

Report No. 102478-UG

Inspection Panel

**Report and Recommendation
on a Request for Inspection**

**Republic of Uganda
Transport Sector Development Project –
Additional Financing (P12109)**

January 8, 2016

**The Inspection Panel
Report and Recommendation
on
Request for Inspection**

**Republic of Uganda: Transport Sector Development Project - Additional Financing
(P121097)**

Summary

1. This Report and Recommendation responds to a Request for Inspection of the Uganda Transport Sector Development Project - Additional Financing. The complaint include allegations of sexual violence against children by road workers, increased child labor and school dropouts, increased number of accidents on the road, rise in crime in the community, poor compensation practices, lack of community participation, and unclear redress mechanism, among others. On the basis of its analysis, the Panel recommends carrying out an investigation into the alleged issues of harm and related potential non-compliance with Bank policies, including on Environmental Assessment and Involuntary Resettlement, in addition to Bank requirements related to gender, risk assessment, project design, appraisal and supervision. Given the gravity of the allegations, the Panel trusts that the World Bank will continue working with the Government to address these ongoing issues and to ensure the safety of the Requesters.

A. Introduction

2. On December 19, 2014, the Inspection Panel (“the Panel”) received a Request for Inspection from community members of the Bigodi town in Uganda raising concerns about the Uganda Transport Sector Development Project - Additional Financing (“the Project”). The request raised a number of issues including lack of community participation, sexual violence against children by road workers, increased child labor and school dropouts, increased number of accidents on the road and as a result of the stone quarry, a rise in crime in the community, poor compensation practices and unclear redress mechanism, among others. The Panel conducted its due diligence and determined that World Bank Management (“Management”) was not aware of these concerns, one of the conditions for Registration of a request. In accordance with its governing framework, the Panel did not register the request to provide Management with an opportunity to address these concerns. The Panel issued a Notice of Receipt on January 21, 2015.¹

3. Since that date, the Panel maintained frequent communications with Management and held several meetings with Bank staff to obtain information on the findings of the various missions undertaken by the Bank between January and September 2015. The Panel also followed-up closely with the requesters and with Joy for Children Uganda (JFCU), a Civil

¹ One of the admissibility criteria for a Request for Inspection is that the issues raised in the Request are brought to the attention of the Bank, and that the Requesters are not satisfied with the Bank’s response. *See*. IDA Board Resolution No. 93-6 dated September 22, 1993 establishing the Inspection Panel, paragraph 13; the 1999 Clarification of the Panel Resolution, paragraph 9(c); and the Inspection Panel Operating Procedures, dated April 2014, paragraphs 12 (d) and 23.

Society Organization (“CSO”) active in the area, to better understand the developments following the request.

4. On September 11, 2015, the Panel received a new request (“the Request”) from three members of the Bigodi and Nyabubale-Nkingo communities (“the Requesters”), which restated the earlier concerns. The Requesters claimed that they were dissatisfied with Bank actions in response to their concerns, asked to keep their identities confidential, and designated JFCU to act on their behalf. The Request included hand written notes from fifty-eight community members explaining the adverse impacts allegedly caused by the Project.

5. The Requesters stated that they were grateful for the Bank’s funding of the Kamwenge – Fort Portal road and recognized its positive impacts on increased trade and access to markets. However, they re-stated the allegations previously raised, including sex with minors and teenage pregnancy caused by road workers, increased sex work, the spread of HIV/AIDS, sexual harassment of female employees, child labor, school dropouts, lack of compensation and inadequate compensation, fear of retaliation, lack of participation, poor labor practices, and lack of adequate road and workplace health and safety measures.

6. The Panel registered the Request on September 28, 2015 and continued its ongoing communication with the Requesters to remain informed about the situation and to assess potential risks of retaliation. The Panel raised concerns about potential retaliation against the Requesters, the community members and their representative CSO with Management.

7. Under the Panel’s procedures, a Management Response is due 21 days after Registration (i.e., October 28, 2015). Management asked for a postponement of the Management Response on two occasions: on October 1 with a new deadline of November 13, and on October 30 with a deadline of December 15, 2015. Management explained these postponements were needed due to the removal of a substantial number of staff from the Ugandan National Roads Authority (UNRA, the project implementing agency), and the serious issues identified concerning the performance of the Project’s contractor (“the Contractor”).

8. In accordance with the Resolution establishing the Inspection Panel, the purpose of this Report and Recommendation is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request.² The Panel’s recommendation is based on its consideration of the technical eligibility of the Request and its assessment of other factors as reflected in the Panel’s Resolution and its Operating Procedures.³

9. This document provides a description of the Project (Section B), a summary of the Request (Section C), a summary of the Management Response (Section D), and the Panel’s

² International Development Association (Resolution No. IDA 93-6), The World Bank Inspection Panel, September 22, 1993 (“the Resolution”), para 19. Available at:

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>.

³ Inspection Panel Operating Procedures, April 2014. Available at:

<http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>.

determination of the technical eligibility of the Request, observations and review (Section E). The Panel's recommendation is presented in Section F.

B. Description of the Project

10. The Transport Sector Development Project is an IDA Credit of U\$190 million equivalent approved by IDA Board of Executive Directors in December 2009. Additional Financing in the amount of U\$75 million equivalent was approved by the Board on June 16, 2011. Its development objectives were *“to improve the connectivity and efficiency of the transport sector through: (i) improved condition of national road network, (ii) improved capacity for road safety management; and (iii) improved transport sector and national road management.”*⁴

11. The original Project had five components: (a) Upgrading and Rehabilitation of National Roads, including the Gulu-Atiak and Vurra-Arua-Oraba roads (159 km); (b) Enhanced Road Safety, including the establishment of National Road Safety Authority (NRSA) and making the crash data base operational; (c) Preparation of the Kampala Urban Transport Project, and the legislation and establishment of the Metropolitan Area Transport Authority (MATA); (d) Support to the Ministry of Works and Transport (MoWT) to focus on its core function of policy setting, strategic planning, sector oversight and monitoring; and (e) Support to the Uganda National Roads Authority (UNRA) with technical assistance and capacity building activities.

12. The Additional Financing maintained the same development objectives and was approved to provide funding for: (i) upgrading and rehabilitation of the Kamwenge-Fort Portal (66 km) road to bitumen standard and, (ii) technical assistance for strengthening the internal audit functions of UNRA, which is the implementing agency of this additional financing. The Kamwenge-Fort Portal road is part of the national road Nyakahita-Kazo-Ibanda-Kamwenge-Fort Portal (209 km), which connects western Uganda to the Northern Corridor and the Trans-Africa Highway. The World Bank partnered with the African Development Bank (AfDB) to finance the entire 209 km road. The AfDB financed the first 143 km section (Kamwenge-Nyakita), while the World Bank financed the remaining 66 km section (Kamwenge-Fort Portal), the subject of this Request.

13. The Project was assigned an Environmental Category B and triggered the following safeguard policies: OP/BP 4.01 Environmental Assessment; OP/BP 4.04 Natural Habitats; OP/BP 4.36 Forests; OP/BP 4.11 Physical Cultural Resources; and OP/BP 4.12 Involuntary Resettlement.⁵ According to the Project Paper, the Environmental and Social Impact Assessment (ESIA) and Resettlement Action Plan (RAP) developed for the Project were first commissioned by the AfDB and later revised by the World Bank to comply with its safeguard policies⁶.

14. On October 22, 2015, the Bank suspended the financing for the Project due to the Borrower's non-compliance with its obligations to carry out the Project in conformity with

⁴ Project Paper on a Proposed Additional Credit to the Republic of Uganda for a Transport Sector Development Project, World Bank, May 14, 2011, p.1.

⁵ Integrated Safeguards Data Sheet, Appraisal Stage, World Bank, May 9, 2011, p.3.

⁶ Project Paper on a Proposed Additional Credit to the Republic of Uganda for a Transport Sector Development Project, World Bank, May 14, 2011, p.10.

appropriate environmental and social standards and practices.⁷ On December 21, 2015, the Bank cancelled the Project due to the Contractor's failure to remedy instances of non-compliance and the lack of demonstrated willingness from UNRA to address the identified social risks.

C. Summary of the Request

15. The Requesters note their appreciation that the World Bank is financing the upgrading of the Kamwenge-Fort Portal road. Nevertheless, they allege several harms caused by the Project. These harms are summarized below, and the Request is attached as Annex I.⁸

16. Negative impacts of a sexual nature, including child sexual abuse

a) Sex with minors and teenage pregnancy. The Requesters claim that the road workers are engaging in sex with minors and impregnating the community's children. According to them, seven girls from the Rwengobe Primary School became pregnant in 2014, and since 2013 two girls from the Bigodi School also became pregnant, all allegedly by road workers.

b) Increase of sex work. The Requesters allege that the influx of road workers combined with the lack of labor camps has contributed to the emergence of sex work, including underage sex work.

c) Spread of sexually transmitted infections (“STIs”). The Requesters state that the influx of workers from other parts of the country, and the “*absence of a workplace health and HIV/AIDS policy*” have led to the spread of sexually transmitted infections, especially HIV/AIDS.

d) Sexual harassment. The Requesters claim there is reported sexual harassment of female employees by males in decision-making positions. They state that women are left in a vulnerable position due to the fear of losing their jobs and lack of employment alternatives.

17. Child labor and school dropouts

a) Child labor. The Requesters claim an increase in informal businesses along the road construction which has attracted children to work as vendors and car washers. They allege that one child was employed in the construction of the road but when the school became aware of this, the child was fired and given no support to go back to school.

b) School dropouts. The Requesters claim an increase in school dropouts due to teenage pregnancies and child labor. They claim that eight girls from Bigodi and Rwengobe Primary Schools were reported pregnant and dropped out of school.

18. Poor resettlement practices

a) Lack of compensation. The Requesters claim that many project affected people along the road and in trading centers were not compensated, many of whom were affected after the realignment of the road. They also allege that due to vibrations from the construction and operation of the stone quarry, buildings along the road have suffered cracks, and one building was completely destroyed but the owners were never compensated. The Requesters allege that some landowners had their plots affected by the taking of parts of their land or the shifting of power lines to the top of their structures, without compensation. They mention cases in which the proximity of the power lines has made the houses unsafe for habitation, in addition to negative livelihoods

⁷ Management Response to the Request for Inspection Panel Review of the Uganda Transport Sector Development Project - Additional Financing, World Bank, December 17, 2015.

⁸ Annex I also includes the December 2014 request.

impacts because some people lost their home gardens with coffee and banana plantations and were not compensated.

b) Inadequate compensation. The Requesters allege that many landowners have not been compensated in a manner that enables them to “*procure an equivalent piece of land or put up a similar structure.*” They also state that the compensation varies even in the case of landowners in the same location and that the process “*is corrupt.*”

c) Access to the main road. The Requesters claim that some properties, such as a school, production centers and seedling nursery had their access to the road blocked by the road works.

19. **Poor labor conditions**

a) Lack of human resources policy and inadequate labor practices. The Requesters claim that the Contractor does not have a human resource policy and fails to comply with the national labor laws. They allege that poor labor conditions have led to high staff turnover and that “*workers are forced at work for long hours and are dismissed at leisure.*” They also mention the salary paid “*is not enough to match the cost of living.*”

b) Lack of labor camps. The Requesters allege that the Contractor lacks a labor camp for the African laborers, and as a result the labor force is able to mix with the community and “*many wrongdoers pose as workers in the community.*”

20. **Lack of adequate road and workplace health and safety measures**

a) Lack of road safety measures. The Requesters allege that accidents along the road have increased due to lack of safety measures, including speed bumps and road signs, and due to the Contractor’s use of vehicles in poor mechanical conditions, which speed and “*move without lights at night.*” They claim that victims of these accidents are not compensated.

b) Workplace accidents. The Requesters mention the case of a victim of a workplace accident, who had a leg injury and went uncompensated.

21. **Fear of retaliation and lack of participation and access to recourse**

a) Fear of retaliation. The Requesters claim that people do not complain about the Project due to fear of harassment and retaliation.

b) Lack of participation and access to recourse. The Requesters state that there are no consultation meetings where the affected people can express their concerns and that only “*compromised community representatives*” are invited to meetings. They also mention that their attempts to raise concerns with UNRA and the World Bank “*have not led to a response that addresses their needs.*” They allege that the Contractor seems uninterested in their concerns, and managers do not speak the local language. They also allege that complainants incur high expenses to follow-up on their cases and only wealthy landowners can afford court proceedings.

D. Summary of the Management Response

22. On December 18, 2015, Management submitted its response (“the Management Response” or “the Response,” attached as Annex II). In the Response, the Bank states that since August 1, 2013, it had repeatedly found the Project in instances of non-compliance with environmental and social requirements and flagged these to UNRA for remediation. However, concerns specifically related to the sexual misconduct of road workers only came to the Bank’s attention through the December 2014 letter the community sent to the Inspection Panel. Since

then, the Bank alerted the Government of Uganda (GoU), consulted with the Panel, and intensified supervision missions.

23. The Bank states that determining the factual basis of the allegations related to workers' sexual misconduct has been extremely difficult, in part because of the continuous reluctance of community members and officials to discuss such issues. In April 2015, the Bank hired specialized social development consultants and in May 2015, for the first time, the community raised the issue of sex with minors and teenage pregnancies. According to Management, in June 2015 the Bank wrote to the GoU and UNRA to urge that due attention be given to the allegations of sexual misconduct. The letter stressed that law enforcement and child protection agencies needed to follow-up urgently. In October 2015 two child protection specialists were hired. In November 2015, the Bank concluded that there is credible evidence of at least three cases of Project road workers engaging in sexual misconduct with minors, one of which has resulted in a pregnancy.⁹

24. In July 2015, the Bank and UNRA expanded an earlier action plan prepared in February 2015 to address social and environmental impacts to include child protection measures.¹⁰ This new action plan was discussed with members of the Bigodi community in August 2015. However, implementation of the action plan remained slow and unsatisfactory. Ultimately, in October 2015, the Bank suspended the Project due to the Borrower's non-compliance with its obligations to carry out the Project in conformity with appropriate environmental and social standards and practices. In October 21, 2015, UNRA issued a "Notice to Correct" to the Contractor¹¹ based on the ongoing and repeated non-compliance with contractual requirements. This notice cited 36 instances of non-compliance relating to environmental and social requirements, including the conduct of workers. By the deadline given to the Contractor to correct the non-compliance, November 30, 2015, the Contractor had addressed only one of the 36 cited instances, and another instance partially. Subsequently, Management took with UNRA the position that the Contractor is unfit to implement the works in a manner that meets the Bank's standards. Management notes with great concern, however, that UNRA still has not taken credible steps towards the cancellation of the contract.

25. **Workers' sexual misconduct with minors.** Management states that allegations of workers' sexual misconduct with minors are troubling and acknowledges that the measures taken by the Bank and GoU to address such risks were insufficient, and actions taken in response to its materialization were inadequate and slow given the gravity of the allegations and emerging evidence. Management states that the ESIA identified a higher incidence of illicit and unsafe sexual behavior as distinct risks arising from the influx of road workers into the community. The mitigation measures identified in the ESIA and set forth in the Contractor's Environmental and Social Management Plan (ESMP), however, were insufficient and were not implemented; it received the Contractor's ESMP, which includes site-specific mitigation, in July 2015, long after

⁹ Management Response to Request for Inspection Panel Reviews of the Uganda Transport Sector Development Project - Additional Financing, World Bank, December 17, 2015, p.4.

¹⁰ This action plan was developed by the Bank and UNRA as a supervision instrument to guide follow through on the implementation of environmental and social mitigation measures.

¹¹ The Contractor is the China Railways Seventh Group (CRSG). UNRA signed the contract with CRSG on July 11, 2013, and the works commenced on August 1, 2013.

civil works had started in August 2013. Management acknowledges that it should have been more diligent in its follow-up with UNRA to ensure its timely delivery. Further, recognizing the endemic problem of child marriages and teenage pregnancies in Uganda, Management considers that it should have been especially vigilant.

26. **Sexual harassment and exploitation of female employees.** Management states that in October 2015 it met with 12 employees who had claimed harassment at their workplace within the worker's camp.¹² Female employees informed Management that harassment of all types, including sexual, was a common occurrence and was generally unreported since previous reporting did not result in any corrective action. They added that there was no redress mechanism in place. According to Management, this indicates a serious failure to ensure the safety of female employees and contravenes the Contractor's obligations as well as national law.

27. **Spread of HIV/AIDS and other STIs.** According to Management, the local health clinic reported that there was no noticeable increase in HIV/AIDS cases since the beginning of the road works; on average five STI cases are reported daily.¹³ Health Center staff considered underage sexual activity to be a generalized problem. Management notes that the ESIA considered that the influx of male workers would increase the risk of HIV/AIDS transmission and recommended mitigation measures including provision of condoms, HIV/AIDS awareness posters, recruitment of a service provider for professional HIV/AIDS activities, and establishment of worker committees to oversee implementation of HIV/AIDS control activities. Management states that the Contractor did hire a service provider, WSS Services Ltd., to provide HIV testing, counselling and treatment, general health services for all workers and community members, as well as, HIV/AIDS education and sensitization campaigns. However, for several months the Contractor failed to pay the service provider and the service provider, in turn, reduced delivery of services.

28. **Child labor and school dropout.** According to Management, the information available from a number of local schools is not sufficient to determine whether school dropout rates have increased since the works started. Community members confirmed to Management that children are often working during or after school hours mainly helping their parents with agriculture or selling food and other commodities on the road side or washing cars. Management notes that this practice stems from the presence of the road, but has likely increased due to demand from road workers.¹⁴

29. **Compensation for land acquisition.** Management notes that the land acquisition process has been challenging and acknowledges that the compensation has been uneven due to the slow process of payments and lack of information about how entitlements are determined and compensation amounts are calculated. It states that after three revalidation exercises, the determination of entitlements and amounts of compensation to be paid has been addressed. Payments, however, continue to be delayed. To remedy the delays, Management requested UNRA to retain a specialized consulting firm, SURVECO, to ensure accurate and timely

¹² Management Response to Request for Inspection Panel Reviews of the Uganda Transport Sector Development Project - Additional Financing, World Bank, December 17, 2015, p.10.

¹³ Ibid, p.11.

¹⁴ Ibid, p.13.

compensation, but the firm performed poorly and its contract was terminated. According to Management, it is unlikely that UNRA will be able to pay the remaining 33 percent of affected people by the end of 2015 but in any case and in line with the Financing Agreement, the Borrower remains obligated to complete unfinished land acquisition and compensation processes beyond Project closure and the Bank will continue to follow-up and to ensure that relevant policy obligations are met.¹⁵

30. **Consultation and information sharing.** Management stated that during ESIA preparations there were consultations in the 15 sub-counties throughout the four Districts of the Project. It added that since the ESIA no additional consultations were undertaken. Management acknowledged that some community members expressed their inability to voice concerns regarding the road works without fear of retaliation; it recognized that since Project completion is a high priority, there likely was a climate in which complaints were not welcome.

31. Management stated that since the December 2014 letter to the Panel, six consultations took place with the community with the goal of addressing the compensation issues as well as the grave social issues raised in the complaint. In Management's view, there has been a lack of information sharing, which manifested itself mainly when it came to community members understanding how entitlements are determined and compensation amounts are calculated. Management concluded that the Project had no structured information sharing or feedback mechanism for community members.¹⁶

32. **Grievance redress.** According to Management, the Project has a RAP grievance redress committee (GRC), which receives and reviews complaints related to the land acquisition process. Management notes that as of August 2015, the GRC at Bigodi had registered 59 complaints. Management states that UNRA was provided with the list of complaints from the grievance committee log book and each item has been addressed. Management acknowledges that the GRC requires strengthening and a feedback system.

33. **Labor conditions.** Management acknowledges concerns with the labor conditions for workers, including their contracts but that there are no provisions for minimum wage under national law. Management notes, consistently with the Bank's General Conditions of Contract, the contracts and wages of the workers are comparable to the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor. Following the October 2015 mission, Management noted that a key page indicating the salary amount applicable to the specific worker was missing from the workers' contract. Interviews with a few workers revealed that many signed the new contract agreements without knowing their rights and obligations. Management states that it heard allegations that employees have witnessed or suffered physical abuse by Contractor staff and understands that in one instance after negotiations with a worker's lawyer, the Contractor agreed to compensate a worker following allegations of assault by a supervisor.

34. **Workers' camp.** Management states that the Contractor was to set up a workers' camp for all employees, which the Contractor established. However, the camp provided

¹⁵ Ibid, p.14.

¹⁶ Ibid, p.57.

accommodation for Chinese expatriate staff and some of the Supervising Engineer staff but not to Ugandan workers. Management considers the absence of a workers' camp effectively eroded the main mitigation measure against community impacts and acknowledges that Bank supervision has not followed up on ensuring compliance with this provision in the ESIA.¹⁷

35. **Injuries and fatalities.** Management notes that injuries and five fatalities have occurred on the construction site and the stone quarries. Management is committed to follow-up with the GoU on these matters and any related insurance compensation, but safety issues remain a concern to Management. Management also acknowledged road incidents such as trucks veering off-road and injuring workers, hitting public vehicles/motorcycles, injuring community members and hitting cattle. Management states that to date, the Contractor has not rectified the issues.¹⁸

36. **Retaliation.** In its Response, Management reiterated that it remained concerned that an approach needs to be taken to protect all parties involved against retaliation. Management notes that UNRA Executive Director traveled to the Project site on November 19, 2015, met with communities, and participated in a live radio talk show where she stressed the importance of non-retaliation and provided the toll-free UNRA hotline for communities. Management is of the view that the measures taken by UNRA are insufficient and proposed that UNRA puts in place an anti-retaliation strategy, which was not taken up by UNRA.

37. **Institutional capacity.** Management notes that during project preparation and implementation, it failed to adequately assess and make provision for UNRA's weak capacity. UNRA is currently in the midst of an institutional restructuring and has reduced its staff substantially. Management states that it has strongly recommended to UNRA and the GoU to adopt a more strategic and credible approach to addressing these endemic social issues before the Bank can consider financing projects, which could involve significant workforce influx issues.

38. **Supervision.** Management acknowledges that its supervision has been insufficient, especially the attention devoted to addressing the risks to girls from the conduct of road workers (until December 2014). In addition, Management recognizes its failure to respond to UNRA's and the Supervising Engineer's omissions in managing the Contractor properly, or to respond to its failure to act on issues that were identified during previous Bank supervision missions.

39. **Going forward.** Management notes its intention to take various steps: (i) Based on the Contractor's failure to remedy the instances of non-compliance and UNRA's unwillingness to address the risks and overall implementation, to cancel the Project immediately, (ii) Review the Bank's entire portfolio to identify if the concerned Contractor and Supervising Engineer hold other Bank-financed contracts; (iii) Suspend any civil works in the Uganda transport portfolio managed by UNRA pending a review of implementation and supervision strategies; (iv) Review the entire Uganda portfolio with specific focus on sexual misconduct involving minors and child labor; (v) Undertake a global review of the Bank's approach to the mitigation of risks associated with labor influx issues, with the objective of developing staff guidance; (vi) Ensure completion of compensation for land acquisition beyond Project closure and continue to follow-up to ensure that relevant policy obligations are met; and (vii) Commission a review of the Project focusing

¹⁷ Ibid, p.18.

¹⁸ Ibid, p.19

on weaknesses in Bank supervision to inform steps to strengthen the approach generally, and to facilitate the enhancement of staff training and development of targeted guidance for supervision of projects with a similar risk profile.¹⁹

E. Panel Review of the Request and of the Management Response

40. As a result of the postponements in the Management Response, the Panel also postponed its eligibility visit to Uganda to December 18-21, 2015. The Panel team was comprised of Panel Member Zeinab Bashir Elbakri, Executive Secretary Dilek Barlas, and Operations Officer Tamara Milsztajn. In Kampala, the team met with officials of the Ministry of Finance, the Ministry of Works and Transport, and UNRA. The Panel also met with the World Bank Country Director and staff from the Project team. In addition, the Panel met with an expert on child protection from the United States Agency for International Development (USAID). The team visited Fort Portal and several communities along the road, including Bigodi, Kahunge, Rwengobe and Nkingo. The Panel held meetings with JFCU, the Requesters, ten community leaders, leadership and representatives of the Grievance Redress Committee (GRC), and numerous affected people who claim having experienced a wide spectrum of harms. The Panel expresses its appreciation to all of them for sharing their views and exchanging information and insights, and extends special thanks to the World Bank Country Office for assisting with logistical arrangements.

41. The Panel's review is based on information presented in the Request, the Management Response, other documentary evidence, and information gathered during the site visit. The following review covers the Panel's determination of the technical eligibility of the Request according to the criteria set forth in the 1999 Clarification (subsection E.1), observations on other factors (subsection E.2), and the Panel's review (subsection E.3) supporting the Panel's recommendation.²⁰

E.1. Determination of Technical Eligibility

42. The Panel is satisfied that the Request meets all six technical eligibility criteria in paragraph 9 of the 1999 Clarifications. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request.

43. Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”* The Panel has verified that the Requesters include community members that were affected by Project activities. The Panel considers the requirement of paragraph 9(a) as met.

¹⁹ Ibid, p.20.

²⁰ “1999 Clarification of the Board’s Second Review of the Inspection Panel”, April 1999 (“the 1999 Clarifications”) available at <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>.

44. Criterion (b): *“The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.”* The Requesters assert in substance the lack of compliance with various Bank policies resulting in serious harms as described earlier. The Panel is satisfied that this criterion is met.

45. Criterion (c): *“The request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.”* The Panel had received a request related to the Project in December 2014, but it did not register it because Management was not aware of the concerns raised. In September 2015, Requesters stated that they were not satisfied with Management’s response. Therefore, the Panel is satisfied that this criterion is met.

46. Criterion (d): *“The matter is not related to procurement.”* The Panel is satisfied that the claims do not raise issues of procurement and hence this criterion is met.

47. Criterion (e): *“The related loan has not been closed or substantially disbursed.”* At the time of receipt of the Request on September 11, 2015, as noted in the Notice of Registration, the Uganda Transport Sector Development Project – Additional Financing was less than 95% disbursed and the Project was open and thus this criterion is met.

48. Criterion (f): *“The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request.”* The Panel confirms that it has not previously made a recommendation on the subject matter of the Request and thus this criterion is met.

E.2. Panel Observations Relevant to its Recommendation

49. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the Project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. The Panel records below its preliminary observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank’s compliance with its policies and procedures, and any adverse material effect this may have caused.

50. During its visit, the Panel team met with various groups of stakeholders. Community leaders unanimously emphasized the importance of the road and its strategic role in enhancing the socio-economic development of the region. The Panel gathered its observations along different parts of the road including in commercial centers, affected people’s homes and along the road where certain impacts (such as lack of access) were evident. The Panel recognizes the importance of the Fort Portal-Kamwenge road for socio-economic development. The Panel’s field observations on the impacts and the harms are noted below.

51. **Complaints related to harms of a sexual nature (including teenage pregnancy, early marriages, sexual harassment and spread of HIV/AIDS and STIs).** In examining this complaint the Panel had intensive discussions with the Requesters and was able to substantiate some of the alleged sexually related harms, as will be detailed below. The Panel recognizes the extreme sensitivity and complexity of this issue and notes the difficulty of discussing it overtly. Cases are frequently not registered with the Police given the cumbersome process and lack of follow-up action.

52. The Panel was informed of several credible allegations of abuse: (i) the Panel met with a 16 year old orphan girl, who became pregnant from a road worker and was also HIV positive. The Panel understands from JFCU and community leaders that this is a new case that was brought forward for the first time; (ii) the Panel met with another 15 year old girl who had had an illicit relationship with one of the workers; (iii) the Panel met with a 17 year old girl who has a 6 months old baby from one of the road workers, dropped out of school, and currently lives with her mother. She mentioned that she was aware of at least seven other cases of girls who had illicit relationships with road workers. The girl also stated that school girls were subject to sexual harassment by the workers on the way to and back from school, and were lured by offers of small gifts. The Panel understands that in almost all of these cases the workers abandoned the girls and their child. In its response, Management concludes that there is credible evidence of at least three cases of Project road workers engaging in sexual activity with minors. While the Panel is not able to confirm the number of cases of child sexual abuse connected to road workers, it is possible that this may be a widespread problem among the communities along the road.

53. Furthermore, the Requesters and community leaders confirmed the allegations of sexual harassment of female employees of the Contractor. Management Response also acknowledges the existence of this problem.

54. During the Panel's visit, the Requesters also reiterated their allegation of increase in the spread of STIs and HIV/AIDS as a result of the influx of workers. Management Response acknowledges the higher prevalence of HIV/AIDS in the Project area compared to the national average, adding that there has not been a noticeable increase "*since the beginning of the road works.*"²¹ The Panel understands that the Contractor had recruited a service provider (WSS Services Ltd.) to work on these issues, whose mandate was subsequently expanded at the behest of the Bank to include child protection. The Panel heard many complaints about the capacity of this provider whose experience was in the area of engineering, rather than social and health issues, and understands that it has not been paid in a timely fashion, which led it to reduce its delivery of services.

55. The Panel learned that according to national statistics the teenage pregnancy rate is 24.8% and 58% of women aged 15-19 had experienced physical or sexual violence.²² Despite this context, the Panel observes that when the first request was received in December 2014, the Bank's initial position was that allegations of sexual abuse were issues of a criminal nature and needed to be confirmed and handled by Ugandan law enforcement agencies. In its response,

²¹ Management Response to Request for Inspection Panel Reviews of the Uganda Transport Sector Development Project - Additional Financing, World Bank, December 17, 2015, p.11.

²² Situation Analysis of Children in Uganda, UNICEF, 2015.

Management acknowledges that the measures taken to date by the Bank and GOU to identify “risks of sexual misconduct were insufficient, and that actions taken in response were inadequate and too slow given the gravity of the allegations and emerging evidence.”²³

56. **Involuntary resettlement and compensation.** Requesters and community leaders explained significant and continuous delays in the resettlement process, the adverse impacts on their lives, and noted that works commenced prior to compensation. The dominant complaint was that there was a lack of information and confusion regarding eligibility for compensation, valuation of assets, lack of adequate and timely compensation, and general lack of consultations with affected people.

57. The Panel met with several affected persons living or owning businesses along the road, whose plots were reduced, who had to move their entire houses or lost gardens on whose produce they were at least partially dependent for their livelihoods. There were also complaints about the amount of compensation, especially in cases where there was damage to structures resulting from vibrations, dumping of soil in front of houses, partial taking of land, or in extreme cases trees or large stones falling on houses. In addition, the community mentioned inappropriate drainage measures resulting in the pollution of an important communal well, for whose loss they have not been compensated. Some people also complained that they had never been paid, citing underlying corruption issues.

58. Requesters also identified instances where electricity poles and transmission lines were shifted to accommodate realignment of the road, which are now dangerously close to several houses. Although this issue was partially addressed following the recent visit of the new Executive Director of UNRA, it still remains of concern to the community.

59. People were informed by the service provider recruited by UNRA in March 2015 (SURVECO) that houses with an “X” mark on them would receive compensation. The Panel observed, in different sections of the road, that although houses or businesses existed along the same strip, with similar distance to the road, some were marked for compensation and some were not, creating confusion among the affected people. Many complaints were voiced about the capacity of SURVECO to undertake this resettlement process, and this was confirmed by UNRA, who terminated its contract in October 2015. The Panel observes that despite the relatively low number of affected persons to be resettled or compensated, the slowness of the process and the numerous problems encountered were compounded by the weak capacity of UNRA. Management acknowledged UNRA’s weak capacity in its Response and noted that Project preparation and implementation supervision failed to assess and address this issue.

60. The Panel learned that there was no updated baseline survey by the time implementation commenced. Management notes that three supplementary valuation reports were developed to cover the affected people who were not initially contemplated in the 2011 RAP. These new valuations were prepared due to the realignment of the road and because there were a number of appeals registered with complaints related to undervaluation and lack of compensation. Management indicates that information provided by UNRA shows that to date 67% of all

²³ Management Response to Request for Inspection Panel Reviews of the Uganda Transport Sector Development Project - Additional Financing, World Bank, December 17, 2015, p.5.

affected people have received compensation and that UNRA expects that the remaining 33% will be paid by the end of 2015, but as stated earlier, Management maintained that this target date was unlikely to be met.

61. The Management Response maintains that affected people's concerns regarding the entitlements and amounts of compensation were addressed as a result of increased attention to this aspect of the Project during supervision, with the acknowledgement of continuous delays. In view of Project cancellation, the Management Response states: "*in line with the Project's Financing Agreement, the Borrower remains obligated to complete unfinished land acquisition and compensation processes beyond Project closure and the Bank will continue to follow-up and to ensure that relevant policy obligations are met.*"²⁴ During its field visit, however, the Panel observed that the prevailing resettlement related issues go beyond delays in payments and remain unresolved.

62. **Road design and access.** The Panel clearly documented difficulties of access created by the road: In some parts the road is too high but in others it is too low compared to the siting of houses and amenities, with the result that the road becomes inaccessible from certain locations, thus hindering the transportation of agricultural products. In many households, the current road design and pavement impedes the access of elderly and disabled to it. Furthermore, the community is having great difficulty in accessing its seedling nursery and several of its tourist trails, where tourism constitutes an important economic activity in an area inhabited by 200 rare bird species and 8 primates. The Panel was informed by the community GRC that repetitive complaints about this situation to the Contractor and the Bank had not resulted in any action. When the Panel relayed this to UNRA, it was clear that they were aware of the situation and were, according to them, working with the Contractor to develop temporary access points.

63. During its visit, the Panel was also informed that construction works in the Kibale National Park, an important forest conservation area home to endangered species including chimpanzees, had started prior to the issuance of the required permit from the Ugandan National Wildlife Authority (UWA). In addition, the Panel was told that the Contractor had been suspended previously due to the operation of stone quarries without environmental approval from the National Environmental Management Authority (NEMA). This was confirmed by Management in its Response.

64. **Poor labor conditions, child labor and workplace safety.** The Panel met with three victims of workplace injuries. One victim fell from the Contractor's truck and suffered a spinal injury. Another victim was allegedly kicked by his supervisor, fell, broke his ribs and suffered a spinal injury. The third victim had a leg injury caused by a concrete mixer. The Panel was also informed about an accident involving a child who fell into one of the stone quarries used for the road construction. Other cases are cited in the Management Response, including fatalities. The Panel heard that the victims or their families did not receive adequate compensation.

65. Regarding child labor, the Panel was told about the case of a 17 year old who worked as a flag boy for the Contractor. Management acknowledges that the Supervising Engineer failed to identify this case. The Panel also observed the lack of a workers' camp for the Ugandan laborers.

²⁴ Ibid, p.14.

In addition, the Panel heard complaints about poor working conditions. Management Response also raises issues regarding such conditions in the worker's contracts. The community informed the Panel that many of the old trucks used by the Contractor were recently replaced by new ones and the workers were given vests and helmets. The Panel notes these improvements; however, safety and other concerns mentioned above persist across the communities.

66. **Lack of road safety measures.** Several complaints were raised concerning the issue of road safety. The Panel met with two persons who suffered road accidents linked to the Project. One of the victims included a 12 year old girl who was overrun and dragged along by a speeding truck. As a result of the serious head injury, she had to drop out of school. The other person was a paralyzed woman who had been run over by the vehicle of the Contractor's security guard. One person informed the Panel of at least ten other cases.

67. The victims had not received compensation, and in some cases their medical bills were not covered. The Panel also learned from various documents that there is a lack of record keeping of injuries and accidents. Accidents were attributed to reckless driving, use of old vehicles often lacking requisite brakes and lights and lack of speed bumps and appropriate road signage. The Panel also witnessed several instances on the road where old trees or branches were used in lieu of proper road signs to either indicate that a certain section of the road was unpassable or to regulate traffic. The Panel stresses that it observed serious issues pertaining to lack of road safety.

68. **Lack of consultation and information.** Requesters reiterated their complaint regarding lack of consultation and information sharing with the community during project preparation and road construction. The Panel witnessed a serious information gap between UNRA, the Contractor and the Bank on the one hand, and the community on the other. Generally this information gap not only related to issues of compensation but also to issues surrounding road safety and access, and issues of sexual harm. Management acknowledges in its Response that *"the Project had no structured information sharing or feedback mechanism for community members."*²⁵

69. **Grievance redress.** Community leaders told the Panel that due to the lack of a functioning project level grievance redress mechanism they established a community-led GRC approximately six months ago. This GRC started compiling resettlement and other complaints, which were presented to both SURVECO and UNRA. The Panel notes that the Management Response makes no distinction between the project level grievance-redress mechanism and the GRC established by the community. Moreover, the Panel was informed that there is no systematic feedback loop between the GRC and UNRA. The Panel also observed that the GRC lacks capacity and support and there are no formal recourse mechanisms for the community.

E.3. Panel Review

70. As noted above, the Panel observes that the issues of harm raised in the Request are of a serious nature impacting the wellbeing and livelihoods of the Requesters and other affected

²⁵ Ibid, p.14.

people. The Panel further observes that these harms are linked to the Project activities, as acknowledged in the Management Response.

71. As stated earlier, the issues in the Request deemed to be of a serious nature were initially flagged to Management by the Panel in December 2014, when the Panel received the first Request. In line with the Panel’s governing framework, it did not register the Request at the time, providing the possibility for Management to address the issues. In September 2015, the Requesters informed the Panel that they were not satisfied and thus the Panel was able to register it. The Bank suspended the Project effective as of October 22, 2015 citing “*the Borrower’s non-compliance with its obligations to carry out the Project in conformity with appropriate environmental and social standards and practices.*”²⁶ The Bank cancelled the Project on December 21, 2015. Table 1 below provides a summary of the sequence of events:

Date	Event
December 19, 2014	Panel receives complaint including serious allegations. Requesters have not contacted Management previously.
January 21, 2015	Panel issues Notice of Receipt.
January – August 2015	Five Bank supervision missions in response to complaint.
July 13, 2015	A Bank’s Back to Office report confirms for the first time the sexual allegations connected to road workers.
September 11, 2015	Panel received Request in which Requesters express lack of satisfaction with Management actions.
September 28, 2015	Panel registers the Request.
October 2015	Bank hires two child protection specialists. Mission confirms more cases of school dropouts due to teenage pregnancies caused by road workers.
October 22, 2015	The Bank suspends disbursements.
November – December 2015	Bank conducts two missions to the field. An additional case of sexual harm is confirmed.
December 18, 2015	Management issues its Response.
December 18-21, 2015	Panel visits the Project site.
December 21, 2015	The Bank cancels the Project.
December 29, 2015	Two additional projects in Uganda suspended.

72. In its Response, Management acknowledges many of the harms raised in the Request and their seriousness. The Response accepts that supervision has been insufficient and that many of the mitigation measures identified in the ESIA and included in the ESMP were insufficient, not commensurate with the scale of risks or not implemented. In addition, Management states that the Project’s preparation and implementation failed to assess and address UNRA’s weak capacity.

73. On December 22, 2015, the Bank’s President issued a press release noting that “*it is our obligation to properly supervise all investment projects to ensure that the poor and vulnerable*

²⁶ Ibid, p. vi.

*are protected in our work. In this case, we did not.*²⁷ The President added that the Bank will work with the GOU to support the affected community, help ensure that people are protected from retaliation and address deeply rooted social problems. In addition, the President maintained that the Bank will conduct reviews to assess related risks in other parts of the Bank program in Uganda. The Bank also committed to conduct its own review of the Project which will include a focus on supervision. In this context, two additional projects in Uganda were suspended on December 29, 2015.²⁸

74. The Panel understands that the GOU intends to complete the road using its own resources. Despite the new momentum spurred by the efforts of the GRC, community leaders, JFCU, and change in the leadership of UNRA, the risks of serious harms for the community are likely to persist.

F. Recommendation

75. The Panel considers the alleged harms to be linked to the Project, and that the Request raises important issues of harm and policy non-compliance. The Requesters and the Request meet the technical eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification. In addition, Management has acknowledged the serious harms faced by the community and shortcomings in policy application, as stated in the Management Response.

76. The Panel therefore recommends carrying out an investigation into the alleged issues of harm and related potential non-compliance with Bank policies, including on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12), in addition to Bank requirements related to gender, risk assessment, project design, appraisal and supervision.

77. The Panel also notes Management's expressed willingness to learn appropriate lessons from this Project for potential future operations. The Panel notes Management's commitment to ensure its support for the community with a view to minimizing the prevailing risks and harms still to be addressed.

78. Finally, the Panel trusts that the Bank will remain vigilant and will work closely with Government counterparts to put in place robust measures to prevent retaliation against Requesters and community members, to prevent additional harms to the community, and to provide the needed redress for the harms that have already occurred.

²⁷ Press Release: World Bank Statement on the Cancellation of the Uganda Transport Sector Development Project, December 21, 2015. Available at: <http://www.worldbank.org/en/news/press-release/2015/12/21/wb-statement-cancellation-uganda-transport-sector-development-project>.

²⁸ The two projects suspended were the Albertine Region Sustainable Development Project and the North Eastern Road-Corridor Asset Management Project.