7.** The ESDD report specified that the Sub-project avoided impacts on Indigenous Peoples with regard to land use, water use, cultural resources or livelihoods. The ESDD report also concluded that the Sub-project conducted adequate stakeholder mapping, disclosure, consultation and informed participation of Indigenous Peoples in line with IFC's Performance Standards 1, 5 and 7. The review of the expert consultant concluded that despite some opposition there was "broad understanding of and general support for the project."³⁶

97. Management recognizes that while the ESDD and first quarterly monitoring report produced for CIFI by its consultants concluded that HSC met lender requirements, including applicable Performance Standards, **the Social Risk Management report commissioned by CIFI after the incidents found, with the benefit of hindsight, that the consultation process had proven to be ineffective,** and that HSC had limited experience and capacity to respond to the unexpected scale of community reactions that occurred.

CIFI's Supervision of HSC and Response to Incidents

98. **Management is of the view that its client, CIFI, acted appropriately in response to the incidents and in its supervision of HSC.** Following the violent incidents, the Sub-project was suspended and when a community member was killed and riots ensued, CIFI took decisive and appropriate steps, stopping disbursements and commissioning an in-depth review by a qualified consulting firm. It then mandated completion of the corrective actions as well as resolution of other impacts prior to re-starting disbursements. It closely and patiently monitored HSC's progress over the next three years and when it deemed that it was not technically or financially feasible for HSC to achieve these actions, it terminated its loan. This was an appropriate response and consistent with the expectations of the IFC Sustainability Framework.

99. **In accordance with IFC's requirements, CIFI requested HSC to look into allegations of a connection between the death of the community member and HSC.** HSC subsequently

³⁶ ESDD report (November 2010) prepared by a team of international consultants. Shared with IFC by CIFI under confidentiality agreement.

determined that of the two individuals allegedly involved in the death, one had worked as a security guard previously, but was not employed by HSC at the time of the incident. Management understands that there are multiple and contradictory accounts regarding the connection between the company and the two accused individuals. Both individuals were acquitted of all charges on February 28, 2020 by the Guatemalan court.

IFC Response to HSC Incidents

Summary of CAO Findings (CAO Report, pg. 29)

- CAO finds that IFC did not take measures provided for in the ESRP to ensure that the client was properly applying the Performance Standards to the project, following the violent incidents of May 2012.
- IFC did not monitor client activity to ensure that the action plan between the client and HSC was fully responsive to remedial needs, committed to by management, and fully funded. Though aware of project impacts during the period of financing, IFC did not engage with its client to ensure that residual impacts of the project were assessed, reduced, mitigated, or compensated for, as appropriate, including at project closure, as required by the Performance Standards and the Sustainability Policy. In these circumstances, contrary to the intent of IFC's Sustainability Policy, documented adverse impacts have been left to fall on the community.
- At a systemic level, IFC's policies and procedures do not provide an adequate level of protection in response to serious E&S incidents at the project level in FI investments.

100. **Management does not wish to diminish the significance of the impacts that occurred in Santa Cruz Barillas in 2011-2013. At the same time, IFC's 2006 Sustainability Policy does not envisage direct involvement by IFC in FI sub-projects.** The 2006 IFC Sustainability Policy³⁷ defines IFC's role as requiring its FI clients to have and implement adequate E&S systems which IFC monitors at a *systems* level. In complying with this policy, IFC does not directly manage risks of individual sub-projects. From a compliance perspective, IFC contractually required CIFI to respond to incidents arising in sub-projects and IFC verified that CIFI did so by suspending disbursements to HSC, commissioning an independent E&S review of the incidents by a qualified consultant, and requiring corrective actions before Sub-project financing could resume.

101. **Management considers it important to have procedures in place clarifying IFC's role in case of incidents.** It notes that all versions of ESRP 5 developed between 2006 and 2016,³⁸ which contain the procedures for handling project incidents, were written for direct investments. They did not cover FI investments for which there were three separate procedures developed – ESRPs 7, 8 and 10, but which did not specifically address project incidents. This will be addressed in the next edition of the ESRP.

102. ESRP 5 required IFC, in the case of direct investments, to monitor client activity to confirm that the root causes had been investigated, that remedial measures had been adequately developed

³⁷ IFC's [2006 Sustainability Framework](#), Policy on Social & Environmental Sustainability.

³⁸ IFC's [E&S Review Procedure Manual](#)

and that the corresponding client action plan was fully responsive to remedial needs, committed to by the client's management, and fully funded. IFC's standard legal provisions require FI clients to conduct the same steps in case of incidents and report on them to IFC. In this regard, **IFC monitored CIFI's response and found it adequate.**

Residual Impacts

103. **The CAO report details what the complainants indicate as unaddressed impacts of the Sub-project:** "(i) escalation of social conflict within the community; (ii) death of one community member, injuries to two community members, and detainment of seventeen community members in relation to the protests that followed the killing; and (iii) limitations to access to land and natural resources due to the construction of a perimeter fence around the project site."³⁹

104. **Management is deeply troubled by the impacts that stemmed from the civil unrest and subsequent state of siege in Santa Cruz Barillas, while noting that these impacts have not been attributed to HSC.** CIFI nonetheless conditioned its willingness to restart disbursements on two outcomes: the resolution of all pending legal cases related to HSC and/or the events of March and May 2012, and the completion of the human rights review by the Guatemalan Human Rights Ombudsman. The incidents and allegations of abuses were investigated and reviewed, respectively, by the appropriate bodies: the United Nations Office of the High Commissioner on Human Rights and the Guatemalan Human Rights Ombudsman. The United Nations review did not identify HSC as a responsible party, while the Guatemalan Human Rights Ombudsman references the HSC project as contributing to the wider conflict in Barillas. Charges against project opponents accused of vandalism or violence against the Sub-project (and the evidence thereof) are being addressed within the Guatemalan judicial system.

105. **Management deplors the death of the community member and the soldier, as well as injuries to others and acknowledges the conflicting information around these events.** Management is aware of multiple and conflicting accounts about what transpired, including the details and circumstances surrounding the incident, the victim and the alleged perpetrators. The current understanding, as of February 28, 2020, is that the two suspects arrested and tried in connection with the death and injuries were acquitted of all charges by the Guatemalan court, but an appeal is still possible. Neither the police investigation nor the prosecution attributed the death to HSC's actions.

106. **Management notes and is concerned by the complainants' perceived limitation of access to land and natural resources.** CIFI's ESDD indicated that according to previous landowners, as well as indigenous and non-indigenous stakeholders, the stretch of the Canbalam River to be used by the Sub-project was not used by local residents for any productive, domestic or cultural purpose. A fence was built by HSC in response to the site invasions, hostage taking and vandalism in late 2011 and early 2012. To verify the current status, the site was visited in January 2020. Photographs taken throughout the site indicate that **such a fence no longer appears to prevent access and that there are signs of communal use, for example, as a soccer field.**

³⁹ CAO Investigation Report.

107. **Management believes that CIFI took appropriate actions to try to address outstanding issues prior to cancelling its loan.** CIFI decisively stopped disbursements, commissioned a detailed third-party review and required corrective actions based on that review, monitoring HSC's efforts over the course of three years to determine that the Sub-project addressed its concerns prior to authorizing new disbursements. The ultimate termination of its loan reflects, in IFC's view, a responsible decision made after other avenues consistent with the role of a lender had been exhausted. IFC's own exit from CIFI occurred almost four years after CIFI had exited HSC and was not related to the Sub-project or the CAO report, but rather part of an overall strategy of divesting from small equities. Nonetheless, IFC is committed to reviewing its investment operations, policies and procedures as they relate to aspects of exit, to identify opportunities for procedural enhancements in considering environmental and social impacts when IFC seeks to proactively exit investments.

IV. LESSONS LEARNED AND ACTIONS

Lessons Learned

108. ***Improvements in FI Approach.*** IFC's approach to managing E&S risks in its FI business has evolved significantly in the last decade, reflecting IFC's own experience, CAO findings and observations shared in its reports and in exchanges with IFC, and ongoing feedback from external stakeholders. Of particular value was CAO's 2013 Audit of IFC's Financial Sector Investments and the associated action plan developed by Management in response. Looking retrospectively at the past 12 years since IFC's investment in CIFI, IFC has made key changes to its FI approach, which are discussed in the following paragraphs.

109. ***Increased internal E&S risk management capacity.*** Since 2008, the seniority and number of E&S specialists covering IFC's investments in FIs has increased – from five specialists to about 30, including three dedicated regional FI Sector Leads and, with the creation in July 2019 of a new “regulator function” in the form of the E&S Policy and Risk Department, a dedicated FI Principal E&S Risk Officer. In 2009, IFC improved its record-keeping on FIs with the introduction of a dedicated E&S Review Document for FIs to capture all E&S analysis and decisions related to a project over its entire cycle.

110. ***More selectivity in FI investments.*** In recognition of the complexities associated with ESMS implementation, IFC committed to lowering the number of new exposures to high-risk FI clients and activities. This has included reducing the untargeted loans and equity investments where IFC is exposed to an FI's entire business from an E&S perspective. Since FY17, IFC has stopped providing general lines of credit to FIs with medium-to-high E&S risk (FI-1 and FI-2). All senior loans to these institutions now must go to targeted sectors, with the exception of cases Management deems absolutely necessary to meet IFC's development objectives.

111. The share of equity in IFC's (non-Funds) FI business has been declining since FY12. IFC will continue to be selective in its FI equity business, with E&S considerations being a key factor in the decision-making process. Importantly, because most of IFC's FI relationships begin with a smaller investment (e.g., trade line, advisory engagement, or line of credit), rather than an equity investment, IFC can better assess the FI's capacity and commitment to manage E&S risks in lower-risk activities before considering additional, potentially higher-risk, investments.

112. IFC is also focused on not working with clients who have consistent E&S non-compliances over time. For example, IFC Management committed to not do repeat business with clients with internal E&S ratings of “partly unsatisfactory” or “unsatisfactory,” except in specific cases where client commitment to improvement is clear. In such cases, investment teams would need to seek senior management approval and Management would communicate the rationale for this decision in the Board Paper seeking approval from the Board.

113. **Improved E&S risk assessment process.** Building on experience from the CIFI and other (FI and direct) investments, IFC introduced a standard requirement for contextual risk analysis in January 2017. In addition to IFC’s own assessment, FI clients operating in areas with significant contextual risks are also required to conduct their own contextual risk analysis.

114. In 2014, IFC had introduced a new procedure requiring IFC review of the E&S performance of FI’s top sub-project exposures, including assessing reputational risk, and verifying whether FIs are exposed to companies with CAO complaints or companies on IFC’s list of high-risk projects. In 2018, IFC issued a revised Interpretation Note on FIs, which clarified the scope of Performance Standard application to FIs – introducing issue-based triggers rather than financial thresholds. This is intended to simplify the process of identifying high-risk sub-projects for FI’s to enable them to target enhanced risk management at the appropriate investments.

115. **Enhanced monitoring.** Project experience and regular portfolio reviews have underscored for IFC that providing a detailed ESAP is insufficient for many high-risk FI clients. IFC’s requirements are complex, and often go beyond existing local market practices. This combined with limited capacity at both the FI and country levels, necessitates closer engagement by IFC with high-risk FI clients supporting high-risk sub-projects. Since 2015, IFC has systematically engaged in ESAP implementation with the FI clients exposed to higher-risk transactions. IFC engages immediately after commitment, with a focus on building capacity to support robust ESDD on the part of the FI. IFC also requires its FI clients, in a legally binding form, to complement their in-house E&S risk management efforts with external qualified E&S consultants.

116. In 2013, IFC also expanded its FI monitoring efforts. In addition to annual supervision of all FI-1 clients, IFC now supervises, on a yearly basis, all FI-2 clients subject to application of the Performance Standards by their sub-projects. Greater support to higher-risk clients required reallocation of resources. In 2018 IFC recalibrated its E&S risk approach to streamline appraisal and monitoring processes for low- and medium-low-risk FI clients, thereby enabling it to dedicate more resources to high- and medium-high-risk FI clients.

117. **Increased transparency.** Since 2012, IFC has highlighted E&S risks associated with its FI investments with increased specificity, by expanding its E&S risk classification from one to three FI risk categories. In addition, IFC requires its private equity fund clients to consent to the disclosure on IFC’s website of the name, sector, and location of all of their sub-projects. This goes beyond IFC’s Access to Information Policy, which only requires disclosure of high-risk private equity fund sub-projects. Some stakeholders have advocated for IFC to mandate additional FI clients, including regulated banks, to also disclose their high-risk sub-projects. While there are important differences between private equity funds and regulated banks, in 2019 IFC began implementation of a disclosure pilot. The pilot applies to new investments where IFC funds will support FIs to engage in high-risk transactions via targeted lines or untargeted equity and

mezzanine products. The pilot is testing a “disclose or explain” approach where FIs are asked to seek sub-borrowers’ consent to publicly disclose on IFC’s and the FI’s websites key project information (name, year, sector, country) or a rationale for refusing this voluntary disclosure.

118. ***Incident response.*** While Management believes that existing policies to monitor the FI client’s response at the systems and portfolio level were followed, the lessons of this IFC investment prompt questions about the sufficiency of incident response in the FI client context. In response to CAO’s findings, IFC will consider whether certain “incident triggers” at the sub-project level merit greater oversight and attention by IFC and will also develop guidance for its FI clients on incident response.

Management Action Plan in Response to CAO Report

Action	Related Activities and Timeline
Review IFC’s investment operations, policies and procedures as they relate to aspects of exit and define IFC’s approach to “responsible exit.”	<p>Cross-functional working group from equity and debt portfolio teams, special operations, environmental and social and legal to develop an overview of current policies, procedures and operations with regard to IFC decisions to exit an investment.⁴⁰ Working group to review opportunities for procedural enhancements to consider aspects of environmental and social impacts when IFC seeks to proactively exit investments.</p> <p><i>Review summary to be completed by December 31, 2020.</i></p>
Develop Guidance on Incident Response for FI clients.	<p>FI client staff need appropriate procedures and guidance to fulfil the Sustainability Policy requirement for “FIs to carry out individual transaction appraisal and monitoring as well as overall portfolio management.”</p> <p>Guidance to be developed for FI clients to enhance the support provided them in responding to and dealing with E&S incidents associated with their sub-project loans and investments. The guidance will outline good practice in responding to incidents.</p> <p><i>Guidance issued by July 31, 2020.</i></p>
Enhancement of IFC’s E&S Review Procedures to provide clear procedural guidance on IFC staff responsibilities and associated client responsibilities when FI clients report and respond to incidents associated with their sub-projects.	<p>Current procedures (ESRP) do not provide specific procedural guidance on incident response for FI clients.</p> <p>The ESRP are being updated to reflect evolution and improvements in practice and to reflect the organizational and procedural changes associated with the creation on July 1, 2020 of the E&S Policy and Risk Department. The revised ESRP will include specific procedures for incident response associated with FI sub-projects and will consider if certain incident types should trigger enhanced monitoring effort by IFC of its FI client to support the FI’s monitoring of its sub-project clients’ response to such incidents.</p> <p><i>Publication of revised ESRP by December 31, 2020.</i></p>
Social specialist support for review of complex FI portfolios.	<p>This has been practiced since 2016 but is yet to be codified in procedural requirements. This will be included in the revised ESRP.</p> <p><i>Publication of revised ESRP by December 31, 2020.</i></p>
General ESRP Improvements	<p>The ESRP are being updated to reflect evolution and improvements in practice and to reflect the organizational and procedural changes associated with the creation on July 1, 2020 of the E&S Policy and Risk Department. The revised ESRP will include specific procedures for incident response associated with FI sub-projects and</p>

⁴⁰ IFC 2012 Sustainability Policy: “IFC will only finance investment activities that are expected to meet the requirements of the Performance Standards within a reasonable period of time. Persistent delays in meeting these requirements can lead to loss of financial support from IFC.”

Action	Related Activities and Timeline
	<p>will consider if certain incident types should trigger enhanced monitoring effort by IFC of its FI client to support the FI's monitoring of its sub-project client's response to such incidents.</p> <p><i>Publication of revised ESRP by December 31, 2020.</i></p>

V. CONCLUSION

119. Management acknowledges the CAO's observations and understands the concerns and impacts discussed in the CAO report. The manner in which events unfolded in this case, and the impacts of the conflict on local communities in Santa Cruz Barillas is truly regrettable. It highlights many of the risks and complexities inherent in fragile and conflict-affected situations that involve multiple actors from public, private and civil spheres, each with differing roles, interests and responsibilities. It offers a number of important lessons for IFC, underscoring the benefits of contextual risk assessment, the importance of sufficient consultation to confirm community support, and the need for greater attention to incident response by IFC and our clients when unforeseen events occur.

120. The lessons of this 2008 FI investment also serve to demonstrate the many and significant improvements that IFC has made in its FI E&S risk management approach in the intervening years and the need to continue to strengthen procedures and practices going forward. Management believes that the Action Plan contained in this Response is an appropriate means of responding to CAO's findings and is committed to its implementation in a timely manner.

ANNEX 1 – SUMMARY OF MANAGEMENT RESPONSES

The following table summarizes IFC Management responses to CAO’s key findings outlined in the table on pages 51 and 52 of CAO’s Compliance Investigation Report.

No.	CAO Finding	IFC Response with Actions Taken or Proposed
IFC’s Categorization, Pre-Investment Review and Risk Mitigation Measures		
1	IFC appropriately categorized the investment as FI and required the client to apply IFC’s Performance Standards to its investments.	Management agrees with this finding.
2	IFC’s pre-investment E&S review was not commensurate to risk. Specifically, CAO identified shortcomings in IFC’s assessment of: (a) the client’s track record of ESMS implementation; and (b) the client’s capacity to implement its ESMS to IFC standards.	<p>121. <i>Project-level:</i> Management is of the view that IFC’s due diligence of CIFI’s Environmental and Social Management System (ESMS) track record was in accordance with procedures at that time and commensurate with the E&S risks identified. A sample of ESDD reports conducted by CIFI on its sub-project investments was reviewed, consistent with the practice codified in the E&S review procedures at the time (ESRP 7). However, Management acknowledges that its ESDD of CIFI could have been better documented.</p> <p>IFC’s due diligence of CIFI confirmed that in 2005 the client adopted an ESMS to review, categorize, and supervise prospective and approved sub-projects. On April 6, 2007, CIFI became a signatory to the Equator Principles, which required the adoption of an ESMS and, for certain transactions, required CIFI’s borrowers to apply IFC’s 2006 Performance Standards and applicable World Bank Group EHS Guidelines.</p> <p>While CIFI did not employ a full-time E&S officer, it did have a staff member with responsibility for ESMS oversight (1 of 11 staff at the time). The absence of a dedicated E&S Officer was mitigated by the fact that CIFI consistently made use of external qualified E&S consultants to conduct ESDD and monitoring. This was common practice among FIs at the time of investment and FI clients continue to be encouraged to outsource E&S risk assessment for certain projects to external qualified consultants. This helps FIs to employ the right expertise for each project, since different investments may require a different set of E&S skillsets that cannot realistically be developed within an in-house team.</p> <p>IFC’s contractual requirements included establishment of “the position of ESMS manager with a requirement for that individual to</p>

No.	CAO Finding	IFC Response with Actions Taken or Proposed
		<p>complete a training program on the E&S requirements within 12 months of IFC’s commitment,” which demonstrates IFC’s recommendations to <u>improve ESMS implementation</u>.</p> <p><i>Management recognizes the importance of assessing contextual risks, particularly in fragile, post-conflict and violent situations such as those that were present in Guatemala in 2008.</i> Such risk analysis was not part of IFC’s approach at the time, nor was it required in the ESRPs.</p> <p><i>Systemic:</i> IFC has made numerous improvements in its approach to FI investments, including:</p> <ul style="list-style-type: none"> (i) Since January 2017, IFC has regularly reviewed the contextual risks of the countries and sectors where its real sector and FI clients operate. IFC is currently piloting a tool to enhance its staff’s analysis of these issues; (ii) “Enhanced client engagements” with low-capacity/high-risk clients, where IFC offers more hands-on support in implementing its E&S requirements; (iii) Reallocation of resources to provide greater support to high-risk clients; and (iv) More support to portfolio clients, including regionally-focused events.
3	<p>CAO finds that IFC’s pre-investment E&S review did not lead to the development of an action plan to address gaps in the client’s ESMS, a requirement of IFC’s ESRPs. As a result, IFC did not have assurance that the client’s ESMS implementation was sufficient to ensure that higher risk investments it planned to finance, such as [HSC], would meet the requirements of the Performance Standards.</p>	<p><i>Project-level: Management agrees that a formal ESAP should have been included in the legal documentation, while also noting that alternative contractual provisions were included to the same effect.</i> The Conditions of IFC Subscription and Purchase (dated June 30, 2008) required CIFI to make several revisions to its ESMS as a condition of disbursement, and various other covenants addressed capacity, reporting, and incident response expectations, all reflecting the findings from the earlier appraisal.</p>

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IFC Supervision		
4	<p>IFC did not meet the requirements of the Sustainability Policy (para. 26) for project supervision, particularly requirements to identify and correct client non-compliance with its E&S requirements.</p>	<p><i>Project-level: Management agrees that closer and more timely monitoring of CIFI would have been beneficial to E&S risk management. Throughout the period of investment (2008-2019), IFC engaged regularly with CIFI to require improvements in its ESMS, through annual report reviews as well as the agreement on a corrective ESAP in 2015.</i> The impact of IFC’s recommendations to improve ESDD could have been more effective if the LESS had visited a sample of CIFI sub-projects alongside its staff to point to real life, practical examples of poor performance or good practice. Such visits help client staff and systems improve at the aggregate level of their ESMS, rather than directly helping to manage the E&S risks of individual sub-projects. This practice was not common at the time of the IFC investment, but became more consistent in later years. CIFI also would have benefited from additional support from a social specialist to advise on the risks associated with the more complex projects in CIFI’s portfolio.</p> <p><i>Systemic:</i> Since IFC’s investment in CIFI, IFC has continuously improved its capacity to identify and correct client non-compliance with E&S requirements, including the implementation of a plan that earmarks support to committed FI clients to improve or develop better E&S capacity, commensurate with the risks of their sub-projects, and the assignment of social specialists (or specialists with other appropriate expertise as applicable) to support clients in managing complex E&S risks on sample projects. This has been a practice since 2016 but has not yet been codified. IFC will do this in the next update of the ESRP.</p>
5	<p>Nine years after making its investment, IFC has yet to assure itself that the client is “operating the ESMS as envisaged at the time of appraisal” or its client has “applied the applicable performance requirements to its sub-projects.”</p>	<p><i>Project-level: IFC met many times with CIFI, and, following the review of annual reports, albeit sometimes with delays, consistently made recommendations with the objective to improve E&S risk management. While IFC had raised concerns during monitoring that CIFI had disbursed loans to some other projects with an incomplete E&S assessment or unfulfilled E&S requirements, this was not the case for the investment in HSC.</i> CIFI outsourced the ESDD to a qualified consulting firm, which completed a full assessment of the E&S risks of HSC’s investment prior to investment, requiring corrective actions that were completed to the satisfaction of that consulting firm prior to financial close and first disbursement, according to an email from the consultant prior to disbursement and the first monitoring report. This is appropriate E&S risk management practice related to sub-project</p>

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		<p>implementation of the Performance Standards – i.e., agreeing with the project sponsor on needed improvements and addressing gaps within a reasonable period of time.</p> <p><i>Despite performance issues and variations along the way, CIFI consistently improved over time and had significantly better E&S capacity at IFC's exit than when the relationship started.</i></p> <p>In IFC's last visit to CIFI, in addition to visiting two sub-projects with CIFI's staff, IFC observed several good practices and activities indicating improved management of E&S risks, including: (i) a risk scoring matrix under development which <u>included the consideration of contextual risks</u>, (ii) a comprehensive portfolio monitoring system to proactively flag projects before they become problematic (which included monitoring of individual project ESAP compliance) and an internal watch list to monitor problematic projects, and (iii) an E&S team of technically qualified environmental practitioners, which counted on the support of qualified E&S consultancies to assist with ESDD. The visit also observed that CIFI was active among peer FIs on numerous E&S initiatives related to biodiversity and climate change.</p> <p><u>Systemic</u>: Since its investment in CIFI, IFC gradually implemented a series of improvements regarding its monitoring of FI clients, which were codified in the ESRP of 2014. These include more regular reviews of FI clients' E&S sub-project assessments, more consistent visitation of FI sub-projects, and clear criteria for the selection of sub-project files to review.</p>
6	<p>IFC has taken insufficient action to support its client in establishing compliance with IFC's requirements. Thus, throughout the period of supervision, IFC has been at risk of exposure to projects with E&S impacts that are not being managed in accordance with the Performance Standards.</p>	<p><u>Project-level</u>: Please see Item 4.</p> <p><u>Systemic</u>: Since IFC's investment in CIFI, IFC has continuously improved its support to FI clients as outlined above. Noteworthy is its enhanced client support, by which IFC identifies committed clients in need of support and provides training and advisory work to help them better manage E&S risks, in place since 2016.</p>
	IFC Response to Sub-Project Incident	
7	<p>CAO finds that IFC did not take measures provided for in the ESRP to ensure that</p>	<p><i>Project-level: IFC's policies and procedures on FIs are to monitor the FI's E&S risk management systems rather than to directly be involved in sub-project E&S performance. The Board-approved</i></p>

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	the client was properly applying the Performance Standards to the project.	<i>2006 Sustainability Policy is clear that IFC’s role is to “monitor the FI’s performance on the basis of the Management System” (Paragraph 29).</i> In this case, as documented in this Response, CIFI demonstrated that it had a functioning ESMS, applied the Performance Standards in its ESDD process, used qualified experts to conduct the ESDD and supervision of the Sub-project, and took appropriate measures when E&S issues materialized (going as far as stopping disbursements). While many opportunities for improvement can be identified in hindsight, CIFI allocated resources consistent with IFC’s requirements to assess and monitor its sub-projects. In addition, both the Sub-project and CIFI’s disbursements to the Sub-project were suspended (and subsequently canceled) prior to the start of full construction.
8	IFC did not monitor client activity to ensure that the action plan between the client and HSC was fully responsive to remedial needs, committed to by management, and fully funded.	<i>Project-level: IFC’s 2006 Sustainability Policy does not envisage direct involvement by IFC in FI sub-projects.</i> The 2006 IFC Sustainability Policy ⁴¹ defines IFC’s role as requiring its FI clients to have and implement adequate E&S systems which IFC monitors at a systems level. In complying with policy, IFC does not directly manage risks of individual sub-projects. IF contractually required CIFI to respond to incidents arising in sub-projects and IFC verified that CIFI did so by suspending disbursements to HSC, commissioning an independent E&S review of the incidents by a qualified consultant, and requiring corrective actions before project financing could resume. <i>Systemic:</i> IFC will codify practices related to handling incidents in FI projects in the next edition of the ESRP.
9	Though aware of project impacts during the period of financing, IFC did not engage with its client to ensure that that residual impacts of the project were assessed, reduced, mitigated, or compensated for, as appropriate, including at project closure, as required by the Performance Standards and the Sustainability Policy. In these circumstances,	<i>The CAO report details what the complainants indicate as unaddressed impacts of the project:</i> “(i) escalation of social conflict within the community; (ii) death of one community member, injuries to two community members, and detainment of seventeen community members in relation to the protests that followed the killing; and (iii) limitations to access to land and natural resources due to the construction of a perimeter fence around the project site.” <i>Management confirms the importance of the mitigation hierarchy within its Sustainability Framework.</i> IFC notes that “central to these requirements [the Performance Standards] is a consistent approach to avoid adverse impacts on workers, communities and the environment, or if avoidance is not possible, to reduce, mitigate, or compensate for the impacts, as appropriate.” The Performance

⁴¹ IFC’s [2006 Sustainability Framework](#), Policy on Social & Environmental Sustainability.

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	<p>contrary to the intent of IFC’s Sustainability Policy, adverse impacts have been left to fall on the community.</p>	<p>Standards themselves, which IFC requires its direct clients to achieve progressively over time and to ask the same of their high-risk sub-project sponsors, expect that “the client will conduct a process of Social and Environmental Assessment that will consider in an integrated manner the potential social and environmental risks and impacts of the project” and “measures and actions to address identified impacts and risks will favor the avoidance and prevention of impacts over minimization, mitigation, or compensation, wherever technically and financially feasible.” Performance Standard 1 further notes that with regard to the roles and capacity of third parties the client/sub-project client should “address these risks and impacts commensurate to the client’s control and influence over the third-party actions.”</p> <p>While addressing these broad impacts was beyond what was technically and financially feasible for HSC, CIFI nonetheless conditioned its willingness to restart disbursements on the resolution of all pending legal cases related to HSC and/or the events of March and May and the completion of the human rights review by the Guatemalan Human Rights Ombudsman. The incidents and allegations of human rights abuses were investigated and reviewed, respectively, by the appropriate authorities: the United Nations Office of the High Commissioner on Human Rights and the Guatemalan Human Rights Ombudsman. The United Nations investigations did not identify HSC as responsible for any abuses, while the Guatemalan Human Rights Ombudsman references the HSC project as contributing to the wider conflict in Barillas. Charges against project opponents accused of vandalism or violence against the project (and the evidence thereof) are being addressed within the Guatemalan judicial system.</p> <p><i>Management deplors the death of the community member and the soldier, as well as injuries to others and acknowledges the conflicting information around these events.</i> HSC had, in November of the previous year, changed its security contractor, reduced its security presence and required security staff not to carry firearms. After the events of May 1, 2012, it assessed any connection between the accused parties and its operations and concluded that one of the accused had no connect and one had previously been an employee of its security contractor but was not at the time of the events. CIFI commissioned an independent in-depth, third-party review, which confirmed these findings but nonetheless conditioned its willingness to restart disbursements on the resolution of all pending legal cases related to the events of March and May 2012. A trial in 2013 resulted in the acquittal of both of the accused</p>

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		<p>on the murder charge, although one was convicted of serious harm to another individual. The verdicts of the trial were set aside and, after a re-trial that concluded on February 28, 2020, both individuals were acquitted of all charges. The court documents of the first trial (2013) reviewed by local counsel on behalf of IFC indicate that neither the police investigation nor the prosecution tie the killing to the company, although the main suspect had worked for the security company engaged by HSC for a short period of time, but not at the time of the incident. Management understands that there are multiple and contradictory accounts regarding the connection between the company and the two accused individuals, who were acquitted in the most recent trial.</p> <p><i>Management notes and is concerned by the complainants’ perceived limitation of access to land and natural resources.</i> HSC had sought to avoid such impacts by performing a baseline assessment of land use and acquiring 15 small parcels of privately held land on a willing buyer willing seller basis, paying five times the market value as compensation to address any limited economic displacement. CIFI’s ESDD indicated that according to previous landowners, as well as indigenous and non-indigenous stakeholders, the stretch of the Canbalam River to be used by the Sub-project was not used by local residents for any productive, domestic or cultural purpose. A fence was built by HSC in response to the site invasions, hostage taking and vandalism in late 2011 and early 2012. Management was concerned as to how HSC had decommissioned the site and sent a representative to visit it in January 2020. Photographs taken throughout the site do not appear to show evidence of a fence preventing access and indicate communal use of the site, for example, as a soccer field</p>
10	At a systemic level, IFC’s policies and procedures do not provide an adequate level of protection in response to serious E&S incidents at the project level in FI investments.	<p><i>Systemic: While IFC has developed procedures for responding to E&S incidents in its direct clients’ operations, its Sustainability Policy requires “FIs to carry out individual transaction appraisal and monitoring as well as overall portfolio management.”</i> All versions of ESRP 5, developed between 2006 and 2016, containing the procedures for handling project incidents, were written for direct investments. They did not cover FI investments for which there were three separate procedures developed – ESRPs 7, 8 and 10, but which did not specifically address project incidents. ESRP 5 required IFC, in the case of direct investments, to monitor client activity to confirm that the root causes had been investigated, that remedial measures had been adequately developed and that the corresponding client action plan was fully responsive to remedial</p>

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		<p>needs, committed to by the client’s management, and fully funded. IFC’s standard legal provisions require FI clients to conduct the same steps in case of incidents and report on them to IFC.</p> <p>Management agrees with CAO’s recommendations to enhance the support IFC provides to its clients in addressing E&S incidents and will develop more guidance and training for them on responding to E&S incidents in FI investments. IFC will also consider if there are any “incident triggers” that may warrant additional involvement with FIs to advise them on sub-project issues.</p>