

May 19, 2023

**CAO Compliance Monitoring Mission to Panama in response to IFC's Management
Action Plan regarding IFC's Advisory Services to ETESA
Project #602084**

CAO Compliance Monitoring Field Visit

The Compliance Advisor Ombudsman (CAO) is currently monitoring IFC's Board-approved Management Action Plan (MAP) in relation to its Advisory Services project to support Empresa Transmision Electrica, S.A. (ETESA) in structuring and tendering the Panama Transmission Line IV project. The MAP was developed in response to the CAO compliance investigation report and findings.¹ Per the CAO Policy, the scope of CAO's monitoring consists of "the corrective actions approved as part of the MAP," and CAO will "verify the effective implementation of the actions set out in the MAP."²

As part of the compliance monitoring, CAO will be conducting a field visit to Panama from May 23 to 31, 2023. During this visit, CAO will meet with Indigenous communities in Palizada, Norte de Santa Fe; Kankintú, Comarca Ngöbe-Buglé; and Valle de Agua Arriba, Annex Areas in Bocas del Toro. CAO will also meet with ETESA, its environmental and social consultant, and other relevant stakeholders.

CAO has decided to conduct a field visit to gather information to verify IFC's effective implementation of the MAP as part of CAO's monitoring activities. In particular, through the monitoring visit, CAO expects to better understand the issues identified in regard to the delays in the implementation of some aspects of the Management Action Plan.

The objectives of the monitoring field visit are as follows:

- To strengthen our understanding of the implementation of IFC's MAP actions to date.
- To clarify inconsistencies from different parties regarding the stakeholder engagement process to date.
- To gain insights on the concerns raised by the complainants about stakeholder engagement in the ongoing Environmental and Social Impact Assessment (ESIA) and the Free, Prior, and Informed Consent (FPIC) processes and how these relate to the implementation of the MAP. During the visit, CAO is interested in gathering firsthand documentation from relevant parties in relation to IFC's MAP actions and the ESIA and FPIC processes. The CAO mission will also take the opportunity to communicate to the complainants the findings of the compliance investigation report and the actions set out in IFC's management response.

¹ See CAO's case webpage for relevant documents and reports for the PLIV case: <https://www.cao-ombudsman.org/cases/panama-pl-iv-01-multi-locations>

² CAO Policy, para. 140.

Background on the CAO Compliance Investigation

In February 2022, CAO completed its compliance investigation report of IFC's environmental and social performance in relation to its Advisory Services project to ETESA to structure and tender a public-private partnership for the Panama Transmission Line IV (PLIV).

The investigation responded to a June 2018 complaint filed on behalf of members of Ngöbe and Buglé Indigenous groups who live in the area of the proposed project. The complainants raised concerns regarding the process for gaining Free, Prior, and Informed Consent (FPIC) for the PLIV project from impacted Indigenous Peoples. In particular, the complainants mentioned that: (a) the FPIC process has excluded Indigenous groups that are impacted by the project and (b) that the consultations undertaken to date have not been inclusive enough.

The key IFC Sustainability Policy requirement for an IFC Advisory Services project of this type is that IFC provides advice "consistent with the Performance Standards" as a framework for good international industry practice in environmental and social (E&S) risk management. The Performance Standards (PS) include specific requirements for conducting consultation with Indigenous Peoples and gaining prior consent (FPIC) of Indigenous Peoples when projects impact land or natural resources under traditional ownership or customary use.

As relevant to the issues raised in the complaint, this investigation finds that IFC's advice to ETESA was partially consistent with Performance Standards requirements. Positively, IFC has helped drive the development of the PLIV project toward alignment with Performance Standards requirements for consultation with Indigenous Peoples. However, inconsistency with the Performance Standards and key shortcomings in IFC's advice relate to (a) the exclusion of some potentially affected Indigenous groups from the FPIC process and (b) the design of a consultation process that is insufficiently inclusive of traditional authorities, project-affected communities, and women.