

REPORT No. 124033-ZR

**DEMOCRATIC REPUBLIC OF CONGO
SECOND ADDITIONAL FINANCING FOR THE HIGH-PRIORITY
ROADS REOPENING AND MAINTENANCE PROJECT
(P153836)**

INVESTIGATION REPORT



APRIL 27, 2018

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Abbreviations and Acronyms

| | |
|----------|--|
| ACE | <i>Agence Congolaise de l'Environnement</i> (Congolese Environment Agency) |
| AF1 | First Additional Financing |
| AF2 | Second Additional Financing |
| ARAP | Abbreviated Resettlement Action Plan |
| BEGES | <i>Bureau d'études en Gestion environnementale et sociale</i> (Environmental and Social Management Agency) |
| CAS | Country Assistance Strategy |
| CESOR | Environmental and Social Unit of the <i>Office des Routes</i> |
| CI | <i>Cellule Infrastructures</i> (Infrastructure Unit) |
| CPF | Country Partnership Framework |
| CSO | Civil Society Organization |
| DRC | Democratic Republic of Congo |
| DFID | United Kingdom Department for International Development |
| ECC-MERU | <i>Eglise du Christ au Congo – Ministère de l'Eglise pour les Réfugiés et les Urgence</i> (Church of Christ in Congo – Ministry of Refugees and Emergencies) |
| EHS | Environmental Health and Safety |
| ESAP | Environmental and Social Advisory Panel |
| ESIA | Environmental and Social Impact Assessment |
| ESMF | Environmental and Social Management Framework |
| ESMP | Environmental and Social Management Plan |
| FARDC | <i>Forces Armées de la République Démocratique du Congo</i> (Congolese Armed Forces) |
| FCV | Fragility, Conflict, and Violence |
| FGD | Focus Group Discussion |
| GBV | Gender-Based Violence |
| GRC | <i>Comités Locaux de Réinstallation et de Gestion des Litiges de base</i> (Local Grievance Redress Committees) |
| GRM | Grievance Redress Mechanism |
| HIV/AIDS | Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome |
| ICCN | <i>L'Institut Congolais pour la Conservation de la Nature</i> (Congolese Institute for Nature Conservation) |
| ICR | Implementation Completion Report |
| IDA | International Development Association |
| IDP | Internally Displaced People |
| IEC | Information, Education, and Communication |
| IFC | International Finance Corporation |
| IPP | Indigenous Peoples Plan |
| IPPF | Indigenous Peoples Planning Framework |
| ISDS | Integrated Safeguards Data Sheet |
| ISR | Implementation Status and Results Report |
| MIPW | Ministry of Infrastructure and Public Works |

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| MONUSCO | <i>Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo</i> (United Nations Organization Stabilization Mission in the DRC) |
| NGO | Non-Governmental Organization |
| OdR | <i>Office des Routes</i> (Roads Agency) |
| OP/BP | Operational Policy/Bank Procedure |
| PAD | Project Appraisal Document |
| PAP | Project Affected Person |
| PIU | Project Implementation Unit |
| PK | Project Kilometer |
| PPE | Personal Protection Equipment |
| RAP | Resettlement Action Plan |
| RARIP-RGL | <i>Réseau d'Analystes des Relations Internationales pour la Paix dans la région des Grands Lacs</i> (Analysts Network of International Relations for Peace in the Great Lakes region) |
| RN2 | Bukavu-Goma Road |
| RN4 | Beni-Kasindi Road |
| RN27 | Komanda-Bunia-Goli Road |
| RPF | Resettlement Policy Framework |
| SARCAF | <i>Service d'Accompagnement et de Renforcement des Capacités d'Auto Promotion de la Femme</i> (Support and Capacity Building Service for Women) |
| SGBV | Sexual and Gender-Based Violence |
| SOPROP | <i>Solidarité pour la Promotion Sociale et la Paix</i> (Solidarity for Social Promotion and Peace) |
| STI | Sexually Transmitted Infection |
| SZTC | <i>Société Zhengwei Technique Cooperation SARL</i> (the Contractor) |
| TSDP | Uganda Transport Sector Development Project |
| UES-CI | <i>Unité Environnementale et Sociale de la Cellule Infrastructure</i> (Environmental and Social unit of CI) |
| UNFPA | United Nations Population Fund |
| USD | United States Dollar |

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Executive Summary

Background

1. This Investigation Report (the “Report”) responds to a Request for Inspection (the “Request”) of the Second Additional Financing for the High-Priority Roads Reopening and Maintenance Project (the “Project” or “AF2”). The Inspection Panel (the “Panel”) received the Request on August 3, 2017, from community members (the “Requesters”) living in Goma and its vicinity in the Democratic Republic of Congo (DRC). They alleged harm from the Project’s Bukavu-Goma road works, with a focus on livelihood impacts, gender-based and other physical violence to the community, labor issues, and impacts on indigenous peoples.

2. The Panel registered the Request on September 13, 2017, and after visiting the Project area from November 6-11, 2017, submitted its Report and Recommendation to the World Bank’s Board of Executive Directors (the “Board”) on November 21, 2017, confirming the eligibility of the Request and recommending an investigation. The Board approved this recommendation on December 8, 2017. On December 13, 2017, the Panel published its Investigation Plan on its website. A Panel team traveled to the Project area from January 17-31, 2018, to conduct its investigation visit.

Project Context

3. The International Development Association has supported the overall operation (“Pro-Routes”) with a total amount of USD238.3 million equivalent. The parent project of USD50 million equivalent was approved by the Board in March 2008 and its first additional financing (AF1) in the amount of USD63.3 million equivalent was approved in June 2011 to scale up activities. The Project, which is the second additional financing, in the amount of USD125 million equivalent was approved to expand the coverage of Pro-Routes further. The development objective of the Project is to “re-establish lasting road access between provincial capitals, districts and territories in the Project implementation area in a way that is sustainable for the natural environment.”

4. The Project provides funding for the maintenance of roads that were reopened under the parent project and for the reopening of the following three new road sections: (i) the Komanda-Bunia-Goli road, (ii) the Beni-Kasindi road, and (iii) the Bukavu-Goma road linking the North and South Kivu regions (RN2). In addition, two road sections for which construction was delayed would be reopened: (i) the Dulia-Bondo road, and (ii) the Akula-Gemena-Libenge-Zongo road. RN2 is the focus of this investigation.

5. DRC is suffering from the devastating impacts of war and prolonged conflict, and the Project has been implemented in an extremely fragile development environment in the eastern part of the nation. In 2016, when the Project was approved, the development of the transport sector was a key element of the Government’s policy to stimulate economic growth, contribute to poverty reduction, and provide basic connectivity within the country. In this context, the Panel recognizes the critical importance of the sector to increase agricultural output, improve trade competitiveness, and support isolated communities.

Request for Inspection and Management Response

6. The Request for Inspection alleged loss of property, loss of livelihoods, use of violence against the community – including gender-based violence (GBV), and seizure of indigenous communities’ resources as a result of the Project’s implementation. Specifically, it alleged the Congolese Armed Forces (*Forces Armées de la République Démocratique du Congo* or FARDC), engaged by the Project’s Contractor to provide security, have occupied a quarry that is operated by the Requesters and is their source of income and livelihood. The Requesters also claimed there has been violence against the community and sexual violence against women during Project implementation. They further contended that the Contractor employed young boys as daily laborers and confiscated a portion of the workers’ salaries. The Requesters claimed the two communications addressed to Bank Management in April and June 2017, respectively, went unanswered.

7. In its Response of October 20, 2017, Management noted that the security situation has affected its ability to access the Project area for supervision. Management acknowledged its lack of response to the communications sent by the Requesters. However, Management explained that once informed by the Panel of the complaint, Management sent a team to investigate the issues and to follow up with the Borrower regarding identified instances of non-compliance. According to Management, the Request appeared to be a commercial dispute between the Contractor and one Requester who operates a quarry that was resolved, and the Requesters were compensated for their losses. Management stated it became aware of allegations of excessive use of force by the Contractor’s security personnel and measures were taken to address this issue including the formalization of an ad hoc arrangement between the Contractor and FARDC, the reduction by half of military personnel engaged by the Contractor, the removal of personnel accused of abuses, and training of the security personnel by United Nations Organization Stabilization Mission in the DRC (MONUSCO).

8. In its Response, Management noted that despite its best efforts it had been unable to substantiate either any GBV claims or any case of child labor employed by the Project. Management noted that all outstanding compensation to the quarry owners and operators as a result of exploitation of their quarries and borrow pits has been paid and an audit has been commissioned to verify the payments. Management stated it agreed on an action plan with the Borrower to address the concerns raised by the Requesters, including those related to retaliation, GBV, use of military personnel, and working conditions.

9. On November 27, 2017, Management submitted an update to its Response to inform the Board and the Panel of recent developments. The update explained that Management, during its fourth high-level mission to the Project site since the Request was received, met with survivors of the alleged gender-based violence and accompanied them to a service provider for GBV support. Management also met with several Government authorities to communicate the gravity of the Panel’s observations and to secure the local authorities’ commitment to prevent any form of retaliation against the complainants or victims of GBV. The update noted that given the seriousness of the alleged harm and the shortcomings in the Borrower’s supervision and reporting mechanisms, Management had suspended disbursements against all civil works components under the Project. The suspension came into effect as of November 27, 2017.

Panel Findings

10. During field visit interviews and focus group discussions (FGDs) with Requesters and other members of the community, and meetings with other stakeholders, the Panel verified many of the claims of harm included in the Request. The Panel's investigation findings relate to: (i) Project preparation and stakeholder engagement, (ii) livelihoods, community health and safety, and labor impacts, (iii) gender-based violence, and (iv) Project supervision and the Bank's response.

Project Preparation and Stakeholder Engagement

Project Preparation

11. The Panel understands from the review of the documents and staff interviews that the Project as originally planned would have extended the overall implementation period of Pro-Routes to 11 years and 10 months. After several rounds of discussions and consultations on different options, Management decided to shorten the Project timeline so that the overall implementation period of Pro-Routes remained within 10 years. Thus, Management did not have to prepare an Implementation Completion Report (ICR), and adapted Project activities accordingly. Therefore, the Project's proposed closing date was changed and the implementation period shortened by 22 months. The Panel notes that Project preparation proceeded without seriously reviewing whether implementation systems were adequate, whether capacity constraints remained, and whether the risk profile had changed since the Project was going to be implemented in riskier parts of the country and during a shorter period.

12. Although the site-specific safeguard instruments for the other two new roads financed under AF2 were disclosed, consulted and finalized during Project preparation, the development of these documents for RN2 was left for Project implementation. As a result, the Project proceeded based only on framework documents for RN2, namely the Environmental and Social Management Framework (ESMF), Resettlement Policy Framework (RPF) and Indigenous Peoples Planning Framework (IPPF). The Project Paper does not explain the reason for this approach. The RPF refers to delays in technical studies and difficulty in accessing some roads due to the security situation as the reason behind the choice of instrument.

13. The Panel notes that the framework approach is normally applied to projects with a series of sub-projects when impacts cannot be determined until the program or sub-project details have been identified. In the case of RN2 it is unclear why the Project proceeded with framework documents considering the Project was financing the rehabilitation of an existing road. Management explained this was due to the security situation which prevented the preparation of the safeguard documents. The Panel notes, however, that there was no measure introduced in the Project design to ensure the timely and adequate preparation of these documents during Project implementation. In fact, there were delays in the preparation of certain site-specific safeguards documents during Project implementation, their quality was inadequate, and they were not adequately consulted with the communities along the road.

14. From the start of the parent project in 2008 a highly complex institutional structure involving multiple layers governed project implementation and monitoring. These arrangements continued during AF1 and the Project. The Panel notes that there were too many entities involved whose roles were inadequately defined and whose responsibilities were diluted, in an environment already characterized by capacity constraints. In addition, the individual entities lacked adequate capacity to fulfill their responsibilities.

15. The Project Paper rated the overall risk as “high.” Specific risk categories identified include political and governance issues, macroeconomic factors, sector strategies and policies, technical design, institutional capacity for implementation and sustainability, environmental and social considerations, and disaster and climate change issues. Given the weak assessment of risks and their potential impacts, the proposed mitigation measures envisioned under the Project were, in turn, inadequate. This was particularly true for the risks associated with the security situation. Since no security arrangement was designed for Project implementation, no mitigation measures were put in place to manage social risks that could emerge from the use of military forces.

16. DRC’s fragile and post-conflict context poses major project preparation and implementation challenges. Institutional capacity constraints in DRC are well known to Management. Furthermore, the Project expanded road works into areas that presented more challenging security conditions than earlier phases. Yet the Project was prepared following institutional arrangements and risk assessments similar to those used for the parent project and AF1, and without taking into account their shortcomings and the changing environment.

17. The Panel finds that the institutional assessment in the context of Project preparation improperly considered capacity constraints and weaknesses experienced in previous phases of the operation. The Panel also finds that the Project’s overall analysis of risks and their impacts, particularly regarding the security risks, was inadequate. Therefore, the mitigation measures fell short of adequately protecting affected communities from harm. The Panel finds Management’s design and preparation of the Project in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).

Stakeholder Engagement

18. The Panel concludes that the environmental assessment process was based on weak stakeholder engagement. First, there is no indication that Project-affected communities were provided with relevant and culturally appropriate information prior to the consultation meetings and that the documents were made available in local languages. Second, participation of affected communities along RN2 was rather limited and the consultations for the update of the ESMF seemed to have been the same as those for the Environment and Social Impact Assessment (ESIA). Third, the very general nature of the subjects raised and the discussions reflected in the meeting minutes indicates that consultations consisted of information sharing rather than meaningful discussions of issues of concern. Finally, it is unclear how the concerns of community members were considered in the Project design.

19. The Panel notes that despite the differing objectives of consultations for the environmental assessment and resettlement process, the two consultation processes seem to have been combined. It is unclear to what extent project-affected persons (PAPs) were properly informed about their

rights pertaining to resettlement, eligibility criteria, and the compensation process. The Panel understands that most safeguards documents were disclosed on the DRC Ministry of Environment, Nature Conservation and Sustainable Development website and the World Bank's external website. However, it could find no indication that these documents were available locally.

20. The weak stakeholder engagement and absence of monitoring agencies' field presence was aggravated by the fact that community members could not properly communicate with the Contractor, since the supervisors spoke Chinese but not French, Swahili, or other local languages. Workers and community members shared instances with the Panel of continuous miscommunication and misunderstandings, resulting in frustration and sometimes violence. The Panel was told the already-difficult relationship with the Contractor deteriorated further when forceful occupation of quarries under military protection started, water pipes were ruptured, and crops were destroyed.

21. The Panel notes that although the safeguard documents laid out the establishment of a Grievance Redress Mechanism (GRM), the mechanism was not operational prior to receipt of the Request and community members had no avenue to raise their concerns. While the monthly reports of the Contractor's Environmental Specialist prior to September 2017 consistently mentioned the lack of a grievance mechanism, there was no follow-up to address this issue.

22. The Panel notes that it was only after receipt of the Request that the Project made a serious effort to engage with affected communities and establish a GRM. The Panel notes that the absence of a functional GRM coupled with the lack of robust supervision by Management meant it was unaware of the serious problems that Project implementation was facing and the resulting harms.

23. For the reasons above, the Panel finds Management in non-compliance with the consultation and disclosure of information requirements of the Bank Policies on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12).

24. The Panel finds Management's failure to ensure the timely establishment of an accessible, transparent, and effective Project GRM in non-compliance with the Bank Policy on Involuntary Resettlement (OP/BP 4.12). The Panel understands that following receipt of the Request Management made efforts to ensure the establishment of a GRM for the Project.

Livelihood, Community Health and Safety, and Labor Impacts

Livelihood Impacts

25. The Panel notes that the exploitation of many quarries used for the Project took place in the presence of military forces and without required documents and adequate processes for commercial negotiation. The Contractor proceeded with exploiting the quarries and borrow pits without prior agreements and payments to the quarry operators and their workers. The Panel also notes that there were no exploitation and restoration plans available prior to the exploitation of the quarries and borrow pits. A sand mining site near a camp of Internally Displaced People (IDP) was also exploited by the Contractor without prior agreements and/or payments. Following the receipt of the Request by the Panel in August 2017, the Bank team that traveled to the Project area for the first time found

serious issues of quarry mismanagement and prepared an action plan to restore compliance with Bank policies and to finalize compensation agreements for all affected sites. In September 2017, Management noted that compensation to quarry owners had been finalized and an audit was to be conducted to assess the agreements and their implementation.

26. The Panel notes that the exploitation of quarries in this specific context constitutes involuntary resettlement in accordance with OP/BP 4.12 for the following reasons: (i) there was a taking of land resulting in the loss of assets and income sources after a Provincial Order declared 12 quarries as open for exploitation of construction materials necessary for the rehabilitation of RN2, and quarry operators and workers could not access and operate their quarry sites; (ii) the nature of the land taking was involuntary, since the quarry operators and workers gave no informed consent to the exploitation nor had any power of choice as the exploitation took place in the presence of military forces and before agreements were reached; and (iii) both quarry operators and workers experienced direct economic impacts as they lost their incomes during the Contractor's operation of their quarries, thus affecting their livelihoods.

27. The Panel reviewed many extraction agreements that were signed between the Contractor and quarry operators after the quarries had already been exploited. The Panel notes that there is a large discrepancy between the compensation amounts and that the agreements did not include the extracted volumes of materials, nor the methodology used to calculate these compensation amounts. The Panel also notes it has not received a detailed report assessing the adequacy of payments made to quarry operators and workers, and that from the available information it is impossible to assess whether they were compensated adequately and in accordance with OP/BP 4.12.

28. Furthermore, the Panel notes that the impacts of quarry exploitation on agricultural assets and related livelihoods were not identified and compensation was not provided to affected people before their loss. The Abbreviated Resettlement Action Plan (ARAP), updated after receipt of the Request, found that the road rehabilitation led to: (i) loss of agricultural assets and tree species during the exploitation of quarries and borrow pits, (ii) loss of structural assets (house dwellings), and (iii) loss of commercial income resulting from the displacement of commercial infrastructures (such as kiosks) during quarry operation. The Panel acknowledges Management efforts following the receipt of the Request to compensate the affected people, but questions the adequacy of the baseline survey conducted after the taking of assets.

29. The Panel finds the exploitation of quarries without the required authorizations, prior commercial agreements and related payments, and quarry management and restoration plans is in violation of the Project's Environmental and Social Impact Assessment (ESIA) and Environmental and Social Management Plan (ESMP) in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).

30. The Panel further finds that the exploitation of quarries in the specific context of this Project constitutes involuntary resettlement in the form of economic displacement in accordance with Bank Policy on Involuntary Resettlement (OP/BP 4.12), as there was an involuntary taking of land resulting in the loss of assets and income sources of the quarry operators and workers. The Panel notes the importance of providing compensation to quarry operators and workers for their loss of incomes and livelihoods in accordance with OP/BP 4.12.

31. In addition, the Panel finds that Management did not ensure an adequate and timely baseline survey of agricultural assets of impacted community members, which were destroyed during quarry exploitation before compensation was paid. Thus, the Panel finds Management in non-compliance with Bank Policy on Involuntary Resettlement (OP/BP 4.12).

Community Health and Safety

32. The area near RN2 has historically experienced high levels of security risk. Against this background, the Contractor engaged FARDC for the protection of its camp, equipment and works. However, there was only a verbal agreement between the Contractor and FARDC, with no clear definition of the responsibilities of each party. The Panel notes that despite widespread well-documented abuses by FARDC in eastern DRC, the Contractor did not at the outset develop a strategy for mitigating and monitoring the risks of violence, nor was this a focus of Management. Incidents of violence were reported by the Contractor's Environmental Specialist, the Supervising Engineer, and the *Bureau d'études en Gestion environnementale et sociale* (BEGES), the environmental and social management agency. Although many cases of violence were recorded, the Panel found no consolidated register of incidents, as reporting was inconsistent and incomplete and done by multiple actors.

33. The ESIA did not identify any risks associated with violence against the community by the use of security forces, and incidents of violence were not discussed in the Project's Mid-Term Review of June 2017, even though incidents had taken place before then. After receipt of the Request, however, Management took several actions to address security issues, including ensuring the training and screening of military personnel, the application of the Code of Conduct to the military personnel, the reduction of the number of military personnel engaged by the Contractor and the substitution of members of FARDC forces by the military police.

34. While the application of the Contractor's Code of Conduct to military personnel engaged by the Contractor is a step in the right direction, the Panel stresses the importance of ensuring the Code is enforced and that force is only deployed defensively and proportionally. The Panel also emphasizes the need for establishing a reliable reporting system, with an accurate incident log and timely reporting of serious incidents, as well as reviewing the need for any disability compensation for victims of violence.

35. The Panel notes the absence of relevant Bank policy or guidelines on security arrangements presents a policy gap that may have contributed to harm. Even in the absence of a specific policy, however, had Management undertaken a robust risk analysis of the security situation in eastern DRC at the outset and kept itself informed about the situation on the ground through field-based supervision, harm relating to use of violence or intimidation could have been uncovered and mitigated earlier. Moving forward, the Panel hopes there is a proactive management of security in the Project to protect against and mitigate security risks that could threaten local communities.

36. The Panel observed insufficient road signage and other safety measures, especially near quarries, bridge construction and other work sites and around schools. The Contractor had also reported deficiencies, such as lack of fencing and signage around worksites and insufficient signage for speed limits. The Supervising Engineer started to systematically supervise and report on road incidents and accidents only after the receipt of the Request. Management acknowledged

under-reporting by the Contractor in October 2017 and advised the *Cellule Infrastructures* (CI), the Project implementing agency, to issue an immediate order to the Contractor to improve its practices. While the Contractor and Supervising Engineer both reported that the Contractor paid for victims' hospital fees and damages to vehicles, it is not clear to the Panel whether all victims were identified and received adequate compensation. The Panel concludes that neither the Project entities nor Management paid sufficient attention to road safety risks and accidents before receipt of the Request.

37. The Panel notes that several breakages of water supply pipes to villages along RN2 caused serious harm to communities. The Contractor acknowledged responsibility for damage to the water systems in 15 locations. In the case of an IDP camp, a rupture affected 365 households with about 2,000 people. Initial corrective measures were apparently taken only after 35 days. After a repeat breakage, the date of which is disputed, water supply was only restored in November 2017. These water ruptures happened during a cholera outbreak.

38. The Panel also notes that while the risk of disruption to water supply is common in road construction, the 2017 ESIA did not identify this risk; there was no prior identification of the location of water pipes. Furthermore, the Panel notes reporting on such issues starting only after receipt of the Request.

39. During its visit the Panel experienced first-hand the poor conditions of the road in several sections and the accumulation of water on and near the road. Heavy rain, runoff water, and flooding are recorded causing damage to property and accidents. The Project documents did not adequately address these risks nor include related mitigation measures. The Panel notes that in addition to potentially destroying assets, standing water could also be the source of negative health impacts, including mosquito-borne diseases.

40. The Panel finds Management failed to identify risks and mitigation measures associated with excessive use of force by military personnel engaged by the Contractor in an adequate and timely manner in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01) and on Investment Project Financing (OP/BP 10.00).

41. The Panel also finds Management in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01), the Environmental Health and Safety Guidelines, and Investment Project Financing (OP/BP 10.00) for not adequately identifying and mitigating impacts related to water pipe rupture, storm water and lack of road safety measures. These shortcomings were exacerbated by weak supervision, which did not identify harm to communities, in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00).

Working Conditions and Occupational Health and Safety

42. The Panel notes that many workers employed by the Contractor lacked formal contracts and had received reduced salaries, and that some whose employment lasted less than one month received no payment. The Panel also notes long working hours without overtime payment. The issues related to working hours and payments were not systematically flagged in supervision reports. Only after receipt of the Request did Project entities and Management follow up to ensure that the Contractor is complying with its contractual provisions in this regard. In October 2017 the

Supervising Engineer reported that every worker had signed a work contract. During the Panel's investigation visit, the Contractor informed that efforts were underway to identify and compensate the affected workers.

43. The Panel notes that local workers stay in temporary camps in tents on the roadside without access to latrines, kitchens, and other basic facilities. Workers told the Panel that some of them occupy these camps for months. Supervision reports flagged the Contractor's non-compliance with health and safety measures, including the lack of temporary toilets and vaccinations for workers, such as against tetanus, as well as lack of potable water.

44. The Panel also heard from several workers about incidents of miscommunication, harsh treatment by the Contractor, and occasional physical violence against workers. Reports from the Contractor's Environmental Specialist also consistently raised concerns about the insufficient availability of Personal Protection Equipment (PPE) to ensure a safe working environment. Several workers told the Panel about severe occupational accidents. The Panel notes the Contractor reported on accidents every month but had no detailed accident log with systematic recording. The Panel understands that Management issued a Notice to Correct on October 2, 2017, instructing the Contractor to comply with the applicable rules and its Code of Conduct.

45. The Panel notes the occurrence of serious infractions related to payments to Project workers and poor working conditions affecting their health and safety. The Panel finds Management's failure to adequately monitor or provide implementation support to safeguard workers' health and safety in non-compliance with Bank policies on Environmental Assessment (OP/BP 4.01), Investment Project Financing (OP/BP 10.00), and the Bank's EHS Guidelines. The Panel did not find instances of child labor in the Project.

46. Management acknowledged issues related to workers' health and safety following receipt of the Request. The Panel welcomes the improvements since then regarding issuance of worker contracts, ID checks, retroactive payment for exchange rate losses, working conditions, and strengthened supervision of labor issues.

Gender-Based Violence

47. DRC ranks among the countries with the lowest gender equality indexes. The conflict in eastern DRC exacerbates this situation, placing women and girls at high risk of both domestic violence and GBV at the hands of state and non-state armed groups and other conflict actors.

48. In order to examine the GBV claims the Panel reviewed extensive Project documentation, and carried out focus group discussions and in-depth interviews with victims, community members, service providers, and Government officials. The Panel did not attempt to satisfy a legal burden of proof as it is neither mandated nor equipped to do so. Rather it sought to determine whether there was consistent testimony from a wide range of victims, supported by reports from witnesses, experts, or independent agencies. This body of consistent evidence was used, together with expert opinion, to substantiate GBV ranging from sexual harassment to sexual assault that had occurred as a result of the Project.

49. During its investigation the Panel substantiated many GBV allegations. The Panel observed many types of GBV related to the Project including sexual harassment, sexual exploitation and abuse, and rape. Inside the Contractor's permanent camp all female workers interviewed were subjected to sexual harassment, and many also experienced sexual exploitation and abuse. Outside the camp the Panel substantiated a pattern of sexual exploitation and abuse experienced by women and girls along the road, who in many cases entered into coercive relationships with the perpetrators. Some of the abuses of minors resulted in pregnancies. The significant, disparate power imbalances between Contractor staff and women and girls in the communities of the Project area weigh heavily in the Panel's consideration of these incidents as sexual exploitation and abuse. The Panel notes that even in circumstances where "consent" was supposedly given, the characteristics of these relationships still meet the threshold of sexual exploitation.

50. The Panel team interviewed 22 alleged victims and substantiated most, but not all, allegations. The Panel observes that societal norms and stigma hinder the denunciation of such incidents, and therefore the Panel cannot definitively determine the total number of incidents. Victims were often young; some were minors and still attending school. Several victims interviewed expressed views about the lack of options for work, the need for survival, and that in many cases they had no option but to "consent" to providing sexual services that they may not have agreed to in other circumstances.

51. The Panel was able to determine a particular profile of the perpetrators: (i) foreign employees of the Contractor, (ii) national employees brought from other parts of the country because of their higher skills, and (iii) local employees from communities along the road who were moving as Project works advanced. In at least one case military personnel engaged by the Contractor were cited as perpetrators of sexual violence. The Panel notes that while the actual use of force did not seem characteristic of the perpetrators in most cases, there was a perceived threat of potential use of force since the foreign workers were protected by military forces.

52. During the investigation, not all GBV cases identified were substantiated as having a link to the Project, including allegations mentioned in the Panel's Eligibility Report.

53. The Project Paper does not indicate any potential adverse impact on women and girls. The ESMF updated in October 2015 contains limited information about the situation of women and girls in the Project area and there is no mention of GBV in the country. The ESIA prepared in February 2017 contains no analysis of the endemic GBV situation in the Kivu regions that could be exacerbated by an infrastructure project. However, the ESIA does recognize some risks to women and girls associated with the Project. The Panel acknowledges that the ESIA envisioned some mitigation measures, and that had these been implemented they could have prevented some of the harm that occurred, but these were not robust enough considering the well-known, high risks related to violence and vulnerability in the area. In any case, the Panel observed that most of the measures envisioned in the ESIA were either not implemented or only implemented after receipt of the Request.

54. The Panel acknowledges and welcomes Management's efforts to address GBV issues after receipt of the Request. The Panel understands that a Contractor's Code of Conduct was prepared in October 2017 and training was provided to the Contractor's employees. Management is also working to establish a grievance mechanism that ensures the safety and confidentiality of

complainants. In addition, Management partnered with local non-governmental organizations (NGOs) to put in place a system to refer all complainants to medical, psychosocial, and legal services.

55. The Panel appreciates the involvement of recognized local partners to provide a safe space where victims can come forward and to ensure they receive psychological, medical, and legal support. The Panel underscores that victims require urgent assistance and that most of their pressing financial needs remain unmet. Moving forward, the Panel hopes there is relevant reliance on gender expertise assigned to the Project, as well as livelihoods activities to support the social, economic, and psychological empowerment of the victims to enable their reintegration into their communities.

56. The Panel finds Management in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01) and Investment Project Financing (OP/BP 10.00) for not properly assessing the gender-based violence risks considering the endemic GBV rates and the high vulnerability of women and girls in the Project area, and for the lack of appropriate mitigation measures to address the high risks of GBV that led to serious harm to women and girls in the community.

57. The Panel further finds Management in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) for failing to supervise the implementation of measures to mitigate the risks of gender-based violence, or to identify and propose measures to redress harm caused by the Project.

Project Supervision and Bank's Response

58. The Panel notes there were no Bank supervision missions to RN2 from the time of Board approval in February 2016 until receipt of the Request in August 2017. While there was a Mid-Term Review of the Project in June 2017 to assess implementation progress, this mission took place in Kinshasa and did not involve a field visit.

59. While there was ample reporting by different entities – including the Supervising Engineer, the Contractor, the Project Implementation Unit, and others – these reports did not always raise pertinent issues faced during implementation. The Panel notes the lack of systematic follow-up on issues raised in this plethora of supervision and monitoring reports, including Management follow-up. The Panel also understands there were many occasions when Management did not receive relevant Project reports. As noted by the Compliance Audit commissioned by the Government after receipt of the Request (the “Compliance Audit”), no World Bank document, Aide-Mémoire, or report raised a problem or situation of non-compliance relating to the Project until the supervision mission of August 2017 following receipt of the Request.

60. The security situation in the Project area is undoubtedly challenging. Project preparation and implementation along the RN2 faced security challenges from the beginning. The Panel analyzed the details of the security situation in the Project area of RN2 for the period from 2015 until the present with a view toward better understanding the implications of the security situation for Bank supervision. The Panel was told during staff interviews that the Project team tried to visit

RN2 twice in 2017 prior to the Request, but had to cancel the visits due to the security situation, and they were unable to find another time when the whole team was available to travel to the field. However, the Panel learned from Bank corporate security that no requests from Bank staff to travel along RN2 were received for AF2 between December 2016 and the receipt of the Request in August 2017.

61. The Panel appreciates the need for great caution when it comes to staff security. Nonetheless, the Panel questions whether the security situation between Goma and Bukavu was consistently so dangerous as to be the only reason for complete Bank absence from the Project area before the Request was received. The Panel believes with accurate information, flexibility on dates, and due caution – including, if necessary, arranging a MONUSCO military escort – Bank staff missions could have been fielded to support Project supervision.

62. After receipt of the Request and in the period of August 2017 to March 2018 Management undertook seven field missions to the Project area. As mentioned earlier these constituted the first such field visits to supervise RN2. The Panel acknowledges and welcomes Management’s efforts to supervise the Project closely since receipt of the Request and to address the concerns raised by the community around RN2, including the application of remedies to ensure implementation of Bank policy requirements. The Panel also appreciates Management’s efforts at streamlining reporting by the various agencies despite the complexity of the monitoring and supervision framework. The Panel trusts that together these actions will forge a closer relationship with the community and accelerate identification and resolution of problems.

63. The Panel finds Management’s failure to monitor the Project and provide adequate implementation support to address weaknesses in the Project’s complex system of monitoring and supervision, to capture implementation problems, or to propose corrective actions in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).

64. The Panel finds Management in compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) after receipt of the Request, due to its proactive and systematic supervision with adequate expertise focused on problem solving.

Conclusions

65. The Panel stresses that reconstruction of basic road infrastructure after conflict is crucial. Such roads connect towns and villages and provide communities with access to markets and basic services. Roads provide the basis for the early resumption of trade as a foundation of economic activity. Conversely, a lack of effective road infrastructure adds inefficiencies to the economy and creates a barrier for local communities attempting to meet basic needs in these areas.

66. It is also clear that the Project has been implemented in extremely difficult circumstances in a country suffering from fragility, conflict, and violence (FCV), and this investigation offers insights related to risks of harm associated with infrastructure projects in such contexts. The Bank’s support of FCV countries is increasing and effective engagement requires stronger project preparation and stronger supervision compared with projects in less challenging situations, not the opposite. The serious shortcomings found in this case demonstrate that significant improvement

in the Bank's approach to this Project was necessary for it to achieve the high standards the institution seeks to promote.

67. In addition to the specific lessons that can be drawn from the compliance issues discussed above, there are several broader insights from the Panel's investigation that can contribute to institutional learning and continued operational improvement, including:

- i. Understanding the tradeoffs and risks of accelerated project approval and implementation in conflict and post-conflict areas,
- ii. Addressing the lack of institutional capacity, which is often a major obstacle in effectively implementing projects in FCV countries,
- iii. Recognizing that while community engagement may be more challenging in a FCV environment, it is no less important than in other development contexts,
- iv. Noting the need to develop realistic operational guidance to define the boundaries and approaches when security forces are needed for effective project implementation,
- v. Acknowledging that managing GBV risks associated with infrastructure projects remains an area of necessary learning and action for the Bank, and
- vi. Realizing that effective project supervision, including a stronger field presence, is especially important in FCV situations where harm is more likely to materialize.

68. The Panel believes these lessons are especially relevant given the important and significant increase in World Bank lending to FCV countries now taking place and expected in the coming years.

Chapter 1: Introduction

1.1. Background to the Request

1. This Investigation Report (the “Report”) addresses the Request for Inspection (the “Request”) of the Democratic Republic of Congo (DRC) Second Additional Financing (the “Project” or “AF2”) for the High-Priority Roads Reopening and Maintenance Project (“Pro-Routes”). The Request, submitted by community members (the “Requesters”) living in Goma and its vicinity in DRC was received by the Inspection Panel (the “Panel”) on August 3, 2017.¹ It alleged the Bukavu-Goma road works caused harm including impacts on livelihoods, gender-based and other physical violence, labor issues, and indigenous peoples.

2. After conducting its initial due diligence, the Panel registered the Request on September 13, 2017, and notified the World Bank’s² Board of Executive Directors (the “Board”) and Bank Management (“Management”)³. Management submitted its Response (the “Management Response”) on October 20, 2017. The Panel visited the Project area from November 6-11, 2017, and submitted its Report and Recommendation to the Board on November 21, 2017, confirming the eligibility of the Request and recommending an investigation. The Board approved this recommendation on December 8, 2017. On December 13, 2017, the Panel published its Investigation Plan on its website.⁴ A Panel team traveled to the Project area from January 17-31, 2018, to conduct the investigation visit.

1.2. Country Context and Project Description

3. DRC, with a surface area of about 2,345,000 square kilometers (km²), is the largest country in Sub-Saharan Africa. In 2008 – when the Pro-Routes project started as a Bank-administered, multi-donor trust fund – only one provincial capital among 10 was connected by road to the capital, Kinshasa, and almost all provincial capitals lacked road connections to their surrounding areas. Only 1.8 percent of the total road network of 152,400 km was paved and most of the country’s roads were impassable, even during the dry season.⁵

4. The protracted conflict in DRC, and specifically in the provinces of North and South Kivu where the road between Goma and Bukavu (*Route Nationale 2*, RN2) is situated, has seriously affected the lives of the local population for decades. Despite the official end of two large-scale wars in 2003 insecurity and violence has continued in eastern DRC where many non-state, armed

¹ Request for Inspection of the Democratic Republic of Congo Second Additional Financing for the High-Priority Roads Reopening and Maintenance Project. Available at <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=128>.

² “World Bank” in this Report refers to the International Development Association (IDA).

³ Management Response to the Request for Inspection Panel Review of the Democratic Republic of Congo: High Priority Reopening and Maintenance of roads (“Proroutes”) project (P153836), October 20, 2017: [http://ewebapps.worldbank.org/apps/ip/PanelCases/120-Management%20Response\(English\)-20%20October%202017.pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/120-Management%20Response(English)-20%20October%202017.pdf)

⁴ <http://ewebapps.worldbank.org/apps/ip/PanelCases/120-Investigation%20Plan-13%20December%202017.pdf>.

⁵ Project Appraisal Document, February 25, 2008, p. 4.

groups remain active.⁶ Armed groups and state forces continue to commit severe human rights abuses, including sexual violence against women and abuse of children.⁷ This contributes to distress including poverty and widespread violence against civilians. Generally weak governance in the area compounds these hazards and is relevant to the Project and the Request.⁸

5. In the July 2006 Poverty Reduction Strategy Paper the country confirmed its willingness to invest in transport infrastructure to sustain growth while protecting the environment.⁹ The Country Assistance Strategy (CAS) of December 18, 2007, stated the World Bank Group would help rehabilitate transport infrastructure to support efforts for achieving high, sustained, and shared economic growth.¹⁰ While the transport sector is less prominent in the CAS of April 12, 2013, road rehabilitation continues to underpin key strategic objectives, including those of accelerating growth and job creation, and addressing fragility and conflict in the eastern provinces.¹¹

6. In 2016, when AF2 (the subject of this investigation) was approved, the improvement of the country's road network remained a development priority. The development of the transport sector was a key element of the Government's policy to stimulate economic growth, contribute to poverty reduction, and provide basic connectivity within the country. The transport sector was deemed critical to increase agriculture sector output, improve trade competitiveness, contribute to mining sector growth, and support isolated communities. At that time about half of the country's territory remained inaccessible by road or rail transport, and only four of the ten provincial capitals were connected by road to Kinshasa.¹² To date, the Pro-Routes project has rehabilitated 2,300 km of high-priority roads throughout the country.¹³

7. The International Development Association supported the Pro-Routes project¹⁴ with USD238.3 million equivalent provided on a grant basis. The original IDA Grant of USD50 million equivalent was approved by the Board in March 2008. A first additional financing (AF1) in the amount of USD63.3 million equivalent was approved in June 2011 to scale up project activities. Both the parent project and AF1 were co-financed by the United Kingdom's Department for

⁶ Kivu Security Tracker, The Landscape of Armed Groups in Eastern Congo (December 2017).

<https://kivusecurity.nyc3.digitaloceanspaces.com/reports/5/Landscape%20of%20Armed%20Groups%20Essay%20KST.pdf>.

⁷ UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, (January 5, 2018). State forces committed 61 percent of the human rights abuses recorded by the UN Joint Human Rights Office in the DRC in 2017, the majority of which occurred in conflict-affected provinces. UN Joint Human Rights Office in the DRC MONUSCO – OHCHR, Overall Human Rights Situation in 2017,

https://monusco.unmissions.org/sites/default/files/unjhro_-_overview_of_the_human_rights_situation_in_drc_2017_eng.pdf.

⁸ Country Assistance Strategy (CAS) of April 12, 2013, para 1 states “The persistent instability in the East is the obvious manifestation of crumbling state institutions.”

⁹ Project Appraisal Document, February 25, 2008, p. 4.

¹⁰ Project Paper for AF2, January 27, 2016, p. 2.

¹¹ CAS of April 12, 2013.

¹² Project Paper for AF2, January 27, 2016, pp. 1 and 2.

¹³ Management Response, p. v.

¹⁴ Pro-Routes follow ups to two earlier Bank-financed projects: the Emergency Economic and Social Reunification Support Project (*Projet d'Urgence et de Soutien au Processus de Réunification Economique et Sociale*, PUSPRES) and the Emergency Living Conditions Improvement Project (*Projet d'Urgence d'Amélioration des Conditions de Vie*, PUACV).

International Development (DFID).¹⁵ DFID decided in 2014 to discontinue its co-financing (see Chapter 2).¹⁶ In February 2016 AF2 of USD125 million equivalent was approved to further expand the Pro-Routes' coverage. The project was originally scheduled to close on February 28, 2018, but was recently extended to February 28, 2019.¹⁷

8. The Project development objective is to “re-establish lasting road access between provincial capitals, districts and territories in the Project implementation area in a way that is sustainable for the natural environment.”¹⁸ The Project comprises four components: (a) Road Reopening and Maintenance, (b) Institutional Building, (c) Environmental and Social Program, and (d) Monitoring and Evaluation. AF2 provides funding for the reopening of three new road sections: (i) the Komanda-Bunia-Goli road, (ii) the Beni-Kasindi road, and (iii) the Bukavu-Goma road (about 146 km), linking the North and South Kivu regions. In addition, two road sections for which construction was delayed would be reopened: (i) the Dulia-Bondo road, and (ii) the Akula-Zongo road. AF2 also provides funding to reform the Ministry of Infrastructure and Public Works (MIPW) and for the extension of the environmental and social program to additional road segments. The Project Implementation Unit (PIU) is the *Cellule Infrastructures* (CI), which is part of the MIPW. The Contractor is the Chinese company *Société Zhengwei Technique Cooperation SARL* (SZTC). The Bukavu-Goma road is the specific focus of this investigation (see Map in Annex 3).

9. Pro-Routes is a Category A project, which triggered the following safeguards policies: Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Forests (OP/BP 4.36), Physical Cultural Resources (OP/BP 4.11), Indigenous Peoples (OP/BP 4.10) and Involuntary Resettlement (OP/BP 4.12). The Environmental and Social Management Framework (ESMF), the Indigenous Peoples Planning Framework (IPPF), and the Resettlement Policy Framework (RPF) of the parent project were updated for AF2. An Environmental and Social Impact Assessment (ESIA), an Indigenous Peoples Plan (IPP), and an Abbreviated Resettlement Action Plan (ARAP) were prepared for the Bukavu-Goma road specifically after Project approval. Updates for the ARAP and the ESIA were concluded in November 2017 and February 2018, respectively, after receipt of the Request. More information regarding the preparation of safeguard instruments is provided in Chapters 2 and 3.

10. RN2 connects Goma (the provincial capital of North Kivu) to Bukavu (the provincial capital of South Kivu). According to the ESIA, the population in the Project area along the stretch of road in North Kivu is 852,549; the South Kivu portion has 923,976 inhabitants. Thus the total population in the Project area is close to 1.8 million.¹⁹

11. In November 2017 the Bank suspended disbursements against all civil works components under AF2, including the Bukavu-Goma road, referring to the “seriousness of the alleged harm and the shortcomings in the Borrower’s supervision and reporting mechanisms.”²⁰ For more

¹⁵ <https://www.gov.uk/government/organisations/department-for-international-development>.

¹⁶ Project Paper for AF2, January 27, 2016, p. 2

¹⁷ Letter from World Bank to the Government of DRC confirming the extension of the closing date, dated February 28, 2018.

¹⁸ Project Paper for AF2, January 27, 2016, p. 6.

¹⁹ ESIA, February 2017 p. 52 (and confirmed in the Updated ESIA, February 2018, p. 60).

²⁰ Management Response Update, November 27, 2017, p. 2.

information please see below a summary of the Update to the Management Response, dated November 27, 2017.

1.3. Request for Inspection and Management Response

12. The section below provides an overview of the Request for Inspection and the Management Response. More detailed summaries of these documents are provided for each issue in Chapters 2-5.

The Request for Inspection

13. Before submitting the Request to the Panel on August 3, 2017, the Requesters sent two communications to Management (on April 10 and June 29, 2017, respectively) in which they raised their concerns; these communications went unanswered. After the Panel received the Request in August 2017 and informed Management, the Bank immediately sent a mission to Goma. After this mission Management informed the Panel that the Contractor had compensated the Requesters for harm relating to their quarry. During a phone call on September 11, 2017, the Requesters explained that while they had been compensated, they believed other harm persisted, and that they would like to proceed with the Request.

14. The Request received by the Panel alleged loss of property and livelihoods, use of violence against the community – including gender-based violence (GBV), and seizure of indigenous communities’ resources. After receiving the Request, the Panel communicated with the Requesters and understood the alleged harm to include:

15. *Livelihood impacts.* The Requesters contended that the Congolese Armed Forces, *Forces Armées de la République Démocratique du Congo* (FARDC) – engaged by the Project’s Contractor to provide security – have occupied a quarry operated by the Requesters that is their source of income and livelihood. They explained that construction materials were forcibly taken following torture, assault and battery and physical violence, and that compensation for the crops destroyed had not yet been paid.²¹ They claimed that, as a result, many people who worked in the quarry did not know how they would meet the needs of their families. The Requesters also explained that other community members’ crops and medicinal herbs were destroyed by the road works and they had not been compensated for these losses.

16. *Violence (including GBV).* The Requesters claimed there has been violence against the community and sexual violence against women. They also alleged human rights violations and cited the case of a community member who was shot in the leg by the military personnel engaged by the Contractor.

17. *Labor issues.* The Requesters contended that the Contractor employed young boys as daily laborers and that the Contractor confiscated a portion of the workers’ salaries.

²¹ Request for Inspection, p. 2. Based on the French text: “*La facture de nos matériaux de construction pris par force après des scènes macabres de tortures, coups et blessures et de violences physiques et des dommages des destructions de nos récoltes ne sont pas encore payer.*”

18. *Impacts on Indigenous Peoples.* The Requesters claimed the Project had forcibly seized the indigenous communities' resources, using armed and uniformed military personnel. In addition, they alleged that indigenous persons' graves were desecrated by Project activities.

19. *Retaliation.* The Requesters claimed they were suffering retaliation from local authorities. Specifically, a Government decision to close the quarry operated by the Requesters was, in their view, an act of retaliation.

The Management Response

20. In its Response, Management explained that "the Project is being implemented in an extremely challenging fragile and conflict-affected development environment."²² Challenges include entrenched ethnic violence, the presence of armed rebel groups, and widespread GBV. The Response further explained that the security situation has affected "the Bank's ability to access the Project area for supervision; Bank teams frequently are not able to travel on site."²³ Management also stated this situation has kept many qualified contractors from submitting bids and has impaired the Project's ability to attract an international non-governmental organization (NGO) to support the Project's environmental and social components. The Response also explained that in this environment project workers, worksites, and equipment often require security protection to enable project implementation.

21. Management acknowledged that the Requesters had sent two e-mails informing Management about their claims that should have received an immediate response. Once informed by the Panel of the complaint, Management sent a team to investigate the issues and to follow up with the Borrower regarding identified instances of non-compliance. Management explained that between August and October 2017 three missions to the Project site took place that included safeguards staff and highly qualified and experienced social development specialists trained to assess GBV and familiar with the local language and context.

22. According to Management, "a key element of the Request appeared to be a commercial dispute between the Contractor and one Requester who operates a quarry."²⁴ Management stated the Contractor allegedly resorted to physical violence – using military personnel – to seize construction materials without compensation. Management explained that this dispute has been resolved and the Requesters were compensated for their losses.

23. *Impacts of military personnel providing security.* Management stated it became aware of allegations of excessive use of force by the Contractor's security personnel, including a gunshot injury. Management acknowledged it "did not anticipate at Project preparation the potential impacts from the Contractor's own security arrangements, and hence no specific mitigation measures were put in place."²⁵ According to Management, while it had agreed it was the Government's responsibility to address security conditions in the Project area, the Contractor made its own security arrangement by engaging military personnel to provide security for the worksites.

²² Management Response, p. v.

²³ Ibid.

²⁴ Ibid., p. vi.

²⁵ Ibid., p. 8.

Management was not aware of this arrangement. According to Management, subsequent measures taken to address this issue included the formalization of a previous ad hoc arrangement in a subcontract between the Contractor and FARDC, the reduction by half of military personnel engaged by the Contractor, the removal of personnel accused of abuses, and training of the security personnel by United Nations Organization Stabilization Mission in the DRC (*Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo*, MONUSCO).

24. *GBV*. Management stated it “takes particularly seriously the allegations regarding GBV.”²⁶ However, despite its best efforts, it had been unable to substantiate any GBV claims. Management explained that the “allegations have remained general” and since GBV and other human rights abuses are common in eastern DRC “it has been difficult to ascertain any link to the Project.”²⁷ Management pledged to work with the Borrower and Contractor to investigate allegations of GBV, as well as to introduce mandatory staff training on the Code of Conduct. Management further recognized that safeguards documents did not include specific measures to mitigate risks from GBV, and stated the documents will be updated to address these risks.

25. *Child Labor*. Management stated it takes the allegations of child labor very seriously, but after reviewing the Contractor’s labor registry and interviewing workers and community members, it was unable to confirm any case of child labor employed by the Project.

26. *Indigenous Peoples*. Management explained it “could not ascertain adverse impacts from the Project on Indigenous Peoples.”²⁸

27. *Livelihoods impacts*. Management noted that apart from the Requesters, other quarry owners and operators had not been properly compensated for the exploitation of their quarries and borrow pits. However, according to Management, all outstanding compensation has been paid and an audit has been commissioned to verify the payments. Management also identified additional, Project-affected households whose assets were “indirectly affected by road works and other quarry and borrow pit exploitation, from a livelihoods perspective.”²⁹ Management is following up with the Borrower to provide compensation to them, and is updating the Resettlement Action Plan (RAP) to include additional Project-affected persons (PAPs).

28. *Retaliation*. Management explained it has informed the Government at the highest levels that it does not condone any form of retaliation. Management stated the decision to close the quarry operated by the Requester was “technically justified”³⁰ due to the safety hazard posed by an adjacent electricity transmission tower. According to the Response, other threats of retaliation could not be substantiated by Management.

29. *Labor conditions and occupational health and safety*. Management noted that it observed “instances of non-compliant labor and occupational safety conditions,” which included “allegations that the Contractor was partially withholding wages” and engaging in verbal and

²⁶ Ibid., p. vi.

²⁷ Ibid.

²⁸ Ibid., p. 13.

²⁹ Ibid.

³⁰ Ibid., p. 14.

physical abuse against workers.³¹ A formal Notice to Correct was issued to the Contractor on October 2, 2017, instructing it to comply with the applicable rules and Code of Conduct.

30. Management agreed on an action plan with the Borrower to address the concerns raised by the Requesters, including the following actions:

- i. *Retaliation.* Management has emphasized its zero-tolerance of retaliation to the Government and has committed to continue monitoring the situation.
- ii. *GBV.* Management is making efforts to ensure that the Project does not contribute to or exacerbate the risk of GBV. Management has hired additional GBV experts for the Project.
- iii. *Use of military personnel.* Management has reviewed the subcontracting agreement between the military and the Contractor to ensure that it includes provisions to address the risk of excessive use of force. The number of military personnel engaged by the Contractor has been reduced and Management agreed with MONUSCO to screen and train the Contractor's military personnel by the end of October 2017.
- iv. *Contractor compliance.* A Notice to Correct was issued to the Contractor instructing it to comply with the Code of Conduct, and with Bank requirements. This includes full compensation to quarry owners and confirmation that the problem of damaged graves has been addressed.
- v. *Working conditions.* Management will work with CI to monitor working conditions on the site. In addition, workers were trained on the Code of Conduct.
- vi. *Safeguard documents.* The Project's safeguard documents, including the ESIA, will be revised to reflect the lessons from the Uganda Transport Sector Development Project and address new issues that have been identified. The RAP is also being revised to include new PAPs eligible for compensation.
- vii. *Grievance Redress Mechanism (GRM).* Management is working with the PIU to strengthen the Project's GRM, including establishing 24 local committees along the road.
- viii. *Environmental and social compliance audit.* Management will conduct an environmental and social compliance audit of the Project by November 30, 2017.

The Update to the Management Response

31. On November 27, 2017, Management submitted an update to its Management Response to inform the Board and the Panel of recent developments and to summarize the actions Management would take immediately and over the following few weeks. Management explained it "has taken the allegations of SGBV [sexual and gender-based violence] expressed in the Request extremely seriously." The update stated Management, during its fourth high-level mission to the Project site, met with survivors of the alleged SGBV and accompanied them to a service provider for SGBV support. Management also met with several Government authorities to communicate the gravity of the Panel's observations and to secure the local authorities' commitment to prevent any form of retaliation against the complainants or victims of SGBV.

32. The update stated that "given the seriousness of the alleged harm and the shortcomings in the Borrower's supervision and reporting mechanisms, Management has suspended disbursements against all civil works components under the Second Additional Financing (AF2) of Pro-Routes,

³¹ Ibid.

including the Bukavu-Goma road contract.” Management explained that it will select one or more civil society organizations (CSOs) to undertake third-party monitoring of SGBV issues, and all other civil works contracts under the Project will undergo compliance audits. Management pledged to continue its efforts with all stakeholders to remedy the situation and bring the Project back into compliance.

1.4. The Panel’s Investigation Process

33. The Panel made its eligibility determination after reviewing the Request, the Management Response, and Project documents, meeting with relevant Government and non-governmental stakeholders, the Requesters, and Management, and after visiting the Project area in November 2017. On November 21, 2017, the Panel submitted its Report and Recommendation to the Bank’s Board of Executive Directors confirming the eligibility of the Request for Inspection and recommending an investigation. The Board approved this recommendation on December 8, 2017, and the Panel published its Investigation Plan on its website on December 13, 2017.³²

1.5. Focus, Design, and Methodology of the Investigation

34. The investigation was conducted in two parts. The first phase involved an extensive examination of Bank documentation and interviews with Bank staff, both in Washington, D.C., and in DRC as well as with the Project’s Environmental and Social Advisory Panel. Five expert consultants were retained to assist the investigation: Kai Schmidt-Soltau (social safeguards issues), Jean-Roger Mercier (environmental safeguard issues), Lisa Davis (investigative techniques for GBV), and Michelle Dörlemann and Dominique Vidale-Plaza (GBV with extensive knowledge of the local context). Consultants Juan David Quintero (environmental expert) and Christopher McDowell (resettlement expert) further reviewed the report. The experts’ biographies are included in Annex 2.

35. The second part of the investigation involved a fact-finding visit to DRC that took place January 17-31, 2018, and included Panel Chairman Gonzalo Castro de la Mata, former Panel Member Zeinab Bashir El Bakri, Operations Officers Tamara Milsztajn and Birgit Kuba, and expert consultants Kai Schmidt-Soltau, Lisa Davis, Michelle Dörlemann, and Dominique Vidale-Plaza. The Panel team visited Kinshasa, Goma, and Bukavu and traveled the entire Bukavu-Goma road by car, visiting many local communities. In Kinshasa the Panel team met with the Contractor, the PIU, representatives of the Ministries of Infrastructure and Finance, representatives of DFID, and staff in the World Bank’s Country Office. In Goma the team met with the Requesters and other affected community members, the *Bureau d’études en Gestion environnementale et sociale* (BEGES) – responsible for supervising environmental and social issues, the Supervising Engineer, representatives of MONUSCO, and the NGOs RARIP-RGL, Heal Africa, ADMR and ECC. The Panel team also met with the Contractor and visited its permanent camp in Sake. In Bukavu the Panel team met with Project-affected community members, representatives from the Government of South Kivu, the Ministry of Infrastructure (including from the Provincial Ministry of South Kivu), the Ministry of Mines (including from the Provincial Ministry of South Kivu), UNFPA and the Panzi Foundation.

³² Available at [http://ewebapps.worldbank.org/apps/ip/PanelCases/120-Investigation Plan-13 December 2017.pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/120-Investigation%20Plan-13%20December%202017.pdf)

36. The Panel team traveled along the road several times to assess issues regarding Project impacts, including the acquisition of construction materials, the reopening of the road, labor issues, and impacts on community health and safety. The Panel conducted extensive interviews and focus group discussions (FGDs) in different areas and villages along the entire road. The community-based investigation utilized specialized methodologies and took special caution to avoid re-traumatization of affected people, especially with respect to harm related to gender-based and other physical violence, and was guided by global good practice for conducting research on violence against women. Additional information on the GBV methodology is provided in Chapter 4. The Panel sought individual consent from community members for photographs to be taken.

37. In this Report the Panel assesses whether the Bank complied with its Operational Policies and Procedures, including:

- Environmental Assessment (OP/BP 4.01)
- Involuntary Resettlement (OP/BP 4.12)
- Gender and Development (OP/BP 4.20)
- Investment Project Financing (OP/BP 10.00)

38. The Request for Inspection also claimed that the Contractor has forcibly seized indigenous communities' resources, using armed and uniformed military personnel. In addition, the Request alleged that indigenous graves were desecrated by Project activities. The Panel sought more detailed information from the Requesters and learned they were referring to resources customarily belonging to the local populations, and not to indigenous peoples. While the Panel observed some Twa people working among the daily laborers in the quarries along the road and among the women who mined sand from a river, the grievances voiced were not issues specific to indigenous peoples, but rather related to livelihood issues applying to both indigenous and other local populations. Furthermore, the Panel concurred with Management that two graves located in two quarries affected by the Project did not belong to indigenous peoples, as noted in the Management Response.³³ As a result the Panel decided not to investigate this claim further and thus this investigation does not assess compliance against the Bank Policy on Indigenous Peoples (OP/BP 4.10).

39. This Report is structured in six chapters:

- Chapter 1 (this chapter) introduces the Report and briefly summarizes the Project and its context. It presents the issues raised in the Request and the Management Response, outlines the Panel's investigation process, and explains the design and focus of the investigation, including the methodology applied.
- Chapter 2 focuses on the preparation of the Project, including aspects of risk assessment and institutional arrangements for environmental and social aspects, as well as community engagement, including the GRM.
- Chapter 3 examines impacts of the Project on livelihoods (including in relation to quarries and agriculture), community health and safety (comprising violence by

³³ Management Response, p. 28.

- security forces, road safety, and water problems), and labor issues (working conditions and occupational health and safety).
- Chapter 4 analyses the allegations of GBV and describes the situation of women in eastern DRC as context to the problems encountered by the Project.
 - Chapter 5 reviews the Bank's supervision of Project implementation, and the Bank's response to the allegations brought forward by the Requesters.
 - Chapter 6 presents the Panel's conclusions.

1.6 Chronology Table

| | 2015 | | 2016 | | | 2017 | | | | | | | 2018 | | | 2019 | |
|--|--------------------------------|---|------------------|--------------|---|--------------|------------------------------|--|--|---|---------------------|--|--------------------|---------------------------------------|--------------------|------|------------------------------|
| | May | Oct | Feb | Jun | Oct | Feb | Mar | Apr | Aug | Sep | Oct | Nov | Dec | Feb | Mar | Apr | Feb |
| AF2 Chronology* | | | Approval of AF2* | | Contract signed with SZTC Start of the preparatory works | | Start of road rehabilitation | Requesters reach out to Bank with concerns | Receipt of Inspection Panel Request for Inspection | | Management Response | Inspection Panel Eligibility Report Suspension of civil works under AF2 Management Response Update | | Initial expected project closing date | | | Updated project closing date |
| Safeguards Documents Preparations | | Updated ESMF, IPPF, and RPF for AF2 disclosed | | ARAP for RN2 | | ESIA for RN2 | Contractor's ESMP for RN2 | | | Contractor's Quarry Exploitation Plan Contractor's Quarry Restoration Plan Contractor's Compliance Plan | | Updated ARAP for RN2 | | Updated ESIA for RN2 | | | |
| World Bank's missions to RN2 | World Bank Preparation Mission | | | | | | | | World Bank Mission | World Bank Mission | World Bank Mission | World Bank Mission | World Bank Mission | World Bank Mission | World Bank Mission | | |

After receipt of Request for Inspection by the IPN

*The approval of the parent project was in March 2008, and the approval of AF1 was in June 2011.

Chapter 2: Project Preparation and Stakeholder Engagement

2.1 Introduction

40. This chapter focuses on aspects of Project preparation relating to its timeline, safeguards documents, risk assessment, and institutional arrangements for environmental and social issues. It also examines issues related to consultation, disclosure of information, and the Grievance Redress Mechanism.

2.2 Project Preparation

2.2.1 Request for Inspection

41. The Requester alleged serious harm resulting from the Bukavu-Goma road works financed under the Project. The Requesters claimed the Project did not respect or comply with its commitments in respect of the rights of the local communities. The Requesters questioned the quality of Project documents and mentioned they did not include many details, did not concern them or involve them.

2.2.2 Management Response

42. The Management Response noted the lack of in-country capacity for safeguard implementation and stated the Project has introduced a range of measures to mitigate this at the Project level. Management explained “supervision of safeguard mitigation measures is carried out through the following mechanisms: (a) safeguards specialist retained by the Contractor for day-to-day supervision and reporting on implementation of the Environmental and Social Management Plan (ESMP); (b) an environmental and social management firm (which retains an anthropologist dedicated to the implementation of the IPP) for monthly supervision in close coordination with the supervision engineer; (c) staff from the Ministry of Environment and the Project environmental unit of the PIU for periodic supervision; and (d) an Environmental and Social Advisory Panel for independent oversight of implementation of the environmental and social activities.”³⁴

2.2.3 Bank Policies

43. Bank Policy on Investment Project Financing (OP/BP 10.00) states the Bank may provide additional financing to an ongoing, well-performing project for completion of project activities when there is a financing gap or cost overrun, for scaling up the development effectiveness of the project, and/or in cases of project restructuring, when the original Bank loan is insufficient for the modified or additional activities. The Bank considers the proposed additional financing on the basis of, as necessary, updated or additional assessments of areas specified in this Policy.³⁵

44. According to OP/BP 10.00, the Bank’s assessment of a proposed project is “based on various country and project-specific considerations, including consistency with the Bank’s strategy in support of the country, project development objectives, taking into account technical,

³⁴ Ibid., p. 5, para 16.

³⁵ OP 10.00, para 29.

economic, fiduciary, environmental, and social considerations, and related risks.”³⁶ The Bank assesses technical aspects of the project, including design issues, appropriateness of design to the needs and capacity of the borrower and any project implementation entity, institutional arrangements, and organizational issues for the implementation of the project in the context of the long-term development objectives of the borrower.³⁷ The Bank also assesses the risks to achievement of the project’s development objectives with due consideration for the risks of inaction, taking into account the assessments noted (financial, economic, environmental, procurement) and other relevant information.³⁸

45. Bank Policy on Environmental Assessment (EA) (OP/BP 4.01) states the Bank “takes into account the variations in project and country conditions; the findings of country environmental studies; national environmental action plans; the country's overall policy framework, national legislation, and institutional capabilities related to the environment and social aspects.”³⁹ The policy notes that “when the borrower has inadequate legal or technical capacity to carry out key EA-related functions (such as review of EA, environmental monitoring, inspections, or management of mitigation measures) for a proposed project, the project includes components to strengthen that capacity.”⁴⁰

2.2.4 Panel Observations and Analysis

Project Timeline

46. AF2 was intended to support the reopening and maintenance of additional road sections and to help cover the financing gap created by DFID’s decision to discontinue co-financing the project in 2014 and by foreign exchange fluctuation losses, as well as to cover the cost overrun incurred.⁴¹ A review of project documents and information gathered through staff interviews indicates that the Project as originally planned would have extended the closing date of Pro-Routes by three-and-a-half years, resulting in an overall implementation period of 11 years and 10 months.⁴² After several rounds of discussions and consultations regarding various options, Bank Management decided to shorten the Project timeline so that the overall implementation period of Pro-Routes remained within 10 years, and to adapt Project activities accordingly. One reason for this decision was not having to prepare an Implementation Completion Report (ICR). According to BP 10.00, if an Additional Financing request is expected to result in an overall project implementation period that exceeds 10 years, an ICR is prepared before Bank Management’s decision on appraisal and negotiation of such Additional Financing, and a supplemental ICR is prepared upon the full project completion.⁴³

47. Various communications indicate that the option of preparing an ICR before processing AF2 was not feasible as most of the ongoing activities could not be completed if resources expected

³⁶ Ibid. para 4.

³⁷ Ibid. para 5.

³⁸ Ibid., para 10.

³⁹ OP 4.01, para. 3.

⁴⁰ Ibid. para. 13.

⁴¹ Project Paper for AF2, January 27, 2016, p. 1, para 2.

⁴² Concept Memorandum, April 23, 2015, p. 1 and communications dated July-August 2015.

⁴³ BP 10.00, para 58.

from AF2 to cover the financing gap were unavailable. This would have prompted an unsatisfactory ICR rating of the PDO, thus making the project ineligible for additional financing. The choice was between seeking a Senior Management waiver or keeping project duration below the 10-year limit.⁴⁴ Accordingly, the Project's proposed closing date was changed from December 31, 2019 to February 28, 2018.⁴⁵

48. In line with the above decision, Project duration was compressed by removing 22 months from the implementation period. Before the start of implementation the appraisal Aide-Mémoire dated November 2015 stated that keeping to this new timeline will constitute a major challenge for CI and the DRC authorities, and that the Project's date of effectiveness should not exceed the end of June 2016.⁴⁶

49. Due to the 22-month general reduction in project duration, the Panel notes the constrained timeframe in which the Project was prepared and implemented. The Decision Meeting of July 14, 2015, authorized the Project team to proceed with final preparation, which could be upgraded to appraisal once the safeguard instruments of the first two road sections – Komanda-Bunia-Goli and Beni-Kasindi – were completed, and the existing ESMF, RPF, and IPPF were updated to cover all AF2 roads, including Bukavu-Goma.⁴⁷

50. Between the Decision Meeting of July 14, 2015, and Board approval of February 18, 2016, intensive exchanges among Management concluded the Project should be the last phase of an under-10-year program, postponing regional road development to a later phase.⁴⁸ However, this created a need to adjust Project preparation and implementation to fulfill all requirements while allowing Pro-Routes to remain within the 10-year cap. The Panel notes that Project preparation proceeded without seriously reviewing whether implementation systems were adequate, whether capacity constraints remained, and whether the risk profile had changed now that the Project was to be implemented in riskier parts of the country and in a shorter period. The Panel also heard during staff interviews that the 10-year constraint meant there was a rush to implement the Project, and that two years was insufficient time to prepare the site-specific safeguards documents and rehabilitate a 146-km road in difficult terrain and a fragile environment.

Safeguard Documents

51. AF2 was designed to support the reopening of three new roads. The ESIA, RAPs, and IPPs for the Komanda-Bunia-Goli and the Beni-Kasindi roads were prepared, reviewed, consulted, and disclosed prior to Project approval. On the other hand, the preparation, consultation, and disclosure of the ESIA, ARAP, and IPP for RN2 – the subject of this investigation – were deferred to Project implementation.⁴⁹ As a result, the Project proceeded based only on framework documents for RN2.

⁴⁴ Communications dated July-August 2015.

⁴⁵ Decision Meeting Minutes, July 14, 2015, para 14.

⁴⁶ World Bank Aide-Mémoire for mission of November 8-16, 2015, p. 2, para 8.

⁴⁷ Decision Meeting Minutes, July 14, 2015, para 15(a).

⁴⁸ Communications dated August 2015.

⁴⁹ ISDS, November 5, 2015, p. 7, point 4.

52. The Project Paper stated the ESMF, IPPF, and RPF prepared for the parent project were updated to cover RN2 and that these instruments were consulted and disclosed both in DRC and at the Infoshop by October 2015, more than 120 days prior to the Board date.⁵⁰ The Project Paper also explained that prior to the commencement of works the ESIA, ARAP, and IPP would be prepared, consulted, and disclosed accordingly. In addition, the Financing Agreement required public disclosure of safeguards documents no later than three months before the start of any works.⁵¹

53. No explanation was provided in the Project Paper and Integrated Safeguards Data Sheet (ISDS) for using framework documents for RN2 and not for the other road sections, other than that RN2 would be “rehabilitated a little later.”⁵² The 2015 RPF mentioned the choice of the instrument was because technical studies were not ready and access to some roads was difficult due to the security situation, but it did not specify for which roads the studies were not ready and to which areas the security situation hindered access.⁵³ The Management Response stated “safeguard documents for the Bukavu-Goma road segment were prepared later than those for other road segments because the security situation did not allow an assessment to be carried out at this Project site.”⁵⁴ However, this security constraint was not mentioned in the Project Paper or ISDS. The Project Paper only mentioned the fact that the road crossed mountain forests and areas populated by the IP Batwa People as the main environmental and social challenge for Bukavu-Goma road.⁵⁵

54. The framework approach is normally applied to projects with a series of sub-projects when impacts cannot be determined until the program or sub-project details have been identified.⁵⁶ In the case of RN2 it is unclear why the Project proceeded with framework documents considering the Project was financing the rehabilitation of an existing road and the geographic location of this sub-project was already known. Management explained this was due to the security situation that prevented the preparation of safeguard documents. However, the Panel notes there was no measure introduced in the Project design to ensure the timely and adequate preparation of these documents during Project implementation. In fact, there were delays in the preparation of certain site-specific safeguards documents during Project implementation, their quality was inadequate, and they were not adequately consulted with the communities along the road. This is further explained in section 2.3 below and Chapter 3 of this Report.

55. The Panel notes that under the “special considerations” of the Bank Policy on Investment Project Financing (OP/BP 10.00) the preparation of safeguard documents may be deferred to project implementation when the borrower is in urgent need of assistance because of a natural or man-made disaster or conflict or experiences capacity constraints because of fragility or specific vulnerabilities.⁵⁷ In such cases, Bank Procedures require that “when compliance with the environmental and social requirements is permitted to be deferred to the project implementation

⁵⁰ Project Paper for AF2, January 27, 2016, p. 51.

⁵¹ Financing Agreement for AF2, March 18, 2016, Schedule 2, Section I(D)(2).

⁵² Project Paper for AF2, January 27, 2016, p. 15.

⁵³ RPF, October 2015, p. 4.

⁵⁴ Management Response, p. 5, footnote 1.

⁵⁵ Project Paper for AF2, January 27, 2016, p. 55.

⁵⁶ OP 4.01, Annex 1, para 4.

⁵⁷ OP 10.00, para 12.

stage, project documents include an action plan addressing the application of environmental and social policies.”⁵⁸ The Panel notes that there was no reference in Project documents to indicate that the Project was prepared based on these specific policy considerations and no action plan was prepared to ensure the application of environmental and social policies.

56. The lack of site-specific safeguard documents during the preparation of RN2 left the communities without information about the road and related safeguard protections, including assessments and mitigation measures to address environmental and social risks. The Panel notes that by deferring preparation of safeguard documents, their disclosure, and consultation to the Project implementation phase, Management did not include in Project design adequate measures to mitigate in-country capacity constraints, ineffective monitoring systems, and prevailing security issues around RN2.

Institutional Arrangements for Environmental and Social Aspects

57. From the start of Pro-Routes in 2008 a complex institutional structure involving multiple layers governed project implementation and monitoring. These arrangements continued during AF1 and AF2. The parent project was designed to be administered by the MIPW, managed by CI, and implemented by *Office des Route* (OdR).⁵⁹ CI and OdR are existing entities under MPWIR oversight. Since the parent project CI has played the primary role in overall Project implementation. According to the Project Appraisal Document (PAD), Pro-Routes was among the first projects implemented by a technical ministry in DRC since the Bank broke away from the emergency project mode.⁶⁰ According to the PAD, Pro-Routes was designed to work with and through existing institutions, enhancing their capacity while applying appropriate risk mitigation and strict safeguard mechanisms.⁶¹

58. The Environmental and Social Unit of CI (UES-CI) was tasked to coordinate and oversee implementation of all monitoring and control functions of the Project’s environmental and social activities, including providing non-objections to all activities related to the Project’s Environmental and Social Program (Component 3) and overseeing implementation of safeguard issues. Two CI environmental-social experts were to supervise management of the component and overall coordination.⁶² However, according to the Compliance Audit, this Unit lacks the human resources required for such a complex task.⁶³

59. CI remained responsible for all aspects of project implementation of all donor-funded road projects, including Pro-Routes. In addition to CI the following entities were responsible for implementing and monitoring environmental and social aspects of the Project:

⁵⁸ BP 10.00, para 53.

⁵⁹ Project Appraisal Document, February 25, 2008, p. 10.

⁶⁰ Project Appraisal Document, February 25, 2008, p. 14, para 45.

⁶¹ *Ibid.*, p. 13, para 40.

⁶² *Ibid.*, p. 66.

⁶³ Compliance Audit, February 23, 2018 p. 23, para 25(c) – This was prepared to verify and help establish compliance of Pro-Routes activities with the Borrower’s commitments to comply with environmental and social requirements applicable to the Project.

- The Supervising Engineer was responsible for overseeing and controlling construction works in accordance with the contractual clauses from a primarily technical – but also environmental and social – point of view.
- A project entity created by CI – BEGES – was responsible for implementation of environmental and social activities of Component 3 as well as implementation and oversight of safeguards. Through Component 3 BEGES would strengthen the capacity of the Ministry’s local agencies and *L’Institut Congolais pour la Conservation de la Nature* (ICCN, Congolese Institute for Nature Conservation), as well as the local NGOs involved in the Project. UES-CI was tasked with supervising the work of BEGES.⁶⁴ The Project initially planned to engage a reputable, international NGO to assist the national institutions with implementation and monitoring of the Project’s environmental and social aspects. According to the Management Response, “no international NGO expressed interest” and, therefore, a consulting firm was hired to perform the tasks of BEGES.⁶⁵ BEGES’s role was assumed over time by three consulting firms.⁶⁶
- The Congolese Environment Agency (ACE) was to be closely associated with UES-CI and involved in the validation and supervision of ESIA/ESMPs for worksites.⁶⁷
- The Environmental and Social Unit of the Office des Routes (CESOR) also had a role in supervising environmental issues related to direct impacts of the construction works on behalf of OdR as a road network manager.⁶⁸
- An Environmental and Social Advisory Panel (ESAP), comprising three to four experts of international repute, was to provide independent oversight and advise on the soundness and implementation of the Project’s environmental and social aspects.⁶⁹ ESAP started monitoring all environmental and social activities of the project in 2012 with the intention of conducting annual missions. It was subsequently agreed ESAP would visit DRC twice a year.⁷⁰ Their first visit to RN2, however, only took place four months after receipt of the Request, in December 2017-January 2018.
- In addition to the above entities, the Contractor’s Environmental Specialist⁷¹ oversaw the supervision of Contractor compliance with environmental and social clauses of the contract.

⁶⁴ ESMF, October 2015, p. 78.

⁶⁵ Management Response, p. 5, para 16.

⁶⁶ The first one was between 2010-2013, the second one was in 2013, and the third one from 2014 onwards.

⁶⁷ ESMF, October 2015, p. 73.

⁶⁸ Ibid, p. 76.

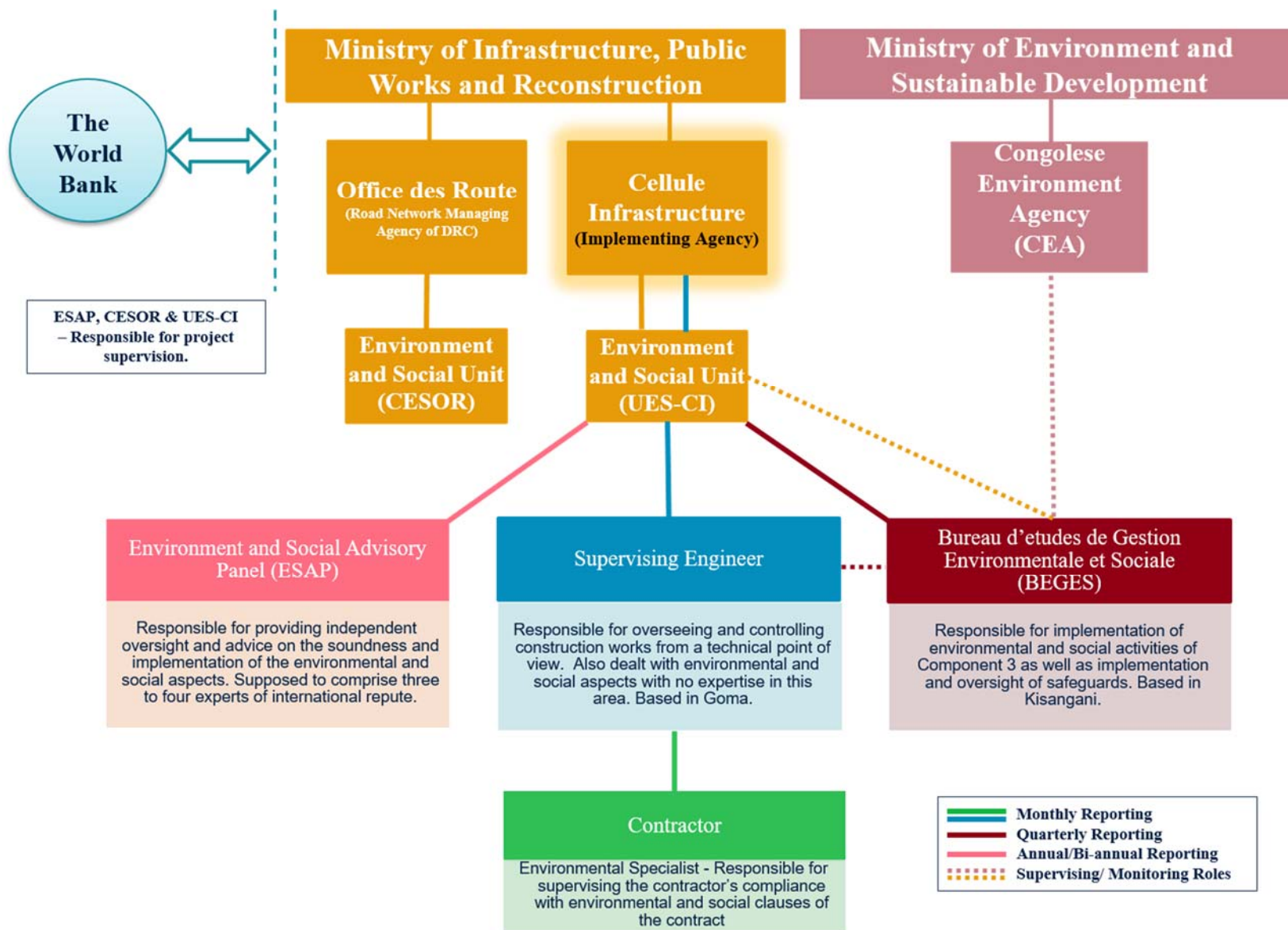
⁶⁹ Established in 2012 under AF1, cf. AF1 Project Paper, p. 25, and continued under AF2, cf. ESMF, October 2015, p. 134;

⁷⁰ Project Paper for AF2, January 27, 2016, pp. 58-59.

⁷¹ The Contractor is the *Société Zhengwei Technique Cooperation SARL (SZTC)*. The contract for SZTC was awarded in October 2016.

Figure 1: Overview of key entities involved in Project implementation and supervision

(Provincial authorities in North and South Kivu, including Governors, and provincial departments of roads, environment, and mining are excluded from the graph.)



60. While the Supervising Engineer focused on supervision of technical aspects of construction, BEGES was the core entity in charge of safeguards oversight. However, the Supervising Engineer was based in Goma, whereas BEGES was based in Kisangani, 511 km from Goma.

61. ESAP's first mission to Pro-Routes in 2012 already diagnosed problems arising from the institutional arrangement for environmental and social management, stating there was no document that clearly determined the responsibilities of the different actors regarding the process of environmental and social management.⁷² ESAP also advised CI and Bank Management to ensure that BEGES implements the repeated recommendations of different supervision missions and Aide-Mémoires.⁷³

62. In addition to the complexity of the institutional framework, the Panel notes that the individual entities lacked adequate capacity to fulfill their responsibilities. CI was overstretched and had human resources constraints while the Supervising Engineer lacked adequate expertise. The Panel was told during its visit that an environmental specialist from the headquarters of the company contracted as the Supervising Engineer visited the worksite for the first time after receipt of the Request. The poor performance of the Supervising Engineer was recognized by Management in its Aide-Mémoire of November 2017.⁷⁴

63. The problems with the performance of BEGES were well-known since ESAP's first mission to Pro-Routes in 2012.⁷⁵ Furthermore, DFID's 2012 and 2013 reports noted dissatisfaction with BEGES's performance.⁷⁶ DFID therefore recommended realignment of BEGES activities to include greater emphasis on road safety and local environmental impacts.⁷⁷ In 2013 the DFID Review argued that lack of effective continuity in BEGES, and weak enforcement of contractors' obligations regarding environmental and social impact mitigation were serious concerns.⁷⁸

64. BEGES's performance problems continued as noted in the AF2 Project Paper.⁷⁹ Since 2014 the company assuming the role of BEGES underwent top management turnover three times. The Project Paper noted that the consultants contracted to assess the system recommended closer CI monitoring of BEGES. Furthermore, the AF2 Project Paper noted that BEGES' performance was being evaluated and, by mid-January 2016, CI would decide whether to continue with BEGES under an action plan to improve its performance or select another firm. In effect the same firm was retained. CI's assessment of BEGES's performance was summarized in a letter to BEGES management dated May 5, 2016, which stated the following reasons for BEGES's below standard performance: (i) insufficient technical support from headquarters, (ii) insufficient technical and organizational coordination, and (iii) weak understanding of the administrative and financial

⁷² ESAP, June 2012, p. 23.

⁷³ *Ibid.*, p. 43.

⁷⁴ World Bank Aide-Mémoire for mission of November 14-21, 2017, p. 8.

⁷⁵ ESAP, June 2012, pp. 40-41.

⁷⁶ During these years SOFRECO was the firm performing the tasks of BEGES.

⁷⁷ DFID Annual Review, November 2012, p. 9.

⁷⁸ DFID Annual Review, August 2013, p. 6.

⁷⁹ Project Paper for AF2, January 27, 2016, p. 30, para 42 and p. 58, para 27.

procedures manual. The Panel could find no action plan to improve BEGES's performance, nor any document referring to Bank Management's review or approval of such a plan.

65. Furthermore, BEGES was given a dual role: (i) implementing environmental activities – including those related to protecting biodiversity, supporting national institutions responsible for environmental protection – under Project Component 3, and (ii) implementing and monitoring safeguard compliance in coordination with the Supervising Engineer. As noted in the Compliance Audit, this eventually made BEGES more an implementation unit of the environmental and social program than CI's arm to monitor, supervise, and enforce the environmental and social obligations in the field.⁸⁰

66. The Project thus proceeded with a highly complex institutional arrangement. There were many actors whose roles were not clearly defined and whose responsibilities were diluted, in an environment already characterized by capacity constraints.

Risk Assessment, Analysis, and Mitigation

67. The parent project was rated “high risk.” According to the PAD, one reason was that political stability was recent and some areas targeted by the project were still considered insecure.⁸¹ The only measure proposed to mitigate this risk was to strengthen supervision, but no specific details as to how this would be done were mentioned in any documents. Rather, whereas the PAD mentioned strengthened supervision, the document stated that the high risk related to the political and security environment could not be mitigated at the project level.⁸² The PAD also stated the institutional capacity risk was “substantial” because CI was overstretched, and proposed as a mitigation measure that additional resources be allocated to the agency.⁸³

68. Under AF1 the project's overall risk was maintained as “high.” The document stated that the institutional risk was increased from “substantial” to “high,” again explaining that CI was overstretched, and proposing as mitigation measures the allocation of additional resources and regular monitoring of project supervision.⁸⁴ Safeguard risks were also rated as “high” due to the risks associated with incomplete implementation of safeguard instruments, insufficient consultations, expansion of illegal logging, involuntary displacement of people, and marginalization of indigenous peoples. The mitigation measures were: the categorization of the project as “A,” setting up an ESAP and independent safeguards monitoring.⁸⁵ The AF1 Project Paper was silent on risks related to the country's political and security situation.

69. The AF2 Project Paper rated the overall risk as “high.”⁸⁶ This analysis weighed political and governance risks, macroeconomic risks, sector strategies and policies risks, technical design of project risks, institutional capacity for implementation and sustainability, environmental and social risks, and disaster and climate change risks.

⁸⁰ Compliance Audit, February 23, 2018, p. 5, para 5(i).

⁸¹ Project Appraisal Document, February 25, 2008, p. 18.

⁸² *Ibid.*, p. 19.

⁸³ *Ibid.*, p. 20.

⁸⁴ Project Paper for AF1, May 17, 2011, p. 25.

⁸⁵ *Ibid.*, p. 25.

⁸⁶ Project Paper for AF2, January 27, 2016 p. 8.

70. The document rated political and governance risk as “high” and mentioned that political and governance factors could significantly impact achievement of Project development objectives due to the volatile, post-conflict situation in eastern DRC. It also explained that while some political stability had been achieved, armed groups remained active. The impact of insecurity was perceived to manifest in the Project’s reduced ability to attract private-sector contractors and consultants required for Project implementation. Nothing was mentioned regarding the impact of insecurity on the ability of the Bank to supervise and monitor Project activities or other potential impacts on Project implementation. The only mitigating factor indicated was the ongoing stabilization and peace building process supported by MONUSCO.⁸⁷

71. The institutional capacity risk was also rated as “high.”⁸⁸ The Project Paper stated that CI was overstretched and would have to complete a large work program in a short period of time. The mitigation factor proposed was additional human resources that would be allocated to CI to handle the extended task volume of Pro-Routes over time. As stated earlier, UES-CI was working on all donor-supported road projects in the country and not only Pro-Routes.

72. The Project Paper rated environment and social risk as “high” due to the importance of tropical forests, natural resources, and the large number of vulnerable people and indigenous peoples’ communities in the Project area.⁸⁹ The document cited the relatively large amount of resources allocated to the environmental and social component and the existence of the ESAP among the mitigating factors for environmental and social risks. The Project Paper also noted “the professionalism of the agency in charge of this component” as another mitigating factor for this risk. Nevertheless, the Project Paper pointed out performance issues with BEGES, and that CI would decide whether to continue with the same firm due to its less-than-satisfactory performance.⁹⁰

73. Given the weak assessment of risks and potential impacts, the proposed mitigation measures envisioned under the Project were, in turn, inadequate. This was particularly true for the risks associated with the security situation. In its Response, Management explained that an initial agreement had been reached with the Government to ensure security in the Project area so contractors could operate safely.⁹¹ However, the Panel notes Project documents referred to no such arrangement or its details, nor did they provide any explanation of how the Project would be effectively implemented in a fragile environment. Since no security arrangement was designed for Project implementation, no mitigation measures were put in place to manage social risks that could emerge due to the security situation in the area and the use of military forces. Management’s Response recognized that “robust mitigation measures are required to manage social risks that could emerge from such situations” and that “these were not anticipated at Project preparation.”⁹² Management pointed out that these are now being put in place and explained in discussions with the Panel that it is preparing guidelines to staff on how to manage risks associated with the use of security forces.

⁸⁷ Ibid., p. 16.

⁸⁸ Ibid., p. 16.

⁸⁹ Ibid., p. 17.

⁹⁰ Ibid., pp. 17 and 58.

⁹¹ Management Response, p 8, point 25.

⁹² Ibid., p. vii.

74. In short, even when the risks were identified in Project documents, as in the case of the institutional risks associated with CI's capacity, the mitigation measures were fairly similar in the different phases of the Project, without reflecting on what could be learned from working with the same institution for nearly 10 years, and what needed to be changed to make mitigation measures effective.

2.2.5 Compliance Findings

75. DRC's fragile and post-conflict context poses major project preparation and implementation challenges. Institutional capacity constraints in DRC are well known to Management. Furthermore, the Project expanded road works into areas that presented more challenging security conditions than earlier phases. Yet the Project was prepared following institutional arrangements and risk assessments similar to those used for the parent project and AF1, and without taking into account their shortcomings and the changing environment.

76. The Panel finds that the institutional assessment in the context of Project preparation improperly considered capacity constraints and weaknesses experienced in previous phases of the operation. The Panel also finds that the Project's overall analysis of risks and their impacts, particularly regarding the security risks, was inadequate. Therefore, the mitigation measures fell short of adequately protecting affected communities from harm. The Panel finds Management's design and preparation of the Project in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).

2.3 Consultation, Disclosure of Information, and Grievance Redress

77. This section examines the adequacy of consultations with affected communities and disclosure of Project information. It also assesses the adequacy, accessibility, and effectiveness of the Project-level Grievance Redress Mechanism (GRM).

2.3.1 Request for Inspection

78. The Requesters expressed concern about consultation and grievance management, stating the Bank is promoting their development, without their participation.⁹³

2.3.2 Management Response

79. The Management Response did not specifically refer to the issue of stakeholder engagement. However, it stated that the ESMF and RPF prepared for the parent project were updated in 2015 for AF2 and that site-specific ESIA and RAPs were subsequently prepared in 2017. According to Management all documents were disclosed and consulted according to Bank policy requirements.⁹⁴

⁹³ Request for Inspection, p. 1.

⁹⁴ Management Response, p. 5, footnote 1.

80. The Management Response stated the Project provides for a GRM to receive and address complaints. It acknowledged “the GRM has not been fully implemented for the Bukavu-Road segment” and explained that “Management is working with the PIU to complete the GRM and ensure that it is put into operation.”⁹⁵ Management pointed out that the Bank is also working with the PIU to strengthen the Project’s multiple supervision and reporting mechanisms, including the Project’s GRM, so that possible Project-related issues can be detected more rapidly.⁹⁶ Specifically, 24 committees had at that time been established (five in North Kivu and 19 in South Kivu), including eight that oversee the overall grievance system and 16 local committees.⁹⁷ According to Management, a consolidated list of all complaints received and addressed by the GRM was expected by the end of October 2017.

81. According to the Management Response, all villages along the road have committees in place and the first complaint (related to a car accident) was registered.⁹⁸ Management explained that information about the GRM’s existence was disseminated through public information sessions facilitated by BEGES, as well as through local radio announcements. Management asked the PIU and BEGES to ensure that all complaints received before the GRM was fully active be registered and addressed through the GRM.

2.3.3 Bank Policies

82. Paragraph 14 of OP 4.01 on Environmental Assessment states that for Category A and B projects “the Borrower consults project-affected groups and local non-governmental organizations (NGOs) about the environmental aspects and takes their views into account.” According to this Policy, the borrower “initiates such consultations as early as possible,” and, for Category A projects, the borrower “consults these groups at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized, and (b) once the draft EA is prepared.” In addition “the borrower consults with such groups throughout project implementation as necessary to address EA-related issues that affect them.”

83. For meaningful consultations between the borrower and project-affected groups and local NGOs on all Category A and B projects proposed for IBRD or IDA financing, the borrower provides relevant material in a timely manner prior to consultation and in a form and language understandable and accessible to the groups being consulted.⁹⁹

84. For a Category A project, the borrower provides for the initial consultation a summary of the proposed project's objectives, description, and potential impacts. For consultation after the draft EA report is prepared the borrower provides a summary of the EA's conclusions. In addition, for a Category A project the borrower makes the draft EA report available at a public place accessible to project-affected groups and local NGOs.¹⁰⁰

⁹⁵ Ibid., p. 5.

⁹⁶ Ibid., p.10, para 34.

⁹⁷ Ibid., p. 5, para 15.

⁹⁸ Ibid., p. 29.

⁹⁹ OP 4.01, para 15.

¹⁰⁰ Ibid., para 16.

85. According to Bank Policy on Involuntary Resettlement (OP/BP 4.12), in cases involving resettlement the RAP or RPF must ensure that displaced persons are: (i) informed about their options and rights pertaining to resettlement and (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives.¹⁰¹ Furthermore, it states, “[d]isplaced persons and their communities and any host communities receiving them are provided timely and relevant information, consulted on resettlement options and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.”¹⁰²

86. As for affordable and accessible grievance procedures for third-party settlement of disputes arising from resettlement, Annex A states that grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.¹⁰³

87. Annex A further states that community participation also may include “institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.”¹⁰⁴

2.3.4 Panel Observations and Analysis

Consultation and Disclosure of Information

88. *Environmental Assessment.* The Panel reviewed the consultation process for the ESMF and ESIA. The Panel notes that the 2015 ESMF mentioned public consultations for AF2 were held between March and August 2015 in three provinces covering all AF2 roads.¹⁰⁵ The document also mentioned that validation workshops were organized during August 6-10, 2015, in Bukavu and Goma. Concerns raised related to loss of agricultural land, the use of local labor, pavement of the road, compensation for potential damages in private properties, and the construction period.¹⁰⁶ The annex also showed a picture of one meeting along RN2 that was conducted in Nyabibwe (with no corresponding dates, or list of participants provided).¹⁰⁷ However, the list of attendees annexed to the ESMF, which included meeting dates from June-July 2015, did not mention any participant from affected communities in the area of influence of RN2.¹⁰⁸

89. The 2017 ESIA stated the consultations were conducted in two stages: first, information meetings about the Project were organized during the information-gathering stage, and second, public consultation meetings were organized.¹⁰⁹ Two validation workshops were then held in Bukavu and Goma. The Panel notes that the concerns raised in the ESIA meetings were literally

¹⁰¹ OP 4.12, para. 6(a).

¹⁰² Ibid., para 13.

¹⁰³ Ibid., Annex A, para. 17.

¹⁰⁴ Ibid., Annex A, paragraph 15(d).

¹⁰⁵ ESMF, October 2015, p. 80.

¹⁰⁶ Ibid, p. 81.

¹⁰⁷ Ibid., p. 177.

¹⁰⁸ Ibid., pp. 184-185.

¹⁰⁹ ESIA, February 2017, p. 132.

identical to those presented in the ESMF.¹¹⁰ The ESIA also had the same picture from the meeting in Nyabibwe presented in the 2015 ESMF, with the date however of August 2016.¹¹¹ Considering that both the ESIA and ESMF presented the same pictures, mostly identical lists of concerns, meeting dates of June-July 2015, and lists of participants, it is not clear to the Panel whether there were separate consultations for preparation of the ESIA.

90. The updated 2018 ESIA referred to the same consultation meetings (in July 2015) as those mentioned in the 2017 ESIA and 2015 ESMF.¹¹² The executive summary (but not the main report) referred to several consultations conducted between August and December 2017 with local communities – especially from the Internally Displaced People’s (IDPs) camp, quarry owners, local authorities, and the local Grievance Redress Committees (*Comités Locaux de Réinstallation et de Gestion des Litiges de base*, GRCs).¹¹³ The annexed list of participants and minutes from the meetings, however, were once again identical to those for the July 2015 consultations.¹¹⁴ Therefore, it is unclear to the Panel whether the consultations referred to in the executive summary were indeed full-fledged and proper.

91. Based on the observations above, the Panel concludes that the environmental assessment process was based on weak stakeholder engagement. First, there is no indication that Project-affected communities were provided with relevant and culturally appropriate information prior to the consultation meetings and that the documents were made available in local languages.¹¹⁵ Second, participation of affected communities along RN2 appears limited and the consultations for the update of the ESMF seemed to have been the same as those for the ESIA. While it appears there were some initial consultations in four communities along the road in July 2015,¹¹⁶ the environmental assessment documents were only consulted again in Bukavu and Goma and there were no community consultations at that stage. The documents and their annexes did not clearly show who participated in these validation meetings, but the pictures suggest participation was quite limited. Third, the consultations seem to consist of information-sharing rather than meaningful discussions of issues of concern, considering the very general nature of the subjects raised and the discussions reflected in the meeting minutes. Finally, it is unclear how the concerns of community members were considered in the Project design.

92. The Panel notes that, considering the weak consultation process, Project risk assessment was not properly informed by concerns from the affected communities. Therefore, important potentially adverse impacts and related mitigation measures were not considered in the Project design. As elaborated throughout this Report, weak community participation and lack of sensitization and preparation of the community to face the Project’s potential social risks contributed to adverse impacts on the community. The Panel also notes that continuous consultations throughout Project implementation could have helped identify warning signs and prevented some of the harm that occurred.

¹¹⁰ ESMF, October 2015, p. 174 and ESIA, February 2017, p. 134.

¹¹¹ ESIA, February 2017, p.132.

¹¹² Updated ESIA, February 2018, p. 144.

¹¹³ Ibid., p. 18.

¹¹⁴ Ibid., pp. 164-167.

¹¹⁵ Only executive summaries of the safeguards documents were translated to Swahili.

¹¹⁶ ESIA, February 2017, Annex 1, pp.138-140.

93. *The Resettlement Policy Framework and Abbreviated Resettlement Action Plan.* The Panel analyzed the consultations undertaken for the update of the RPF and the preparation of the ARAP. The Panel notes that the 2015 RPF indicated consultations were held with all relevant stakeholders and affected communities.¹¹⁷ However, it did not provide information on how and when local communities were consulted and included an attendance list of only Government officials and, once again, the same pictures of meetings in Goma and Bukavu presented in the ESMF and ESIA.¹¹⁸ The concerns raised in the consultations summarized in the RPF related to the eligibility criteria and impacts covered, compensation process, timeframe for construction, and the need to hire local labor.¹¹⁹

94. According to the 2016 ARAP, this document was publicly consulted both during the initial preparation phase with affected communities along the road and later in two validation workshops that took place on August 6 and 10, 2015, in Bukavu and Goma.¹²⁰ The list of concerns raised, the annexed participants list, and the photos indicate that the two rounds of consultations are identical to the meeting held along RN2 and the validation workshops mentioned in the 2015 ESMF, the 2015 RPF, and the 2017 and 2018 ESIA.

95. The updated 2017 ARAP presented detailed information on the consultation methodology and process undertaken for the 2016 ARAP. The updated ARAP further explained that six consultation meetings were held in villages along the road in September 2017 and radio messages were disseminated during the update of the ARAP and establishment of local GRCs.¹²¹ The Panel observes however that the document only presented the minutes and list of participants from the meetings in 2015.¹²²

96. The Panel notes that despite the differing objectives of consultations for the environmental assessment and resettlement process, the two consultation processes seem to have been combined. Given that there was one consultation meeting in each of four affected communities and a half-day workshop in Goma and Bukavu to discuss the ESMF, RPF, ARAP, and ESIA, the extent to which the consultations allowed for meaningful discussions is questionable. In addition, it is also unclear to what extent PAPs were properly informed about their rights pertaining to resettlement, eligibility criteria, and the compensation process. While the Panel understands that consultations were held for the update of the ARAP in 2017, the Panel observed that many PAPs still lack understanding of the compensation process, including how compensation amounts were calculated.

97. *Disclosure of Safeguards Documents.* The Panel understands that most safeguards documents were disclosed on the DRC Ministry of Environment, Nature Conservation and Sustainable Development website and the World Bank's external website.¹²³ However, it could

¹¹⁷ RPF, October 2015, p. 69-70.

¹¹⁸ Ibid., p.73 and p. 98.

¹¹⁹ Ibid., pp. 70-72.

¹²⁰ ARAP, June 2016, pp. 84-85, pp. 92-99, pp. 114-118. While the ARAP only mentions one workshop in Bukavu the pictures show workshops in both Bukavu and Goma.

¹²¹ Whereas the RPF and the 2016 ARAP identified 5 households and in total 70 persons as affected, that number rose to 81 households and 526 persons, c.f. Updated ARAP, November 2017, p. 68.

¹²² Updated ARAP, November 2017 pp. 93-95.

¹²³ ISDS, November 5, 2015, pp.8-10 and Compliance Audit, February 23, 2018, p. 12, para. 5(b).

find no indication that these documents were available locally. The Compliance Audit also mentioned the safeguards documents were not disclosed to PAPs and the final versions of these documents are not available in the field.

98. *Consultations during Project Implementation.* During its visit the Panel spoke to many community members along the road. While they stressed how important the road was they also explained that stakeholders received little up-front information about the Project and were unable to influence Project decision-making. Many community members told the Panel they only learned about the road works when construction started. Several community members stated they discovered only then that a few hundred people were hired, mostly from around Sake (where the Contractor's permanent camp is located and the road ends) and that due to a lack of information they were unable to apply and benefit from the new jobs created in their vicinity. Community members also shared with the Panel concerns about the poor quality of the road and stated they wished the road was asphalted.

99. The weak stakeholder engagement and absence of CI's and BEGES's field presence was aggravated by the fact that community members could not properly communicate with the Contractor, since the supervisors spoke Chinese but not French, Swahili, or other local languages. Workers and community members shared instances with the Panel about continuous miscommunication and misunderstandings, resulting in frustration and sometimes violence. The Panel was told the already-difficult relationship with the Contractor deteriorated further when the forceful occupation of quarries under military protection started, water pipes were ruptured, and crops were destroyed. Affected people claimed that during this period all attempts from local and traditional authorities, quarry owners, and other community members to communicate with the Contractor were unsuccessful, either due to the language barrier or because military personnel hindered people from approaching the Contractor's workers. In this regard the Panel notes that language barriers were repeatedly mentioned in the Supervising Engineer's monthly reports as a constraint to Project implementation.

100. The shortcomings of the consultation process were also pointed out in the Compliance Audit.¹²⁴ According to the Audit, it appears there was no consultation process with affected communities or if there was, as for the RPF revision in 2015, it constituted dissemination of information rather than adequate consultation after disseminating relevant information in an appropriate language and at an accessible location and time. The Audit stated no effective consultation for the safeguards documents, including the ESIA and ARAP, took place; discussions of these documents only started when the GRM was set up after receipt of the Request.

101. During its visit, the Panel heard the relationship between the Contractor and the local population improved after receipt of the Request and the change of the Contractor's management, but community members still showed distrust towards the Contractor and others involved in the Project. The Panel recognizes that this situation must also be understood in the context of insecurity in the region and historical distrust of FARDC and the Government. The Panel holds the view that

¹²⁴ Compliance Audit, February 23, 2018, p. 21, para 21. The audit concludes that the lack of information available to potentially affected persons is a cause for non-compliance since safeguards documents must be subject to informed consultation during preparation and must remain accessible during project implementation.

in such a context enhanced engagement with local communities is needed to build trust, ensure that affected communities' concerns are heard, and that they can benefit from the Project.

Grievance Redress Mechanism

102. The establishment of a Project-level GRM was mentioned in an identical provision in both the ESMF¹²⁵ and RPF.¹²⁶ According to this provision grievances are received, reviewed, and addressed by a resettlement committee. The 2016 ARAP mentioned that three GRCs were created, one for each *groupement* along the road. These committees comprise members from local authorities (“*le chef de groupement ou chef du village*”), civil society, PAPs, the Supervising Engineer, the Contractor, and BEGES.¹²⁷

103. According to the 2016 ARAP, the GRCs are tasked with: (i) supporting the RAP consultant during the census and asset inventory, (ii) supporting the RAP consultant and BEGES in sensitizing on Project issues, (iii) participating in the payment of compensation, (iv) supporting BEGES in the registration and assessment of grievances, and (v) supporting BEGES in grievance management.¹²⁸

104. The Panel notes that although the safeguard documents laid out the establishment of a GRM, the mechanism was not operational prior to receipt of the Request. This was acknowledged by Bank Management in its August 2017 supervision Aide-Mémoire, which stated the mechanism was not sufficiently operational and the affected communities had not received sufficient information about the existence of this mechanism.¹²⁹ According to that Aide-Mémoire Bank Management requested CI and BEGES to ensure these are operational by September 8, 2017. The Panel furthermore notes that while the monthly reports of the Contractor's Environmental Specialist prior to September 2017 consistently mentioned the lack of a grievance mechanism,¹³⁰ there was no follow-up either by BEGES or by Bank Management to address this issue. Although BEGES was tasked with monitoring environmental and social issues its reports did not mention the lack of a functional GRM before the August 2017 mission. In discussions with the Panel BEGES explained that since the original ARAP had identified only five cases meriting compensation, there was no urgent need to set up the GRM.

105. The Requesters informed the Panel they were unaware of any GRM prior to receipt of the Request. Community members also explained that when they tried to voice grievances related to damaged drinking water systems and the excessive use of force the Contractor's military personnel stopped them from accessing the Contractor's basecamp. Therefore, the local population had no avenue for voicing their concerns about the Project and, in the absence of a functional GRM, CI and Management missed important warning signs about Project problems. The Bank's Aide-Mémoire from August 2017 acknowledged that the lack of a GRM prevented Management from identifying conflicts associated with the exploitation of the quarries.

¹²⁵ ESMF, October 2015, pp. 137-139.

¹²⁶ RPF, October 2015, pp. 63-66.

¹²⁷ ARAP, June 2016, p. 75.

¹²⁸ Ibid., p. 75.

¹²⁹ World Bank Aide-Mémoire for mission of August 28-31, 2017, para 10.

¹³⁰ Each report included a schematic overview of areas of non-compliance. The monthly observation was “*Pas des procédures de réclamation.*”

106. The Panel notes the various actions taken by Management after receipt of the Request to ensure the Project has a functional GRM. The Project's ARAP was updated in November 2017 and it lays out a two-tier system.¹³¹ According to this ARAP, the entry points for complainants are the sixteen local GRCs established along RN2. The local GRCs would consist of the following permanent members: (i) one member from the local authority, (ii) one member from the civil society, and (iii) two members from the group of affected people. The local GRCs would also have the following, non-permanent members: (i) one member from the Supervising Engineer, (ii) one member from the Contractor, and (iii) one member from BEGES. In terms of its responsibilities, the local GRCs are tasked with: (i) accompanying BEGES in the process of implementing the ARAP, (ii) helping PAPs register their grievances, (iii) registering grievances linked to the Project, (iv) verifying and participating in solving the grievances registered together with the non-permanent members of the GRC.

107. As per the 2017 ARAP, the second tier is composed of eight supervisory GRCs. The supervisory GRCs are created at the level of chieftancies, groups and territories that are administrative or customary hierarchical entities of the villages.¹³² These GRCs function as a first recourse against an unfavorable decision by the local GRCs. They have the power to close the case without further action or return the complaint to the local GRC and ask them to review their decision.

108. The action plan status as of January 2018 explained that 26 local GRCs had been created along RN2.¹³³ However, the Panel notes weaknesses in the existing mechanism, particularly related to knowledge about its existence, functioning and effectiveness as discussed below.

109. BEGES informed the Panel they had undertaken training for the supervisory GRCs in December 2017 and that further training was planned. They also stated local radio communications were used to advertise the existence of the mechanism. Notwithstanding this, the Panel during its visit spoke to many community members who remained unaware of the GRMs' existence and the process for handling complaints. This lack of knowledge of the GRM was recognized in the Bank's November 2017 Aide-Mémoire focused on GBV risks that recommended the reinforcement of community knowledge of the GRM system, especially for women and girls.¹³⁴ According to the Bank's updated action plan from January 2018, a GBV specific complaints mechanism was being established.¹³⁵

110. The Panel reviewed the January 2018 version of the log of complaints¹³⁶ and notes many of the grievances were imprecisely registered and it is unclear from their descriptions what they are about; categories such as "various human rights violations," "house," etc., are used. The Panel further notes there are no dates in the database, and it is impossible to track how long it took to process a grievance. Neither does the database show the compensation paid for destroyed crops or assets. In total the database contained 229 grievances of which apparently 75 percent related to

¹³¹ Updated ARAP, November 2017, p. 81-82.

¹³² Ibid., p. 82.

¹³³ January 2018 action plan, point 10.

¹³⁴ World Bank Aide-Mémoire, *Mission de suivi des risques de VBG associés au Projet*, November 2017.

¹³⁵ January 2018 action plan, point 37.

¹³⁶ GRM log of complaint, status as of January 31, 2018.

impacts on crops, and it stated that 108 cases (47 percent) were resolved with compensation paid, without providing any information on how much has been paid, when, and to whom.

111. The Panel also observes that the requirement that complaints be registered with the complainant's name in a notebook ("*cahier*") kept by the members of the GRC means that confidentiality of complaints cannot be guaranteed. In an environment where there is fear of retaliation this is likely to discourage filing of all relevant complaints. The Aide-Mémoire from the November 2017 mission on SGBV risks also recommended this system should be revised to guarantee greater confidentiality and that the system for receiving complaints should be diversified.

112. RARIP-RGL – a local NGO – shared with the Panel in January 2018 an analysis it conducted of the grievance system put in place based on a survey sample of members of GRCs and of community members. The NGO looked at issues such as knowledge of GRCs, criteria for the selection of members, and related issues. The survey indicated that more than 60 percent of GRC members had received no training on the functioning of the mechanism. The survey also showed a lack of knowledge about the existence of the GRM and, apart from one message sent on local radio, no attempt was made to use existing local civil society to spread the word concerning the existence of the GRM. Eighty-two percent of GRC members themselves stated they lacked the means to advertise the existence of the mechanism. The survey also raised the issue of the security and confidentiality of complaints and stated that this was not guaranteed. Only 40 percent of those who have sent a complaint stated they received a response. The RARIP-RGL report concluded by stating that given some of the weaknesses of the current system a faster and more agile replacement should be adopted.

113. The above analysis indicates that works on RN2 effectively started in the absence of the requisite GRM and that only after receipt of the Request did the Project make a serious effort to engage with affected communities and establish a GRM. The Panel notes that the absence of a functional GRM coupled with the lack of robust supervision by the Bank meant Management was unaware of the serious problems that Project implementation was facing and the harm that resulted from this.

114. While the Panel acknowledges and welcomes that the GRM established after the Request is a step in the right direction, it observes that weaknesses remain in the current mechanism relating to its predictability and effectiveness. It is clear to the Panel that more must be done to ensure the affected communities are aware of the mechanism and can use it to seek redress.

2.3.5 Compliance Findings

115. The Panel notes that due to serious shortcomings in consultations and disclosure of information, the local population could not participate and voice their views on Project design and implementation. The Panel observes that affected communities were left without information about their rights and entitlements under the Bank's policies. **The Panel finds Management in non-compliance with the consultation and disclosure of information requirements of the Bank Policies on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12).**

116. The Panel notes that the Project lacked a functioning GRM for the local communities to raise their concerns during implementation of the Project. **The Panel finds Management's failure to ensure the timely establishment of an accessible, transparent, and effective Project GRM in non-compliance with the Bank Policy on Involuntary Resettlement (OP/BP 4.12).** The Panel understands that following receipt of the Request Management made efforts to ensure the establishment of a GRM for the Project.

Chapter 3: Livelihoods, Community Health and Safety, and Labor Impacts

3.1 Introduction

117. This chapter discusses alleged harm in three main categories: (i) livelihoods, (ii) community health and safety, and (iii) working conditions and occupational health and safety. The livelihoods section includes harm resulting from quarry and borrow pit¹³⁷ extraction of construction materials for the Bukavu-Goma road, and the alleged loss of income and livelihoods from agriculture along the road. The section on community health and safety discusses harm from the use of force by security forces engaged by the Contractor, road accidents, water supply disruption, and drainage of storm water along the road. The section on labor focuses on working conditions, compensation, and occupational health and safety.

3.2 Livelihood Impacts

3.2.1 Request for Inspection

118. The Requesters claimed different harm resulting from the road rehabilitation. These include the allegation that FARDC, engaged by the Project's Contractor to provide security, have occupied a quarry that is operated by the Requesters and serves as their source of income and livelihood. They explained construction materials were forcibly taken following torture, assault and battery and physical violence.¹³⁸ They claimed that, as a result, many people who worked in the quarry do not know how they will meet the needs of their families. The Requesters also viewed a Government decision to close their quarry as an act of retaliation.

119. The Requesters further alleged community members' crops and medicinal plants along the road were destroyed by road works and that they have not been compensated for these losses.

3.2.2 Management Response

120. According to Management, "a key element of the Request appeared to be a commercial dispute between the Contractor and one Requester who operates a quarry."¹³⁹ Management referred to the escalation of a dispute about the price and quantities of gravel and crushed stones supplied by the quarry, which could not be resolved, and stated that "[i]n the course of this dispute the Contractor allegedly resorted to physical violence, using military personnel, to seize construction materials without paying for them."¹⁴⁰ Management explained this dispute has been resolved and the Requesters were compensated for their losses. Management noted that "given the importance of the issues, Management also reached out to the Contractor and Requester in an effort to support the Borrower's efforts to remedy this unacceptable incident and put in place measures to prevent any recurrence."¹⁴¹ Management observed that apart from the Requesters, other quarry owners and

¹³⁷ In this report "quarry" refers to quarries and borrow pits, covering different types of building materials (stone, gravel, sand, etc.)

¹³⁸ « *La facture de nos matériaux de construction pris par force après des scènes macabre des tortures, coups et blessures et de violences physique...* » Request for Inspection, August 3, 2017.

¹³⁹ Management Response, p. vi.

¹⁴⁰ Ibid., p. 9.

¹⁴¹ Ibid.

operators had also not been properly compensated for the exploitation of their quarries and borrow pits. However, according to Management, all outstanding compensation has been paid and an audit has been commissioned to verify the payments.¹⁴²

121. Regarding the allegation that the closure of the Requesters' quarry was a result of retaliation, Management explained the decision was "technically justified"¹⁴³ due to the safety hazard posed by an adjacent electricity transmission tower. According to the Response, other threats of retaliation could not be substantiated and Management has communicated to the Government at the highest levels that it does not condone any form of retaliation.¹⁴⁴

122. The Management Response further explained that 76 additional Project-affected households were identified as having assets that were "indirectly affected by road works and other quarry and borrow pit exploitation, from a livelihoods perspective."¹⁴⁵ It considered the impacts modest, with some agricultural losses as crop yields were affected by the quarry and borrow pit exploitation. Management stated 51 households have been compensated, while the remaining 25 would be paid when security conditions allow. Twenty-seven households have been identified related to 14 new quarries, which the Contractor was planning to exploit to advance the road works. The Management Response claimed the Borrower ensured that the Contractor would not move ahead with exploitation of these quarries until the affected households were fully compensated, and all authorizations were obtained.¹⁴⁶ Management pointed out that the ARAP "is being updated to include these newly identified impacts and will be further updated if additional eligible complaints are registered through the Project-level GRM or other means."¹⁴⁷

3.2.3 Bank Policies

123. OP/BP 4.01 on Environmental Assessment requires assessment of a project's environmental and social risks and impacts. For Category A projects the EA "examines the project's potential negative and positive environmental impacts [...], and recommends any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance."¹⁴⁸ The Bank reviews the findings and recommendations of the EA to determine whether they provide an adequate basis for processing the project for Bank financing.¹⁴⁹

124. According to Annex C of OP/BP 4.01, ESMPs are essential elements of Environmental Assessment reports for Category A projects. The ESMP "identifies feasible and cost-effective measures that may reduce potentially significant adverse environmental impacts to acceptable levels. The plan includes compensatory measures if mitigation measures are not feasible, cost-effective, or sufficient."¹⁵⁰ The ESMP specifically "(a) identifies and summarizes all anticipated

¹⁴² Ibid., p. 13.

¹⁴³ Ibid., p. 14.

¹⁴⁴ Ibid., p.14.

¹⁴⁵ Ibid., p. 13.

¹⁴⁶ Ibid., pp. 13-14.

¹⁴⁷ Ibid.

¹⁴⁸ BP/OP 4.01, para 8.

¹⁴⁹ OP 4.01, para. 5.

¹⁵⁰ Ibid., Annex C, para 2.

significant adverse environmental impacts [...]; (b) describes – with technical details – each mitigation measure, including the type of impact to which it relates and the conditions under which it is required [...], together with designs, equipment descriptions, and operating procedures, as appropriate; (c) estimates any potential environmental impacts of these measures; and (d) provides linkage with any other mitigation plans [...] required for the project.”¹⁵¹

125. OP/BP 4.12 on Involuntary Resettlement covers economic and social impacts resulting from Bank-assisted investment projects and that are caused by the involuntary taking of land that results in “(i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location.”¹⁵²

126. OP 4.12 explains that the borrower is responsible for preparing, implementing, and monitoring resettlement instruments (a resettlement plan, RPF, or process framework).¹⁵³ The Policy requires the resettlement plan or RPF include measures to ensure that displaced persons are informed about their options and rights pertaining to resettlement; consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; provided prompt and effective compensation at full replacement cost for losses of assets, and offered transitional support.¹⁵⁴ The policy specifically notes that “taking of land and related assets may take place only after compensation has been paid.”¹⁵⁵ It adds that displaced persons and their communities must be provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in the planning, implementation, and monitoring of the resettlement.¹⁵⁶

3.2.4 Panel Observations and Analysis

127. During its investigation visit the Panel traveled the entire RN2 road between Goma and Bukavu and visited many affected communities and quarries near the road. The Panel spoke with community members about their concerns and met with the Contractor several times to follow up on different issues. In most cases the Panel team appeared unannounced to speak with Project-affected people. The Panel repeatedly heard about harm to livelihoods related to the taking of quarry materials and loss of agricultural crops and medicinal plants.

Quarry and Borrow Pit Extraction

128. The Panel notes that quarries are essential for all road works as they provide indispensable materials for road rehabilitation and enhancement including aggregates, gravel, and sand. Quarries are therefore considered an integral part of the Project and must be treated as such regarding their impacts and related mitigation measures. The Panel understands all quarries and other mineral resources belong to the state, but operators¹⁵⁷ receive renewable licenses to exploit them, usually for the duration of one year. The Panel notes the difference between information in Project

¹⁵¹ Ibid., Annex C, para 2.

¹⁵² OP/BP 4.12, para 3.

¹⁵³ Ibid., para 18.

¹⁵⁴ Ibid., para 6.

¹⁵⁵ Ibid., para 10.

¹⁵⁶ Ibid., para 13.

¹⁵⁷ Sometimes also referred to as “owners.”

documentation and data received from the Contractor, the Supervising Engineer, BEGES, and Bank Management about the total number of quarries used for the works on RN2.¹⁵⁸ Quarry operators explained to the Panel that many quarries along RN2 were permanently or occasionally operational when road rehabilitation started. They also mentioned that during the last road rehabilitation in 2006 quarry operators provided materials and were paid based on commercial agreements.

129. The Panel spoke with many quarry operators at meetings in Goma and Bukavu and along the road. Several stated they had obtained the required documents to operate their quarries. The Requesters, for example, told the Panel they had been authorized to operate their quarry uninterrupted for the past 14 years through annual concessions. They explained they had informally negotiated earlier with the Contractor to provide construction materials for the road, but once a Provincial Order was issued that declared several quarries as open for extraction, the Contractor arrived at the quarry with FARDC forces and its own workforce and started exploitation before an agreement was in place. Other quarry operators described similar situations.

130. The Panel heard that the Requesters and other operators and workers were chased away from the quarry sites by the military personnel engaged by the Contractor, which sometimes used excessive force. The Panel also heard that during the early stages of road works representatives of the Government of South Kivu visited some of the quarry operators, told them it was important that the road rehabilitation works be conducted in a speedy manner, and asked them to cooperate with the Contractor. Several quarry operators explained that due to the Contractor's use of its own workers to extract quarry materials, people who had been employed in these quarries found themselves out of work, without their incomes, and unable to provide for their families.



Picture 1: Quarry along RN2

¹⁵⁸ For example, the September 2017 Quarry Exploitation Plan and the Compliance Plan for quarries and borrow pits cover 15 and 16 quarries, respectively. The Supervising Engineer's report of November 2017, and the 2017 Updated ARAP refer to a total of 25 quarries. In January 2018 the Contractor informed the Panel it was using 19 quarries. The Panel notes that the location coordinates for the quarries presented in different documents are not fully consistent.

131. The Requesters explained to the Panel that after their quarry had been taken they and others were pressured by the Contractor, FARDC, and provincial authorities into signing extraction agreements. They alleged they had no information on the quantities and quality of materials taken from their quarries and perceive the compensation provided as insufficient. Several quarry operators told the Panel they felt intimidated when negotiating the agreements and feared negative consequences if they did not sign.

132. The Panel also spoke to many sand miners who explained that over the years sand mining was conducted near an IDP camp by cooperatives using artisanal mining methods. They told the Panel the sand mining generated income for many camp inhabitants. The sand miners claimed their quarry was taken over by the Contractor during road works, exploited with the use of heavy machinery, and then closed.

133. *2015 ESMF*. The 2015 ESMF for AF2 explained that the Ministry of Mines issues authorizations for the development and exploitation of quarries and borrow pits.¹⁵⁹ It stated that for AF2, materials will be extracted, as much as possible, from existing quarries and the opening of new ones is not planned.¹⁶⁰ According to the ESMF, the Contractor shall obtain the necessary authorizations for opening and operating quarries and borrow pits – both temporary and permanent – in accordance with the relevant national legislation.¹⁶¹ It stated that before starting works the Contractor must consult with local residents.¹⁶² The ESMF further explained that the Contractor shall establish and submit for approval a detailed, site-specific environmental and social management program that includes a management and rehabilitation plan for the quarries and borrow pits and a list of agreements made with current owners and users of private sites.¹⁶³ According to the ESMF all sites must be approved by the Supervising Engineer and meet the applicable environmental standards,¹⁶⁴ and at the end of the operation of the Contractor shall restore the quarries.¹⁶⁵ The ESMF also explained that, since the locations of borrow pits are not yet known, a consultant will provide guidance at a later stage.¹⁶⁶

134. *Works Contract*. The Panel notes the Works Contract for RN2 was signed on October 11, 2016. It required the Contractor to submit a list of all quarries to be used, including information on the materials to be extracted and their quantity, as part of its inception report to the Supervising Engineer.¹⁶⁷ According to the Works Contract, at least one month before the use of any quarries the Contractor shall submit an Extraction and Operation Plan as well as an ESMP that includes: (i) the location of land that will be used, (ii) a copy of the agreements with the quarry operators, (iii) a detailed inventory of the various sites, (iv) a baseline survey, and (v) a restoration plan.¹⁶⁸ The Works Contract also required submission of a 1:500 scale map of each quarry and a detailed geotechnical

¹⁵⁹ ESMF, October 2015, p. 76.

¹⁶⁰ Ibid., pp. 28 and 156.

¹⁶¹ Ibid., p. 156.

¹⁶² Ibid., p. 152.

¹⁶³ Ibid., p. 153.

¹⁶⁴ Ibid., p. 156.

¹⁶⁵ Ibid., p. 156.

¹⁶⁶ Ibid., pp. 191-192.

¹⁶⁷ Work Contract, p. 120.

¹⁶⁸ Ibid., p. 171.

study.¹⁶⁹ It stated the mining of sand and gravel from riverbeds should be subject to an application for a special authorization. This should be accompanied by a notice certifying the absence of major impacts on the stability of the river, the possibilities of restoration by natural siltation, and the volume and nature of materials subject to the extraction request.¹⁷⁰

135. According to the Supervising Engineer reports, the preparatory works started in October 2016,¹⁷¹ and the road rehabilitation works in March 2017.¹⁷² The Panel notes that, as discussed in Chapter 2, the Financing Agreement required the Borrower to (i) prepare and furnish the safeguard instruments before commencing the implementation of any activity, (ii) publicly disclose safeguards instruments no later than three months before the start of any works, and (iii) carry out activities in accordance with the provisions of the safeguards instruments.¹⁷³

136. *2017 ESIA*. The ESIA for RN2, which included the Project's ESMP, was only disclosed in February 2017, while construction of the workers' camp had started the previous October and road rehabilitation started in March 2017. The ESIA stated that quarry extraction shall be limited as much as possible to existing quarries and requires a site-specific ESMP be developed by the Contractor and to include a rehabilitation plan for quarries.¹⁷⁴ The site-specific ESMP must be submitted to the Supervising Engineer and BEGES and integrated into the Project before the start of works. It may be updated when changes occur, in consultation with the main Project entities such as the Contractor, BEGES, and CI.¹⁷⁵

137. *Contractor's ESMP*. The Contractor's ESMP, which was validated by BEGES in March 2017, listed planned development works including measures to prevent erosion and the excavation, backfilling, extraction, and transportation of quarry materials. The Contractor's ESMP listed 15 quarry sites and explained that these quarries were used in an artisanal manner by the local populations and would serve as a starting point. The Contractor's ESMP further stated the quarries and borrow pits would be rehabilitated after the extraction of building materials.¹⁷⁶ It forecasted an amount of USD12,000 for diverse expropriations, including acquisition of quarries sites, and USD3,000 for the restoration of sites.¹⁷⁷

138. The Panel notes that the Supervising Engineer's March 2017 report expressed concern about the absence of authorizations to exploit quarries. According to this report the Contractor had explained that verbal authorization was given by the two relevant provincial governors¹⁷⁸, but the Supervising Engineer suggested the Contractor follow the proper administrative process, and

¹⁶⁹ Ibid., pp. 126 and 127.

¹⁷⁰ Ibid., pp. 177-178.

¹⁷¹ Supervising Engineer's report, January 2017, p. 30.

¹⁷² Supervising Engineer's report, April 2017, p. 37, SZTC Sept 2017: *Plan de mise en conformité des gites d'emprunt et carrières exploitées sur la RN2 Bukavu-Goma*, p. 4

¹⁷³ Financing Agreement for AF2, March 18, 2016, p. 8.

¹⁷⁴ ESIA, 2017, p. 16.

¹⁷⁵ Ibid., p. 131.

¹⁷⁶ Contractor's ESMP, p. 24.

¹⁷⁷ Ibid., p. 16.

¹⁷⁸ The Report also explained that the Contractor had explained that the Supervising Engineer had not facilitated the process of obtaining authorizations. The Contractor also understood that BEGES would take care of compensation payments and explained that there was uncertainty which quarries would actually be exploited. (Supervising Engineer's report, March 2017, p. 78, 70).

reminded the Contractor that site-specific ESIA's needed to be submitted.¹⁷⁹ In its April 2017 report, the Supervising Engineer noted that the exploitation documents for the quarries and the full list of quarries were still missing.¹⁸⁰ The Compliance Audit mentioned a letter from the Supervising Engineer to the Contractor, dated April 5, 2017, which referred to a quarry being exploited without prior authorization;¹⁸¹ in a letter dated April 22, 2017, the Supervising Engineer reminded the Contractor of the required authorizations to exploit quarries, and noted that the Contractor was not in compliance with the contractual requirements.¹⁸² The Panel understands the Supervising Engineer alerted the Contractor but did not apply remedies, such as issuing a Notice to Correct or withholding payments.

139. The May 2017 report of the Supervising Engineer explained that authorizations for some quarries were submitted on May 8, 2017, and a supplementary list of quarries on May 17, 2017.¹⁸³ According to the report 24 quarries and borrow pits had been identified and the required authorizations for exploitation were in the process of being obtained. The report also mentioned that some quarries and borrow pits were covered by a Provincial Order allowing the Contractor to exploit sites between Minova and Kavumu.¹⁸⁴

140. *Provincial Order.* The Panel notes that on May 8, 2017 the Government of South Kivu issued a Provincial Order in response to two January 2017 requests by the Contractor for the authorization to operate 23 quarries.¹⁸⁵ This Order declared 12 quarries as open for exploitation of construction materials necessary for the rehabilitation of RN2, and required that during the construction work no exploitation permits be granted.¹⁸⁶ The Panel notes that while this Order directed the Contractor to compensate the quarry operators, it did not indicate when compensation should be paid and did not establish a compensation rate or a process to assess the value of the extracted materials. In view of the above, the Panel notes that the Provincial Order, coupled with the start of extraction before reaching agreements, left the quarry operators with limited bargaining power or access to recourse.

141. The Panel notes that the Mid-Term Review of the Project, conducted in June 2017 in Kinshasa and not in the field (see Chapter 5 on Supervision), identified no quarry-related issues on RN2. In August 2017, shortly after the Panel received the Request and shared the allegations with Management, the Bank team that traveled to the Project area for the first time found serious issues of quarry mismanagement, observed non-compliance with Bank Policies and Procedures for 11 sites, and noted that compliance with Bank policies must be restored and proportionate compensation paid for all affected sites.¹⁸⁷ The Aide-Mémoire called for the safeguards documents

¹⁷⁹ Supervising Engineer's report, March 2017, p. 84.

¹⁸⁰ Supervising Engineer's report, April 2017, p. 40.

¹⁸¹ Compliance Audit, February 23, 2018, p. 25, para. 32.

¹⁸² Ibid.

¹⁸³ Supervising Engineer's report, May 2017, pp. 12,-13.

¹⁸⁴ Ibid., p. 16.

¹⁸⁵ Letter SZTC 15/1/2017 to Governor of South-Kivu. An identical letter was sent the same day to the Governor of North Kivu.

¹⁸⁶ Arrête Provincial, No. 17/018/GP/SK du 08/05.2017 Portant ouverture des carriers d'utilité publique pour les travaux de réhabilitation de la route en terre RN2, (135km) Bukavu-Minova dans les territoires de Kabara et Kalehe en Province de Sud Kivu.

¹⁸⁷ World Bank Aide-Mémoire for mission of August 28-31, 2017, p. 3.

for this road section to be updated and a compliance audit to be conducted immediately.¹⁸⁸ The Aide-Mémoire also noted that another estimated 14 quarries were planned to be exploited soon and it was essential they are operated in full compliance with the contractual provisions and World Bank safeguard policies.¹⁸⁹

142. According to the same Aide-Mémoire works had started in a situation of non-compliance without any formal notice or administrative act being issued. The Aide-Mémoire referred to letters of the Supervising Engineer of April 2017 that remained ineffective, and stated that the Supervising Engineer did not use other supervisory bodies to warn about the seriousness of the problem.¹⁹⁰ According to the Aide-Mémoire, BEGES conducted two field visits after March 2017 without detecting the problem of the quarries. The Aide-Mémoire observed that a simple consultation with community members and civil society could probably have detected the issue; even without going to the site, an examination of contractually required documents should have revealed the seriousness of the problem.¹⁹¹ According to the Aide-Mémoire, during field visits in April and May 2017 CI did not identify any non-compliance and a progress report sent to Bank Management in June 2017 mentioned no major difficulties; the Congolese Environment Agency in charge of trimestral follow-up on safeguards implementation had not visited the field.¹⁹²

143. The Aide-Mémoire also contained an action plan that included the following items: the finalization of compensation agreements, the complete regularization of quarries, confirmation that there is no safety risk related to a transmission tower close to the Requesters' quarry, the full activation of the complaints management mechanism, the review of compliance of all Pro-Routes roadwork sites with Bank policies, and the recruitment of a lawyer specialized in local law and a consultant to conduct a compliance audit.¹⁹³ The Bank's Aide-Mémoire of September 2017 explained that compensation to quarry owners was finalized and an audit should be conducted to assess the agreements and their implementation.¹⁹⁴

144. *Compliance Plan.* A Compliance Plan for quarries and borrow pits for RN2,¹⁹⁵ dated September 2017, was validated and authorized for publication by Management on December 5, 2017.¹⁹⁶ It referred to Bank Management's and CI's mission of August 2017 following the receipt by the Panel of serious allegations from quarry operators. The Compliance Plan included a Quarry Exploitation Plan and a Quarry Restoration Plan. The Quarry Exploitation Plan covered 15 quarries and provided a one-page, high-level summary for each.¹⁹⁷ The Panel notes this Plan did not provide the level of detail required for the effective management of a quarry, as described in the Works Contract.¹⁹⁸ It is also important to note that this Plan only became available after the quarries had already been exploited.

¹⁸⁸ Ibid., p. 8.

¹⁸⁹ Ibid., p. 3.

¹⁹⁰ Ibid., p. 4.

¹⁹¹ Ibid., p. 5.

¹⁹² World Bank Aide-Mémoire for Mission of August 28-31, 2017, p. 5.

¹⁹³ Ibid., pp. 10-11.

¹⁹⁴ World Bank Aide-Mémoire for mission of September 19-25, 2017, p. 2.

¹⁹⁵ SZTC Sept 2017 : *Plan de mise en conformité des gites d'emprunt et carrières exploitées sur la RN2 Bukavu-Goma.*

¹⁹⁶ *Plan d'actions issu de missions BM/CI a Goma, Point sur l'avancement au 17 janvier 2018.*

¹⁹⁷ SZTC Sept 2017: *Plan d'exploitation des gites d'emprunt et carrières.*

¹⁹⁸ Works Contract, see para 179.

145. According to the Compliance Plan, by the end of August 2017 rehabilitation works had required the use of 13 borrow pits and two quarries.¹⁹⁹ The Panel understands that one additional quarry was being exploited at that time.²⁰⁰ The Compliance Plan then discussed in detail the 16 quarries and borrow pits and identified instances of non-compliance, impacts, and measures required to bring them into compliance. The Compliance Plan explained that it is based on a review of available documentation, field visits, and public consultations with quarry operators, local authorities and GRM Committees. It identified the risk of landslides in several locations, the presence of agricultural and industrial crops, the presence of transmission line towers near two quarries, the proximity of some dwellings to two quarries, the presence of a water source used by community members near the Requesters' quarry, the presence of tombs close to two quarries, and the presence of artisanal exploitation activities near several quarries.²⁰¹ (Some of the issues identified in this Plan are further discussed elsewhere in this Report.)

146. According to the Compliance Plan the main recorded instances of non-compliance include: (i) failure to validate the simplified ESIA by BEGES before commencing exploitation of some quarries and borrow pits, (ii) the absence of agreements or exploitation authorizations from the operators before exploitation, (iii) failure to pay operators for the exploitation of borrow pits, and (iv) the lack of an exploitation and restoration management plan for the quarries and borrow pits.²⁰² The Plan identified the main measures required for compliance, which include: (i) signed agreements with and payment to all owners for the exploitation of all quarries and borrow pits, (ii) developing and implementing a restoration plan for quarries (iii) confirmation of site restoration on behalf of the owner, and (iv) development and implementation of a restoration plan for the Requesters' quarry.²⁰³ According to the Plan, the Contractor and BEGES are responsible for implementing these measures.²⁰⁴ The Compliance Plan referred to extraction agreements signed between the Contractor and quarry operators for each quarry, eight of which were signed in August and September 2017.

147. Management's October 2017 Aide-Mémoire stated the Compliance Plan had been validated by BEGES after consultation with locals, and Management had commented on it before its finalization.²⁰⁵ The November 2017 report of the Supervising Engineer noted that although an updated, simplified ESIA for quarries had been submitted, other quarry sites were identified, and ESIA's for these should be submitted.²⁰⁶ The Panel notes that as of submission of this report it has not received updated ESIA's for newly identified quarries. The November 2017 Aide-Mémoire also stated an investigation revealed that the impact of the Project on a sand quarry has affected a group of men exploiting the sand, and a group of women transporting the sand. The Panel understands the sand mining site had initially not been on a list of quarries that qualified for compensation, but was being reviewed by Bank Management at that time.²⁰⁷

¹⁹⁹ SZTC Sept 2017 : Plan de mise en conformité des gites d'emprunt et carrières exploitées sur la RN2 Bukavu-Goma, p. 7.

²⁰⁰ *Liste de carrières et gites utilisés par l'entreprise depuis le début des travaux au 09/09/2017.*

²⁰¹ SZTC Sept 2017: *Plan de mise en conformité des gites d'emprunt et carrières exploitées sur la RN2 Bukavu Goma*, p. 7.

²⁰² *Ibid.*, p. 8.

²⁰³ *Ibid.*, pp. 8-9.

²⁰⁴ *Ibid.*, p. 9.

²⁰⁵ World Bank Aide-Mémoire for mission of October 10-13, 2017, pp. 3-4.

²⁰⁶ Supervising Engineer's report, November 2017, p. 14.

²⁰⁷ Staff interview on January 10, 2018.

148. The Aide-Mémoire of December 2017 explained that BEGES would hold a consultation meeting on December 25, 2017, at the sand quarry and, if necessary, compensation would be paid to the affected people by the end of the month.²⁰⁸ According to a detailed CI consultation report of January 14, 2018, the consultation process took place in three main steps.²⁰⁹ First, a fact-finding mission was conducted on November 16, 2017. Second, a meeting was held with the town leader and chairmen of the local GRCs to utilize their help in identifying and gathering the sand miners and female sand transporters at a meeting on January 11, 2018. Third, during this meeting 65 sand transporters were identified among those present and through testimony from the chairmen of the local GRCs. The two parties agreed on compensation of USD100 for each transporter for the time they were unable to work. The compensation was based on the number of deliveries and estimated distance each transporter could normally complete.²¹⁰ During a meeting on January 16, 2018, when the Contractor paid the total compensation, the parties agreed to raise the number of covered transporters to 68.²¹¹ As for the cooperative extracting the sand, the Supervising Engineer assessed the appropriate compensation to be USD13,500 based on the time the cooperative was prevented from extracting, the amount usually extracted by each cooperative member, and the market value per m³ of sand.²¹² During negotiations facilitated by BEGES, the Supervising Engineer, and the chairmen of the two local GRCs on January 16, 2018 the Contractor and cooperative agreed to settle the claim with compensation of USD18,000.²¹³ During the Panel’s visit many people raised concerns, claiming there were more sand miners and transporters entitled to compensation. Some also questioned the adequacy of the compensation.



Picture 2: Sand mining site near IDP camp

²⁰⁸ World Bank Aide-Mémoire for mission of December 11-15, 2017.

²⁰⁹ CI report, January 14, 2018 “*Rapport circonstancié de la consultation auprès des exploitants secondaires du sable et les femmes transporteuses de sable de la carrière du PK 110 (village Buganga) sur le Tronçon RN2 Bukavu – Goma.*”, pp. 2-3.

²¹⁰ Ibid., p.6-7.

²¹¹ Minutes from meeting held on January 16, 2018, between BEGES, Supervising Engineer, the Contractor and the transporters.

²¹² CI report, January 14, 2018, p. 4.

²¹³ Minutes from meeting held on January 16, 2018, between BEGES, Supervising Engineer, the Contractor, the two local GRCs (Buganga and Minova) and six representatives of the cooperative.

149. The January 2018 update of Management’s action plan referred to the compliance review for all quarries of the Pro-Routes project and explained that instances of non-compliance were also found on other road sections and reports were shared with Bank Management. For RN2, the action plan explained that the Supervising Engineer verified all quarries used by the Contractor to ensure that none are left out of the compensation process. According to the action plan, a report submitted to CI in early December 2017 found a quarry exploited in May 2017 that had not been considered; it anticipated the Contractor would negotiate compensation with the operator before January 20, 2018.²¹⁴

150. The action plan update stated the quarry audit for RN2 would verify that the compensation payments are coherent with the suffered harms and that the PAPs were paid. It also referred to investigations by BEGES and the Supervising Engineer into the allegations of intimidation during the process of negotiating compensation agreements between the Contractor and quarry operators. Regarding the allegations of intimidation, the Panel received documentation that covered five quarry operators and discussed their concerns about the exploitation, its impacts and related compensation. In some of these cases, renewed negotiations led to an increase in the compensation amount, but no information was provided on the amount of material that was exploited from these quarries or on the methodology used for calculating the compensation amounts. The Panel has not received documentation describing how Management determined the adequacy of compensation amounts for all quarry operators.

151. *2018 ESIA*. The update of the ESIA for RN2 was finalized in February 2018. The document identified the risk of landslides in some locations along the road, including at several quarry sites, and the risk of collapse of high-voltage transmission towers near two quarries.²¹⁵ The ESIA discussed the implementation of a stabilization plan and restoration of quarries under risk of collapsing as mitigation measures.²¹⁶

152. *Compliance Audit*. The Panel notes that the Compliance Audit acknowledged the delays in preparing some of the required safeguards instruments, and considered this a situation of obvious non-compliance.²¹⁷ It confirmed that the Contractor began exploiting quarries without a site-specific ESMP and authorizations were not transmitted before the start of the works.²¹⁸ The report noted that the Requesters’ quarry will be closed and that former workers may ask for compensation. It suggested a technical and legal study be conducted on this matter, and recommended hiring a liaison officer as an intermediary between the governors and affected communities to record and process claims from community members.²¹⁹ When discussing compensation more generally the Compliance Audit also noted that to prevent compensation from being perceived as arbitrary and constituting evidence of favoritism, CI should publish all compensation schemes. A February 2018 note providing an update on the Compliance Audit states

²¹⁴ The action plan mentions that the exploited quantity is estimated at 50m³.

²¹⁵ ESIA, 2018, pp. 30-32.

²¹⁶ Ibid.

²¹⁷ Compliance Audit, February 23, 2018, p. 31, para. 40. « Finalement, durant tout le processus de l’audit, une question fondamentale s’est imposé à savoir comment et pourquoi les mécanismes de supervision et de contrôle mis en place se sont laissés surprendre par les violations manifestes des engagements des entreprises de travaux en matière de respect des obligations environnementales et sociales ? »

²¹⁸ Ibid., pp. 17 and 24-25.

²¹⁹ Ibid., pp. 27 and 30.

that the case of the Requesters' quarry has been dealt with in compliance with environmental and social requirements, as the main impacts were identified and agreements on compensation reached. The update further notes that the monitoring of quarries and borrow pits was compliant with environmental and social requirements, especially as to the related contracts and ESIA's.²²⁰

153. *Application of OP/BP 4.12 on Involuntary Resettlement.* As noted in the Bank's Policy on Involuntary Resettlement (OP/BP 4.12), the Policy covers direct economic and social impacts of Bank-financed projects caused by the involuntary taking of land resulting in loss of assets or access to assets, or loss of income sources or means of livelihoods.²²¹ The Panel notes that the exploitation of quarries by the Contractor in the specific context of this Project constitutes involuntary resettlement in the form of economic displacement in accordance with OP/BP 4.12, for the following reasons:

- (i) There was a taking of land resulting in the loss of assets and income sources. A Provincial Order declared 12 quarries as open for exploitation of construction materials necessary for the rehabilitation of RN2, and quarry operators and workers could not access and operate their quarry sites while the Contractor exploited them in the presence of military forces. According to the Involuntary Resettlement Sourcebook, people who are affected by a temporary acquisition of their lands are considered displaced persons and need to be compensated.²²² The Sourcebook also clarifies that people with valid temporary permits or use rights to land are eligible for compensation.²²³
- (ii) The nature of the land taking was involuntary, since the quarry operators and workers gave no informed consent to the exploitation nor had any power of choice as the exploitation took place in the presence of military forces and before agreements were reached. Only after many quarries were exploited, agreements with the operators were signed, which, in the view of the Panel, cannot constitute willing buyer-willing seller agreements.
- (iii) Both quarry operators and workers experienced direct economic impacts as they lost their incomes during the Contractor's operation of their quarries, thus affecting their livelihoods.

154. Consequently, under the Bank's Policy on Involuntary Resettlement (OP/BP 4.12), the project-affected people, including quarry operators and workers, need to be compensated for their loss of income and livelihoods.

²²⁰ February 2018 Note updating the Compliance Audit, February 2018, p. 3.

²²¹ OP 4.12, para. 3.

²²² Involuntary Resettlement Sourcebook, p. 45.

²²³ Ibid.



Picture 3: Quarry along RN2

155. The Panel notes that the Project’s Updated ARAP from November 2017 does not include quarry operators and workers as displaced people entitled to compensation under OP/BP 4.12. The Panel reviewed many extraction agreements that were signed between the Contractor and quarry operators after the quarries had already been exploited and notes that they generally did not mention: (i) which construction material and what quantities the Contractor is authorized to extract from the quarry, (ii) what unit costs for the different materials shall be used for the calculation of compensation, (iii) what monitoring provisions shall be used to ensure that provisions of the agreement are met, (iv) the terms and conditions of the compensation payments to be made, (v) agreements on the baseline situation and requirements for reinstatement or return after use by the Contractor, and (vi) provisions for conflict resolution.

156. With regards to the required compensation amounts, the Panel notes that none of the documents the Panel received provide any detail on the volumes and quality of construction materials taken from each quarry. The daily worksite logbook (“*Journal de Chantier*”), which covered the works the Contractor conducted in March, April, and May 2017, included total amounts of materials used but did not indicate from which quarry these materials were taken. The Quarry Exploitation Plan included estimates of the surface size of each quarry in m² but did not include further details. The Quarry Compliance Plan and the BEGES review of allegations of intimidation during negotiations also did not include extraction volumes or an explanation of how the compensation amount was determined. The Panel understands there are significant differences in the price for different quarry materials; an agreement between the Contractor and a quarry operator suggests a unit price of USD60/m³ for flat stones (“*pierres plates*”) and USD20/m³ for gravel (“*graviers*”). The Panel reviewed a list of compensation amounts provided to each quarry operator and noted there is a large discrepancy between the compensation amounts. The list also did not include the extracted volumes of materials, nor the methodology used to calculate these compensation amounts; it only referenced the exploitation agreements signed between the Contractor and quarry operators.

157. To conclude, the Panel notes it has not received a detailed report assessing the adequacy of payments made to quarry operators and workers, and that from the available information it is impossible to assess whether they were compensated adequately and in accordance with OP/BP 4.12. The Panel has also not seen updated ESIA's for additional quarries beyond those covered in the September 2017 Compliance Plan and Quarry Exploitation Plan.

Closing of Quarries

158. The Requesters told the Panel they were informed by the local authorities in October 2017 that their quarry had to be closed with immediate effect as a nearby tower of the transmission line posed a safety hazard and was at risk of falling. They claimed the closure of this quarry permanently deprives them of their main source of income and livelihood, and consider it a form of retaliation. The Requesters explained to the Panel that even if the tower was at risk, this would not have been the case had the Contractor not used heavy machinery to exploit the quarry. They believed the traditional artisanal exploitation of materials, which they had conducted before the Contractor took over the quarry, would not have caused the damage. They also believed the quarry could continue operation, at least in part, if efforts were undertaken to secure the foundations of the tower. The Panel was also told the Requesters had filed a court case on this issue, which was ongoing at the time of the submission of this Report. Management informed the Panel that a judgment is expected in May 2018.

159. On October 18 and 19, 2017, representatives of provincial authorities, the Supervising Engineer, and the Contractor visited the quarry and met with local authorities.²²⁴ The Supervising Engineer's report of October 2017 mentioned this visit and explained that exploitation of the quarry by the Contractor had terminated in June 2017, but artisanal operators continued to exploit the quarry after that date, getting ever closer to the transmission tower.²²⁵ According to report of this joint visit, it was concluded that all exploitation of the quarry by the local population must stop to allow the restoration of the site to protect the transmission tower, and stated the rehabilitation works for RN2 shall not be hindered. The report mentioned that the local population present at the time of the visit also favored the closure.²²⁶ On November 3, 2017, an order was issued by the Governor of South Kivu on the closure of the quarry.²²⁷ According to the report of the joint visit, it was then proposed to identify other quarries that the operators could exploit. In reaction to this proposal the quarry operators explained they were expecting a follow-up on their request for compensation with the World Bank. The report stated that the Supervising Engineer stated nothing had been agreed with the Bank on that subject.²²⁸ The Supervising Engineer's October 2017 report stated that two visits were made to the quarry to explain the reasons for the closure and to stress that it was not an act of retaliation.²²⁹

160. The Bank's December 2017 Aide-Mémoire explained that a notification on the closing of the quarry had been sent to the operator, but he refused to sign the acknowledgment of receipt. The

²²⁴ *Rapport de Mission de 18 au 19 Octobre 2017. Octobre 2017.*

²²⁵ *Ibid.*, p. 47.

²²⁶ *Ibid.*, p. 3.

²²⁷ *Plan d'actions issu de missions BM/CI a Goma, Point sur l'avancement au 17 janvier 2018, 8.*

²²⁸ *Rapport de Mission de 18 au 19 Octobre 2017. Octobre 2017*, p. 4.

²²⁹ Contractor's Environmental Specialist's report, October 2017, p. 11.

Aide-Mémoire stated that a discussion of the potential harm and compensation for operators and workers regarding the loss of livelihoods should be conducted.²³⁰ During a meeting with Management in March 2018 the Panel learned that a consultation took place with workers who lost their jobs due to the closing of the quarry. The Panel notes the importance of ensuring livelihood restoration of the operators and workers affected by the permanent closure of the quarry following its exploitation by the Contractor. Since its investigation visit the Panel has continued to receive numerous allegations of retaliation in various forms and has forwarded them to Management. The Panel urges Management to ensure appropriate follow-up.



Picture 4: Quarry with adjacent electricity tower

161. Sand miners near the IDP camp told the Panel that, after being exploited by the Contractor, the quarry was closed by the authorities with the explanation that it endangered the foundations of a new, small bridge along RN2. Consequently, they claim that 200 members of these cooperatives lost their source of income and suffered severe hardship. CI, in its consultation report related to the sand quarry compensation settlement, rejected this allegation and stated that after June 30, 2017, no constraints preventing them from continuing their activities have been imposed on the sand miners.²³¹

²³⁰ World Bank Aide-Mémoire for mission of December 11-15, 2017, pp. 7-8.

²³¹ CI report January 14, 2018, p. 3.

Restoration of Quarries

162. The Panel notes that the Contractor's September 2017 Compliance Plan and Quarry Restoration Plan²³² described in general terms the obligations of the Contractor relating to the restoration of quarries after exploitation ends. The Quarry Restoration Plan foresaw the development and implementation of a detailed site restoration plan that includes specific measures related to: (i) the reshaping of slopes to avoid landslides, (ii) the establishment of drainage channels to avoid the flow of water to the road, (iii) reforestation of the site with suitable species, and (iv) obtaining confirmation from the owner that the restoration of the site has been completed.

163. The Panel acknowledges that the high-level guidance for the elaboration of a site-specific quarry restoration plan provided in the Quarry Restoration Plan is in line with good practice, but notes that these provisions appear to be too general in the context of restoring large quarries in a fragile, mountainous environment near the road. The Panel further notes that at the time of writing it appears that the detailed, site-specific quarry restoration plans have not been prepared.



Picture 5: Quarry along RN2

Loss of Agricultural Land

164. During its visit the Panel team observed that large stretches of RN2 are densely populated. The Panel spoke to several community members along the road who claim their agricultural lands were affected as they were turned into quarries or borrow pits, or used to extend existing quarries. Many of them told the Panel they had received no prior notice and suddenly found their lands impacted by heavy machinery. They claimed they lost valuable crops and only received compensation, which many of them deemed too low, in recent months. Others claimed they have not received any compensation for the lost crops.

²³² *Plan de Restauration des Gites d'Emprunt et Carrières.*

165. According to the 2015 ESMF for AF2, in the Project's area of influence land availability, particularly for agriculture, is a major challenge for local communities.²³³ Land is owned by the state and certificates of registration are issued to individuals. To access land community members follow local customary law and address customary authorities, which may grant temporary or permanent concessions to them.²³⁴ The ESMF mentioned that great attention would have to be given to the unauthorized occupation of private lands for building sites and quarries, as this may be at the root of social conflicts.²³⁵ According to the ESMF the economy of North Kivu is essentially agriculture-based. The main food products are cassava, maize, potato, bean, banana, sweet potato, peanuts, and rice. Industrial crops in the area are Arabica and Robusta coffee, tea, oil palm, cinchona, sugarcane, and tobacco. Households practice agriculture on small plots, with rudimentary tools and unimproved seeds. Many modern farms have disappeared due to looting, insecurity, and abandonment.²³⁶

166. The ESMF observed that the opening of quarries and the development of access roads may require acquisition of land and lead to losses of socioeconomic assets, and states that compensation will be provided in accordance with the Resettlement Policy Framework.²³⁷ The RPF will clarify the procedures and modalities for consensual compensation; in cases of expropriation, compensation must be paid before exploitation of the quarry materials.²³⁸ According to the ESMF, if the right-of-way is maintained and workers are well trained and monitored there will be no incursion into the agricultural parcels along the road.²³⁹ If crops are destroyed during the works, BEGES is responsible for compensation.²⁴⁰

167. Similarly the February 2017 ESIA proposed to maintain, as much as possible, current borrow pits to avoid relocation, to compensate PAPs in the case of resettlement, to raise awareness among affected populations about the works, to ensure the involvement of local communities, and to restore sites after exploitation.²⁴¹ The ESIA cited the sensitivity of land tenure issues and explained that, in the event of relocations, the Project should seek the involvement of traditional and opinion leaders.²⁴² The document also identified the protection of private physical property, land, and agricultural income sources as a challenge and explained that the presence of various agricultural activities along the road requires great attention during the works to avoid incursions into the fields and associated social conflicts. It specifically mentioned the opening of quarries as a risk in this context.²⁴³ As mentioned earlier, the Contractor's ESMP of March 2017 forecasted a budget of USD12,000 for various expropriations, including payments to acquire sites for quarries.²⁴⁴ The updated ESIA from February 2018 referenced the information in the updated ARAP (see below) and discussed mitigation measures similar to those in the earlier ESIA.²⁴⁵

²³³ ESMF, October 2015, pp. 39-40.

²³⁴ *Ibid.*, pp. 52 and 62.

²³⁵ *Ibid.*, pp. 39-40.

²³⁶ *Ibid.*, p. 44.

²³⁷ *Ibid.*, pp. 90-91.

²³⁸ *Ibid.*, p. 97.

²³⁹ *Ibid.*, p. 90.

²⁴⁰ *Ibid.*, p. 152.

²⁴¹ ESIA, 2017, p. 16.

²⁴² *Ibid.*, p. 24.

²⁴³ *Ibid.*, pp. 62-63.

²⁴⁴ Contractor's ESMP, p. 16.

²⁴⁵ ESIA/ESMP, 2018, p. 32.

168. The 2015 RPF for AF2 explained the choice of a resettlement framework rather than a detailed RAP based on the facts that detailed technical studies were not ready and access to the roads was difficult due to a hazardous security situation.²⁴⁶ The RPF estimated five households and 70 individuals would be affected by the Project on RN2.²⁴⁷

169. The 2016 ARAP concluded there is a high concentration of dwellings along the road alignment due to the growing insecurity because of armed bandits and the mountainous terrain, leading to a lack of land and exposing people to landslides. The ARAP identified five Project-affected households – two at Nyabibwé, two at Mukwidja, and one at Kalungu – and explained that a total of 70 people were affected by the Project as they depend on the affected families.²⁴⁸ The ARAP stated the affected properties are a wood kiosk, a house, sheds, and stalls.²⁴⁹ According to the ARAP, two buildings and commercial structures of traders who occupied the right of way must be moved.²⁵⁰ The Panel notes the surveys for this ARAP were conducted in only two days – July 8-9, 2015 – and almost a year before the ARAP was finalized²⁵¹. The ARAP explained that the opening of quarries and borrow pits could affect agricultural assets, but since the quarries to be used by the Contractor were not yet known when the document was prepared, an ARAP would be prepared by BEGES prior to extraction of materials by the Contractor.²⁵² The Panel notes that the ARAP was only updated in November 2017 (after receipt of the Request), more than eight months after road rehabilitation works and quarry exploitation had started and three months before the expected original closing date of the project (see below).

170. The September 2017 Compliance Plan for quarries and borrow pits for RN2 identified, as a main instance of non-compliance, the absence of financial compensation for agricultural assets, buildings, and other goods before the start of exploitation.²⁵³ It explained that the impacts and risks of quarry exploitation include the destruction of food, industrial crops, and fruit trees; the loss of incomes following destruction of crops; dust due to traffic created by the Contractor's machinery; non-exploitation of crop areas after quarry exploitation, and the closing of access to some crop areas.²⁵⁴ BEGES's October 2017 report explained that a RAP covering the quarries on RN2 was required, and mentioned that a list of 25 quarries had been received. The BEGES report referred to 15 people affected by quarry exploitation and impact on 487 fruit trees, 5,667 m² of crops, and 244 timber trees.²⁵⁵ The report also noted that 14 additional quarries and borrow pits were identified and referred to additional impacts on commercial infrastructure, households and agricultural assets.²⁵⁶

²⁴⁶ RPF, October 2015, p. 6.

²⁴⁷ Ibid., p. 43.

²⁴⁸ ARAP, June 2016, p. 9.

²⁴⁹ Ibid.

²⁵⁰ Ibid., p. 57.

²⁵¹ Ibid., p. 57.

²⁵² Ibid., p. 59.

²⁵³ SZTC Sept 2017 : *Plan de mise en conformité des gites d'emprunt et carriers exploites sur la RN2 Bukavu Goma*, p. 8.

²⁵⁴ Ibid.

²⁵⁵ BEGES' third quarter report, October 2017, p. 91.

²⁵⁶ Ibid., p. 102.

171. The updated ARAP of November 2017 mentioned above explained that two additional asset inventories took place in June/July and September 2017 to identify impacts of quarries used by the Contractor.²⁵⁷ In addition, the updated ARAP took into account PAPs and assets identified in grievances as part of the complaints process.²⁵⁸ The ARAP stated the road rehabilitation led to: (i) loss of agricultural assets and tree species during the exploitation of quarries and borrow pits, (ii) loss of structural assets (house dwellings), and (iii) loss of commercial income resulting from the displacement of commercial infrastructures (such as kiosks) during quarry operation.²⁵⁹ The updated ARAP covered a total of 81 affected households – the five households included in the 2016 ARAP and 76 new households. The affected properties cited by this updated ARAP are five dwellings, four businesses, some 19,000 m² of agricultural assets, 854 fruit trees, and 2,020 other forest resources. The document explained that 76 of the 81 households were already compensated.²⁶⁰ The Panel notes that, according to the Management Response, the Project’s ARAP would be further updated if additional eligible complaints are registered through the Project-level GRM or other means.²⁶¹ As of January 30, 2018, the Panel received from CI a consolidated list of registered complaints that included many relating to loss of agricultural crops. However, it does not state when these complaints were filed or registered or include the locations of the affected assets, so it is unclear to the Panel if these were already covered by the ARAP.

172. The Panel acknowledges the many positive aspects of the 2017 ARAP that updated information provided in the 2016 document, but questions the adequacy of the baseline survey conducted after the taking of assets. The Panel further notes that when many PAPs are retroactively identified through a grievance redress mechanism it is essential this mechanism function properly.

3.2.5 Compliance Findings

173. The Panel notes that the exploitation of many quarries used for the Project took place in the presence of military forces and without required documents and adequate processes for commercial negotiation. **The Panel finds the exploitation of quarries without the required authorizations, prior commercial agreements and related payments, and quarry management and restoration plans is in violation of the Project’s Environmental and Social Impact Assessment (ESIA) and Environmental and Social Management Plan (ESMP) in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).**

174. **The Panel further finds that the exploitation of quarries in the specific context of this Project constitutes involuntary resettlement in the form of economic displacement in accordance with Bank Policy on Involuntary Resettlement (OP/BP 4.12), as there was an involuntary taking of land resulting in the loss of assets and income sources of the quarry operators and workers.** The Panel notes the importance of providing compensation to quarry operators and workers for their loss of incomes and livelihoods in accordance with OP/BP 4.12.

²⁵⁷ Updated ARAP, November 2017 p. 58.

²⁵⁸ Ibid.

²⁵⁹ Ibid, p. 9.

²⁶⁰ Ibid., p. 11.

²⁶¹ Management Response, p. 14.

175. In addition, the Panel finds that Management did not ensure an adequate and timely baseline survey of agricultural assets of impacted community members, which were destroyed during quarry exploitation before compensation was paid. Thus, the Panel finds Management in non-compliance with Bank Policy on Involuntary Resettlement (OP/BP 4.12).

176. The Panel notes and welcomes the extensive efforts by Management to correct these deficiencies since receipt of the Request, including updating the ARAP.

3.3 Community Health and Safety

177. This section covers several health and safety impacts on communities along RN2 resulting from violence and intimidation by the Contractor's military personnel, road accidents, breakage of water pipes, and storm water flooding. While some of the alleged harm included in these categories has been or remains temporary in nature, other harm may leave longer lasting impact on communities or individuals.

3.3.1 Request for Inspection

178. The Requesters claimed the Congolese Armed Forces (FARDC) engaged by the Contractor used violence against community members when they sought to protect their quarries and livelihoods and committed human rights violations. In subsequent communications the Requesters also mentioned a case of a community member who was shot by the FARDC forces engaged by the Contractor.

179. During the Panel's eligibility visit community members pointed to problems resulting from the disruption of a water source and a broken pipe bringing water to an IDP camp. The Panel also learned about road accidents linked to the Project.

3.3.2 Management Response

180. Management acknowledged that it "did not anticipate at Project preparation the potential impacts from the contractor's own security arrangements, and hence no specific mitigation measures were put in place."²⁶² According to Management, it was initially agreed with the Borrower that it was the Government's responsibility to ensure security conditions in the Project area and ensure protection of the road works. The Management Response explained that during implementation Management became aware that the Contractor had made its own arrangements by engaging military personnel to provide security for the Project site. According to the Management Response, Bank Management was not consulted or notified of this arrangement since the subcontracting arrangements by the Contractor do not require the Borrower to seek a non-objection from the Bank.

181. Management recognized in its Response that "incidents demonstrate the need for a proactive and robust management of the risks associated with deploying military personnel,

²⁶² Ibid., p. 8.

specifically in a conflict-affected area.”²⁶³ Management stated that as part of the action plan agreed with the PIU during the August 2017 mission it has “insisted that the Borrower require the Contractor to formalize its arrangements with the Army in a legal contract and prepare a security strategy regarding the appropriate deployment and training of military personnel, including on the use of force and how these personnel interact with communities in the Project area.”²⁶⁴ The Response explained Management had also agreed with MONUSCO that it would screen and train the military personnel. Management explained the number of military personnel deployed to RN2 has been reduced from 14 to seven, and that three personnel accused of abuse were removed.²⁶⁵

182. The Management Response referred to road accidents in the context of the strengthening of the GRM: “All villages located along the road now have a committee in place and the first complaint (related to a car accident) was registered.”²⁶⁶

183. In its update to the Management Response, Management explained how it actively followed up on the issue of water supply interruption to the IDP camp, brought to Management’s attention by the Panel. Management noted “the Bank was able to confirm that water services to the IDP camp have now been restored and is investigating why it took so long to restore service, what potential impacts have been generated by the interruption of water services, and what measures may be required to mitigate such impacts.”²⁶⁷

3.3.3 Bank Policies

184. Bank Policy on Environmental Assessment (OP/BP 4.01) requires the EA to take into account the natural environment (air, water, and land), human health and safety, social aspects (involuntary resettlement, indigenous peoples, and physical cultural resources), and transboundary and global environmental aspects. The Policy notes that the EA considers natural and social aspects in an integrated way.²⁶⁸ In accordance with the Policy “[the] EA for a Category A project examines the project’s potential negative and positive environmental impacts ... and recommends any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance.”²⁶⁹

185. Although Bank Policies on Development, Cooperation, and Conflict (OP/BP 2.30) and Rapid Response to Crises and Emergencies (OP 8.00) refer to close coordination and partnership arrangements with other development partners – including the United Nations, Government authorities, and civil society and private-sector entities in conflict situations – the Bank has no specific policy or guideline on the use of security or military forces.

186. The International Finance Corporation (IFC) has recently developed the “Use of Security Forces: Assessing and Managing Risks and Impacts Good Practice Handbook.” This document is based on the concept that providing security and respecting human rights can be consistent and that

²⁶³ Ibid., p. 10.

²⁶⁴ Ibid, p. 11.

²⁶⁵ Ibid.

²⁶⁶ Ibid., p. 29.

²⁶⁷ Management Response Update, November 27, 2017, p. 2.

²⁶⁸ OP/BP 4.01, para 3.

²⁶⁹ Ibid., para 8(a).

security provision should be carried responsibly, with any response being proportional to the threat. The Handbook seeks to provide guidance on the implementation of the IFC Performance Standard on Community Health, Safety and Security.²⁷⁰ While the IFC Handbook and Performance Standards do not apply to IBRD/IDA projects they provide useful guidance for projects using security forces.

187. The Environmental Health and Safety Guidelines include provisions related to the health and safety of community members affected by Bank projects. They state all project personnel shall promote traffic safety during the operation of project equipment on private or public roads. Prevention and control of traffic-related injuries and fatalities should include the adoption of safety measures protective of project workers and of road users, including those most vulnerable to road traffic accidents.²⁷¹ The guidelines also prescribe that “project activities should not compromise the availability of water for personal hygiene needs”²⁷² and includes guidance on slope stabilization and drainage of water in the context of road design and construction.²⁷³

188. Bank Procedure on Investment Project Financing (BP 10.00) requires the Bank to assess periodically the project and review the monitoring by the borrower of results, risks, and implementation status, updating project information and identifying follow-up actions needed as appropriate.²⁷⁴

3.3.4 Panel Observations and Analysis

Violence and Intimidation by the Contractor’s Military Personnel

189. It is common practice for contractors to engage security personnel to protect their employees, facilities, assets, and operations. In low-risk environments security arrangements may simply consist of fencing, sign posting, or night watchmen. Other circumstances may warrant a higher level of security, requiring private security contractors or even working directly with public security forces in the area.

190. The area along RN2 has historically experienced high levels of security risk. In this context the Contractor concluded it required security protection beyond the normal responsibility of the host country. As private security firms are not allowed to carry arms in DRC, the Contractor opted to engage FARDC forces.

191. The Contractor told the Panel that it wrote a letter to the FARDC asking for their support in ensuring the security of its camp and worksites. The Panel understands there was a verbal agreement between both parties, but there was no clear definition of the responsibilities of each party. The Contractor told the Panel it had been difficult to manage the military personnel and avoid their use of violence against the local population. The Panel notes, however, that despite the

²⁷⁰ Use of Security Forces: Assessing and Managing Risks and Impacts, 2017, p. xi.

²⁷¹ EHS Guidelines, Section 3.4, p. 81.

²⁷² Ibid., Section 3.1, p. 77.

²⁷³ Ibid., Section 4.0, p. 90.

²⁷⁴ BP 10.00, para. 40.

well-documented legacy of abuses by the FARDC in eastern DRC²⁷⁵ the Contractor did not at the outset develop a strategy for mitigating and monitoring the risks of violence.

192. The Panel heard during its visit cases of violence against community members claiming compensation, either for exploitation of their quarries or for damage to their crops, and against workers claiming payment of their salaries. The Panel spoke to a woman who reported that when the Contractor came with the military forces to forcibly extract materials from her husband's quarry with no prior agreement, she had part of her clothing stripped off and was hit in the stomach in a skirmish with the military. Her husband also told the Panel he was beaten so severely he had to be hospitalized for treatment. This case was reported by Management in its Response. The Panel also met a community member who stated he had been hospitalized after beatings and had only been reimbursed for his initial medical bills. The Panel also spoke to a girl who reported she was raped by a military guard engaged by the Contractor (see Chapter 4).

193. A community member told the Panel he tried to protect a child who was being beaten by one of the Contractor's foreign employees. According to him, the employee asked the military personnel to shoot him, but they refused. He explained that he fled the community for two weeks for fear of retaliation. The Panel also spoke to a community leader who claimed he had witnessed this incident. Other incidents raised during the Panel's visit concerned a situation where the military personnel allegedly stopped community members from entering the Contractor's permanent camp to discuss problems.

194. The Panel consistently heard from local communities that apart from specific incidents when people were physically hurt, the mere presence of the military along the road contributed to feelings of fear and intimidation among the population. The Panel was also told of several cases when the Contractor and the military forces rented houses or bought food from community members without payment. In that context of intimidation, community members explained they did not feel they could complain about the lack of payment.

195. Incidents of violence were also reported by the Contractor's Environmental Specialist, BEGES, and the Supervising Engineer. In an incident reported by the Contractor's Environmental Specialist, a military guard shot into the air when trying to disperse a group of people who became impatient while waiting for access on a road that was blocked by the works.²⁷⁶ Another incident reported by the Contractor's Environmental Specialist's was the case of a military guard who shot at one person due to an alleged theft, resulting in the person being hospitalized for a leg wound.²⁷⁷ The Panel met with this person, who reported he was shot because he was urinating near the Contractor's site. This case had been raised in the Request and was also documented by Management in its Response.

²⁷⁵ UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, January 5, 2018. State forces committed 61 percent of the human rights abuses recorded by the UN Joint Human Rights Office in the DRC in 2017, the majority of which occurred in conflict-affected provinces.

²⁷⁶ Contractor's Environmental Specialist's report, July 26, 2017, p. 18.

²⁷⁷ *Ibid.*, p. 19.

196. In another case reported by BEGES and by Management in its Aide-Mémoire, fighting erupted between the Contractor's military personnel and a family of six claiming compensation for lost crops.²⁷⁸ In that case two people had to be hospitalized for a week for wounds to the face and head, and the Contractor paid USD100 for hospitalization costs and an additional USD70 for other damages.²⁷⁹ The NGO RARIP-RGL reported in November 2017, 11 cases of physical violence and four cases involving the use of weapons. However, there is some overlap between the cases reported by RARIP-RGL and other Project entities.

197. The Panel found no consolidated register of incidents, as reporting was inconsistent and incomplete and done by multiple actors. Therefore, it remains difficult to obtain an accurate picture of the total number of cases of violence experienced by the community. Given the overall fear of retaliation in the area, the Panel estimates it is likely that unreported cases exist.

198. The Panel understands that in several cases of violence the Contractor covered medical costs. The Panel notes, however, that there may be outstanding issues related to some cases and to long-term health impacts, including the disability of some of the victims, as argued by two of the victims with whom the Panel spoke during its visit.

199. The use of violence by the Contractor's military personnel against community members was also acknowledged by the Compliance Audit. The document explained the Contractor did not adequately assess the risk that the use of security forces would pose to communities along the road. According to the Audit, these acts of violence perpetrated by the Contractor's military personnel constitute a non-compliance with the Contractor's requirements to respect local communities.²⁸⁰

200. The Panel was told during staff interviews that while there were some discussions during Project preparation that the Government would be responsible for providing security, there was no further discussion on the details of the security arrangement and how the Project would be effectively implemented in an insecure area. The Panel was not able to find any records or documentation on Management's discussions related to security with the Government. The 2017 ESIA also did not identify any risks associated with violence against the community by the use of security forces. It is notable that the Project's Mid-Term Review of June 2017 did not specifically mention incidents of violence, even though some took place before then. Management also did not report any security related issues in its supervision documents prior to the Request.

201. The Panel notes that after receipt of the Request, Management took several actions to address the security issues. According to the January 2018 update on the action plan, the members of FARDC were replaced by members of the military police, who are better equipped to interact with communities.²⁸¹ Management also required that a formal agreement be signed between the Contractor and the military forces. Management reviewed and provided comments on the agreement that was signed in October 2017 between the Contractor and the 34th military regiment of North Kivu. Under this agreement, the 34th military regiment's obligations included: (i) providing the

²⁷⁸ World Bank Aide-Mémoire for mission of December 11-15, 2017, p. 7, BEGES Report on violence against a family, Sep 1, 2017.

²⁷⁹ BEGES Report on violence against a family, Sept 1, 2017, p.4.

²⁸⁰ Compliance Audit, February 23, 2018, p.29, para. 39(c)(iii).

²⁸¹ action plan Update January 17, 2018.

Contractor with seven guards with a clean record who rotate every two months, (ii) providing a high-ranking officer who would monthly evaluate their performance, and (iii) dismissing from their duties with the Contractor those who commit abuses or reprehensible acts, or violate the Contractor's Code of Conduct.²⁸² The Contractor's obligations included providing monthly payments to the military personnel,²⁸³ informing the military hierarchy in case of any violation of the Code of Conduct, and training the military personnel on human rights and the Code.

202. The military personnel engaged by the Contractor received a half-day human rights training from MONUSCO in October 2017 and were screened for past abuses.²⁸⁴ As a condition for lifting of the suspension, Management also required the military engaged by the Contractor to sign the Code of Conduct.²⁸⁵ The Code prohibits physical or verbal violent behavior at the workplace by all Contractor's workers, including the military personnel. In addition, Management requested improvements in the Project supervision reports to include a specific section on conflict and security incidents.²⁸⁶

203. The Contractor developed a security strategy for all its roads under Pro-Routes that essentially entailed formalizing the agreement with the military, reducing the number of military personnel and using private security in areas of low risk. However, the strategy did not mention any risks to communities associated with the use of security forces and lacked a procedure to receive, assess and document security-related allegations and incidents. Under the initiatives with civil society section of the strategy, the only measures envisioned were to provide school supplies and sports equipment.²⁸⁷

204. The Panel understands that the Contractor was engaging a total of 72 military personnel not only in RN2 but in other roads under Pro-Routes (RN6/RN23, RN4, RN27 and RN5).²⁸⁸ Management explained in its February 2018 Aide-Mémoire that it is in the process of formalizing an agreement with MONUSCO to ensure that all military personnel used by the Contractor in Pro-Routes roads are trained and undergo screening to identify any history of abuses or wrongdoing.²⁸⁹

205. After the receipt of the Request, Management also updated the ESIA. The document highlighted risks of physical violence, sexual violence, theft, etc. perpetrated by military forces ensuring the security of the worksite.²⁹⁰ The updated ESIA specifically identified the high level of

²⁸² *Convention d'assistance en vue de la securisation des installations et du chantier de la Societe Zhengwei Technique Cooperation SARL dans le cadre des travaux d'amenagement de la route en terre RN2, Bukavu Goma dans les provinces du Nord et Sud Kivu*, October 1, 2017.

²⁸³ As per the agreement, the Contractor provides a total monthly payment of USD 840, which USD70 is paid per military, USD 210 is paid to the 34th regiment for administrative costs, and USD140 is paid to the high ranking officer to cover transport and supervision costs.

²⁸⁴ CI and MONUSCO, *Rapport Circonstancie Formation des Militaires de la Police Militaires Commis a la Garde de la SZTC par l'expert MONUSCO des Droits de l'Homme*, November 2017.

²⁸⁵ World Bank Aide-Mémoire for mission of February 8-16, 2018, Annex 1: Situation des conditions de levée de la suspension, p. 13.

²⁸⁶ January 2018 action plan.

²⁸⁷ *Note Stretgique sur la Securite des Chantier de la Societe Zhengwei Technique Cooperation SARL en Republique Democratique du Congo*.

²⁸⁸ Letter to MONUSCO, February 2018, Annex I.

²⁸⁹ World Bank Aide-Mémoire for mission of February 8-16, 2018, p. 2.

²⁹⁰ ESIA, February 2017, p. 31.

risk of violence and sexual abuse against vulnerable groups by worksite personnel, including military personnel engaged by the Contractor.²⁹¹ It stated that a mechanism is to be established to prevent, mitigate, and punish cases of abuse by the military forces and the workers.²⁹² Other measures, most of which were mentioned in Management's action plan, included ensuring respect for the Code of Conduct, training on its contents, and a surveillance and rotation system for all military personnel protecting the Contractor.

206. The Panel acknowledges Management's actions after the receipt of the Request. While the application of the Code of Conduct not only to the civil workers but also to the military personnel is a step in the right direction, the Panel stresses the importance of ensuring the Code is enforced and the use of force is only deployed defensively and proportionally. The Panel also emphasizes the need for establishing a reliable reporting system, with an accurate incident log and timely reporting of serious incidents. The Panel understands that the follow-up on victims of violence and the payment of related compensations are still in progress²⁹³ and points out the importance of systematically reviewing the need for any disability compensation to victims of violence.

207. The Panel notes the absence of relevant Bank policy or guidelines on security arrangements presents a policy gap that may have contributed to harm. Even in the absence of specific policy, however, had Management undertaken a robust risk analysis of the security situation in eastern DRC at the outset and kept itself informed about the situation on the ground through field-based supervision, harm relating to use of violence or intimidation could have been uncovered and mitigated earlier. Moving forward, the Panel hopes there is a proactive management of security in the Project to protect against and mitigate security risks that could threaten local communities.

Road Safety

208. During its visit, the Panel traveled the entire Bukavu-Goma road and noticed insufficient road signage and other safety measures, especially near quarries, bridge construction and other work sites and around schools. Several community members also told the Panel about road accidents with serious consequences.

209. Both the 2017 ESIA and the updated 2018 ESIA specifically identified the risk of increased road accidents related to construction and increased traffic as well as other aspects related to the health and safety of the population, such as dust and pollution. Mitigating measures included road safety campaigns, posting of speed limit signs and constructing speed bumps.²⁹⁴ Since the beginning of the works the Contractor's monthly reports referred to several deficiencies such as fencing and signage around worksites, and insufficient signage of speed limits.²⁹⁵ The Contractor's report also mentioned a 15-minute information meeting with drivers on road safety and warnings given to drivers involved in accidents.²⁹⁶

²⁹¹ Updated ESIA, February 2018, p. 30.

²⁹² Ibid., p. 33.

²⁹³ World Bank Aide-Mémoire for mission of February 8-16, 2018, p. 2.

²⁹⁴ ESIA, February 2017, pp. 19 and 91. Updated ESIA, February 2018 pp. 17, 20, 104, and 106.

²⁹⁵ Contractors reports, February 2017, pp. 27-28, April 2017, p. 20, May 2017, p. 13, June 2017, p. 13, August 2017, p. 16. *Plan de Mise en Conformité des Gîtes d'emprunt et Carrières Exploités sur la RN2*, p. 5 also mentions the absence of road signs near quarries.

²⁹⁶ Contractor's Environmental Specialist's report, November 2017, p. 12.

210. The Panel notes the Supervising Engineer started to systematically supervise and report on road incidents and accidents in August 2017. The Bank's Aide-Mémoire following its October 2017 mission stated that not all incidents are included in the Contractor's incident report, such as an accident involving a Contractor's truck and a motorbike in which people were injured. Management advised CI to issue an immediate order to the Contractor to avoid continued under-reporting.²⁹⁷

211. A list of accidents, which the Panel received from the Contractor in February 2018, included two children from the community who were hurt in two separate accidents by the Contractor's trucks, three workers who were injured when a truck reversed into a ravine, and a collision between a truck and a motorbike involving three people.²⁹⁸ In the Contractor's monthly reports the Panel observed mention of additional road accidents, reported as having had minor impacts.²⁹⁹ All road accidents recorded by the Contractor are also mentioned in the Supervising Engineer's reports since August 2017. The Panel also received a log of GRM complaints, which included some road accidents. The Panel notes that the reporting of incidents and accidents in the different documents is not fully consistent and it is therefore difficult to determine a total number of cases and whether some incidents are the same or different. The Bank's Aide Memoire of February 2018 reported about a road accident of June 1, 2017 involving a man who attempted to get into a truck as a passenger, fell and died. The Aide Memoire notes that this accident had been registered. The Panel in its review of the Supervising Engineer's and Contractor's reports could not confirm whether this accident was included in these reports, as only few details were provided.³⁰⁰ The Aide Memoire mentioned that the victim's family was compensated by the Contractor.³⁰¹

212. The Contractor's Environmental Specialist and the Supervising Engineer both reported the Contractor paid for the road accident victims' hospital fees and for damages caused to vehicles.³⁰² However, the Panel during its visit spoke to one victim who claimed the compensation he received did not suffice to repair or replace his broken motorbike and he could no longer depend on it for the livelihood of his family. The Panel believes this case may be the same as one included in the log of GRM complaints but cannot confirm it. The Panel concludes that neither the Supervising Engineer, BEGES nor Management paid sufficient attention to road safety risks and accidents before receipt of the Request.

Disruption of Water Supply

213. During the Panel's visit the Requesters and many other community members told the Panel about damage to existing water systems in numerous settlements along the road, leaving households without access to drinking water on several occasions, typically for long periods of time. Since a cholera outbreak started at that time, local people claim the slow and insufficient

²⁹⁷ World Bank Aide-Mémoire for mission of October 10-13, 2017, pp. 5-6.

²⁹⁸ From the List of Incidents and Accidents provided by the Contractor to the Panel in February 2018. Some of these are also in the register of GRM cases.

²⁹⁹ For example see the Contractor's Environmental Specialist's report, June, p. 17.

³⁰⁰ World Bank Aide-Mémoire for mission of February 8-16, 2018, pp. 2, 3.

³⁰¹ Ibid.

³⁰² Supervising Engineer's report, September 2017 pp. 22, 24, Supervising Engineer's report, October 2017, p. 28, Supervising Engineer's report, November 2017 p. 25, Contractor's list of incidents, February 2018 p. 3.

repairs by the Contractor caused at least 12 deaths, hundreds of admissions to hospitals, and major emotional and financial burdens. They told the Panel that repairs are of poor quality and cause repeated breakdowns. Community members stated in some settlements the village water committees were forced to pay for the repairs themselves when the Contractor did not rehabilitate them.

214. The ESIA prepared at the start of road works failed to identify the risk of breakage of water pipes along the road or disruption of water sources near the quarries. The 2018 ESIA update, however, cited this as a negative but temporary impact of high likelihood and explicitly referred to water pipe breakages in six locations.³⁰³ Proposed mitigation measures included prior verification of the existence of water pipes jointly with the communities. It appears that this was not done before construction activities started. Other measures included repair of broken water pipes and restoration of the water supply near the Requesters' quarry, as well as compensation for people affected by disruption of water.³⁰⁴

215. The Panel notes the local water systems are often of poor quality with pipes installed close to the surface and without official records of where they cross the road. According to standard road construction practice, water supply to villages near the road must be identified in advance of any works and temporary arrangements be made during construction. In principle the same would apply for water sources affected by quarries. This should have been done in advance to avoid problems and any unintended rupture should have been promptly repaired by the Contractor and monitored by the Supervising Engineer. Good practice also requires providing water to communities through water trucks in the period before regular water supply is restored.

216. The Contractor acknowledged responsibility for damage to the water systems in 15 locations (see table below provided to the Panel by the Contractor in January 2018) and indicated the repairs were provisional until the road works were concluded, at which time permanent pipes would be installed. The table indicates the time to repair the pipes was frequently up to a month. Community members, however, claim that repairs often took much longer.

List of Damaged Water Pipes*

| No | Locality | Name of Village | Date of Damage | Date of Repair | Responsible NGO | Duration of Rupture (in days) |
|----|------------|-----------------|----------------|----------------|-----------------|-------------------------------|
| 1 | PK 129+985 | NGUMBA | 24/03/2017 | 05/04/2017 | | 12 |
| 2 | PK126 | KIROTSHE | 26/03/2017 | 2017/3/28 | | 2 |
| 3 | PK119 | KIHINDO | 20/09/2017 | 20/10/2017 | | 30 |
| 4 | PK118+900 | BUHUNGA | 09/04/2017 | 10/04/2017 | | 30 |
| 5 | PK117+250 | NYAMUBINGWA | 26/03/2017 | 05/04/2017 | | 10 |
| 6 | PK 116+371 | NYAMIBALE | 05/06/2017 | 03/07/2017 | | 28 |
| 7 | PK 116+300 | NYAMIBALE | 10/04/2017 | 12/04/2017 | | 32 |

³⁰³ Updated ESIA, February 2018, pp. 17 and 97 (actually the severity of the risk appears to be higher in the first reference).

³⁰⁴ Ibid., pp.115-116.

| | | | | | | |
|----|------------|------------------------|------------|------------|-----|----|
| 8 | PK115 | BWEREMANA | 13/04/2017 | 14/04/2017 | | 30 |
| 9 | PK114 | BWEREMANA | 15/04/2017 | 16/04/2017 | | 30 |
| 10 | PK 110+257 | BUGANAGA/ camp MUBIMBI | 2017/4/10 | 2017/5/15 | NCA | 35 |
| | | BUGANAGA/ camp MUBIMBI | 10/04/2017 | 2017/11/16 | NCA | |
| 11 | PK30 | IHUSI | 05/09/2017 | 10/09/2017 | | 5 |
| 12 | PK50 | NYAMUKUBI | 01/08/2017 | 02/08/2017 | | 1 |
| 13 | PK45 | BUSHUSHU | 12/08/2017 | 10/09/2017 | | 29 |
| 14 | PK46 | BUSHUSHU | 20/09/2017 | 23/09/2017 | | 33 |
| 15 | PK1+400 | CISHENYI | 05/10/2017 | 27/10/2017 | | 22 |

**English translation by Panel of French original received from the Contractor in January 2018*

217. In the case of the IDP camp a rupture on April 10, 2017, affected 365 households with a population of about 2,000 persons.³⁰⁵ A report shared by the Contractor stated that the closest water source was 2.5km away; people therefore used the Buganga river, which was of poor water quality.³⁰⁶ Initial corrective measures to restore the pipes were apparently taken only after 35 days. A repeat breakage occurred, which was possibly caused by someone deliberately cutting the pipe.³⁰⁷ The date of this breakage is disputed and water supply was only restored on November 16, 2017.³⁰⁸ In December 2017, ECC-MERU carried out a broad evaluation, sponsored by the Contractor. The NGO conducted interviews and consultations to assess the situation of the camp and the needs of the population, and produced two reports. The first primarily described the generally harsh living conditions in the camp, including hardships caused by lack of water, and recommended a range of humanitarian activities. In this report, the NGO noted that many community members were suffering from malaria.³⁰⁹ The second report, exclusively dedicated to the water issue, confirmed that the water system had been restored and specified the needs of the population.

218. During its investigation visit the Panel confirmed that the water supply to the IDP camp was restored, and was also informed that the Contractor had provided community compensation including medicines, renovation of latrines, installation of showers, gifts of clothes, and USD5 in cash to each of the 355 women in the camp.³¹⁰ The Panel, however, was unable to confirm that satisfactory repairs had been implemented in all 15 locations with broken water pipes.

219. The Panel obtained data related to cholera and other waterborne diseases from a local hospital in Kiroche village. While the Panel agrees the absence of access to safe drinking water

³⁰⁵ *Rapport circonstancie de suivi du reamenagement et de la restauration de l'eau au camp*, undated, p. 1.

³⁰⁶ *Ibid.*, p. 2.

³⁰⁷ *Ibid.*, p. 1.

³⁰⁸ *Ibid.*, p. 1.

³⁰⁹ ECC-MERU report, *Rapport d'évaluation des mesures de compensation communautaire au profit des habitants du camp, sur la RN2 en province du nord-kivu suite a l'interruption dela fourniture d'eau*, December 2017, pp. 14-15.

³¹⁰ ECC-MERU report, *Rapport des activites de remise des objets des mesures compensatoires effectuee par l'entreprise SZTC dans le camp, January 4th*.

during a cholera outbreak significantly increases risks, the available data is insufficient to validate the alleged link between the disruption of water supply and fatalities caused by cholera in the Project area during this period. Furthermore the evaluation of the living conditions in the IDP camp carried out by ECC-MERU mentioned no cholera cases there, though it referred to high incidents of diarrhea and fever among children.³¹¹ In its November 2017 update, Management stated it would investigate “what potential impacts have been generated by the interruption of water services” in the camp.³¹² While Management informed the Panel that they had been unable to establish any linkage between the cholera outbreak and the disruption of water supply to the IDP camp, the Panel did not obtain any documentation related to the investigation of health impacts.

220. The Panel also visited the Requesters’ quarry site where residents claimed their water resources could no longer provide them sufficient water for personal use and agriculture. The Panel observed the low water level and was told a consultant had been engaged to study the situation on behalf of CI. The January 2018 update of the Management action plan stated this issue was addressed in September 2017.

221. The Panel notes that risk of disruption of water supply is common in road construction, especially when one side of the road faces hilly areas as is the case with RN2. The fact that the 2017 ESIA did not identify this risk, prior identification of water supply was not undertaken, and there was scant supervision of such issues by the Supervising Engineer and BEGES – with reporting focused on the IDP camp and starting only after receipt of the Request – have contributed to the harm experienced by people along the road.

Drainage of Storm Water

222. During its visit the Panel experienced first-hand the poor conditions of the road in several sections and the accumulation of water on and near the road. Local people told the Panel newly installed culverts and drainage in several villages lacked capacity to carry the amount of water that flows during heavy rains, resulting in storm water also entering private land and houses.

³¹¹ ECC-MERU, November 2017. The report does not have page numbers. Two brief paragraphs cover health issues.

³¹² Management Response Update, November 27, 2017, p. 2. In the World Bank Aide-Mémoire for mission of November 14-21, 2017, p. 4, Management requests CI to investigate in depth any health aspect, including cholera, associated with the water disruption in the camp. Neither report was available to the Panel at the time of finalizing its report.



Picture 6: Area of poor road condition along RN2

223. Both the 2017 ESIA and the Updated 2018 ESIA confirmed only the risk of temporary disruption in the flow of surface water during construction of bridges, culverts, and terracing. The mitigation measures included implementing an appropriate plan for temporary diversion of runoff water, avoiding as much as possible interrupting river flow, and building structures to ensure continuous flow of water.³¹³ The 2015 ESMF called for special attention to design drainage to avoid flooding houses or agricultural plots.³¹⁴

224. In the Contractor's monthly reports some incidents related to heavy rain, runoff water, and flooding are recorded.³¹⁵ These are mostly landslides, which caused damage to property, and accidents – in one case the collapse of a bridge head, which was also reported by the Supervising Engineer.³¹⁶ The log of GRM cases also included instances of flooding of land, drainage problems, and damage to houses.³¹⁷

³¹³ ESIA, February 2017, pp. 82 and 85; Updated ESIA, February 2018, pp. 93 and 96.

³¹⁴ ESMF, October 2015, p. 94.

³¹⁵ For example, in the Contractor report from September, p. 9 and in the Contractor report from October, p. 10.

³¹⁶ Supervising Engineer's report, October, p. 24.

³¹⁷ Based on the register of GRM cases as of January 31, 2018. However, in the several cases of damage to houses the cause is not clear from the brief descriptions.



Picture 7: Area of poor road condition along RN2

225. The Panel notes that it is not uncommon for road construction – depending on the design and construction of culverts, bridges and terracing – to permanently affect the flow and accumulation of surface water following heavy rains. The Panel therefore notes the two ESIA's neglected to address this risk as potentially ongoing, and the absence of related mitigation measures to avoid negative impact on local land and property during the remainder of the construction and following completion of the road. Besides potentially destroying assets, standing water could also be the source of negative health impacts, including mosquito-borne diseases.

3.3.5 Compliance Findings

226. **The Panel finds Management failed to identify risks and mitigation measures associated with excessive use of force by military personnel engaged by the Contractor in an adequate and timely manner in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01) and on Investment Project Financing (OP/BP 10.00).**

227. **The Panel also finds Management in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01), the Environmental Health and Safety Guidelines, and Investment Project Financing (OP/BP 10.00) for not adequately identifying and mitigating impacts related to water pipe rupture, storm water and lack of road safety measures. These shortcomings were exacerbated by weak supervision, which did not identify harm to communities, in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00).**

3.4 Working Conditions and Occupational Health and Safety

3.4.1 Request for Inspection

228. The Requesters alleged the Contractor employed young boys as daily laborers and confiscated part of workers' salaries.

3.4.2 Management Response

229. Management noted it observed "instances of non-compliant labor and occupational safety conditions" which included "allegations that the Contractor was partially withholding wages, as well as Contractor staff engaging in physical or verbal abuse against Project workers."³¹⁸ Management stated these issues had not come to its attention before the mission to RN2 "partly because the relevant GRM had not been fully set up."³¹⁹ It highlighted that a formal Notice to Correct was issued to the Contractor on October 2, 2017, instructing it to comply with the Code of Conduct.³²⁰

230. Management stated it takes allegations of child labor very seriously, but after reviewing the Contractor's labor registry, interviewing workers and community members, and conducting unannounced spot checks on worksites during August and September 2017 it was unable to confirm any case of child labor employed by the Project. Three 17-year-old workers were identified, but according to national law the minimum working age is 16.³²¹ Management noted it will continue its due diligence regarding child labor and will work with the Borrower to ensure compliance by the Contractor with its contractual obligations and Bank policies³²². In that regard Management affirmed it has "requested that the Contractor's safeguards specialist as well as the supervision engineer and BEGES be used as reliable and confidential ombudspersons for any labor issues."³²³

3.4.3 Bank Policies

231. OP/BP 4.01 on Environmental Assessment requires assessment of a project's potential environmental risks and impacts, and their avoidance, mitigation, or compensation. The Policy aims at enhancing a project's positive impacts and requires consideration of "human health and safety."³²⁴

232. The World Bank Group's EHS Guidelines require promotion of traffic safety³²⁵ and prescribe the use of Personal Protective Equipment (PPE) such as helmets, hearing protection, safety shoes and boots, gloves made of rubber or synthetic materials, and facemasks.³²⁶ The

³¹⁸ Management Response, p. 14, para. 55.

³¹⁹ Ibid, p. 14-15, para. 55.

³²⁰ Ibid, p. 15, para 55.

³²¹ Ibid, p. 12-13, para. 45.

³²² Ibid, p. 13, para. 46.

³²³ Ibid, p. 26

³²⁴ OP 4.01, Environmental Assessment, para. 3.

³²⁵ EHS Guidelines, Section 3.4, Traffic, p. 81.

³²⁶ Ibid., Section 2.7 Personal Protective Equipment (PPE), p.73.

Guidelines also require that prior to the commencement of their assignments workers receive adequate training and information regarding (i) knowledge of materials, equipment, and tools; (ii) wearing and use of PPE clothing, and (iii) appropriate response to operation extremes, incidents, and accidents.³²⁷ The EHS Guidelines also require that adequate lavatory facilities, such as toilets and washing areas, be provided for workers and that potable water be supplied to them.³²⁸

3.4.4 Panel Observations and Analysis

233. *Worker's Contracts, Salaries, and Working Hours.* During its visit the Panel heard that many of the Contractor's workers lacked formal contracts. This allegation was confirmed by the Supervising Engineer in his August 2017 report.³²⁹ The Panel notes that the September 2017 Compliance Plan for quarries and borrow pits on RN2 also identified this issue for the workers the Contractor used to exploit quarries and borrow pits, and proposed all workers receive contracts.³³⁰ In its September 2017 Aide-Mémoire, Management asked the Supervising Engineer to verify that all Project workers had a contract.³³¹ The Panel understands the lack of formal contracts was corrected by the Contractor's new manager, who started in September 2017.

234. The Panel also learned former workers had received reduced salaries. While they had agreed on an amount in US dollars, they were paid in Congolese Francs and not according to the official exchange rate. The Compliance Plan prepared by the Contractor identified this issue as an instance of non-compliance and stated the Contractor must pay compensation.³³² According to the January 2018 progress update of the action plan, the Contractor reached out to former workers through radio messages in French and in Swahili explaining the different ways to request compensation. The Contractor informed the Panel during its visit that efforts were underway to identify and compensate the affected workers. According to the January 2018 action plan update, 250 of 499 workers who received a reduced salary had been compensated to date.³³³ The Panel also spoke to former workers whose employment lasted less than one month and who claim they received no compensation for their work during that period. The Contractor told the Panel corrective payments had been made, or were in the process of being made, to workers who were no longer employed by the Contractor. However, according to the Contractor, employment records prior to the change in its management may indeed be incomplete and not capture employees who worked less than one month. The Panel spoke to some workers who confirmed they have been paid the outstanding balances. Others claimed they were not paid as they were unaware retroactive payments were being made.

235. The Panel spoke to workers who complained they must work from dawn to dusk, seven days a week with few or no breaks and without receiving overtime pay. The Panel learned from various sources that the Contractor's workers are required to report for work at 7:00 am and are generally only allowed to return to their camps and homes after 5:30 pm with less than 30 minutes of lunch break seven days a week. This suggests an average working time of 70 hours per week,

³²⁷ Ibid., Section 2.2, Communication and Training, p. 63-64.

³²⁸ Ibid., Section 2.1, General Facility Design and Operation, p. 62.

³²⁹ Supervising Engineer's report, August 2017, p.20, point 4.5

³³⁰ Compliance Plan, September 2017, pp. 8, 24-35

³³¹ World Bank Aide-Mémoire for mission of September 19-25, 2017, p. 11.

³³² Compliance Plan, September 2017, p. 8.

³³³ January 2018 updated action plan, p. 11-12, action no. 39.

while the legal working week in DRC is limited to 45 hours.³³⁴ The Supervising Engineer told the Panel that employees were working on the road at late hours, despite the associated risks to workers and communities. In its May 2017 report, the Supervising Engineer informed the Contractor it needed to notify him in advance of night work.³³⁵ While the standard contract states that overtime has to be paid in accordance with national labor law,³³⁶ workers claimed that they did not receive this allowance.

236. The Panel notes that although reports from the Contractor's Environmental Specialist raised the need for employment contracts in April and July 2017, the issues related to working hours and compensation were not systematically flagged in supervision reports. Reports by the Supervising Engineer did not mention such issues until August 2017, after receipt of the Request.³³⁷ It appears only then CI, the Supervising Engineer, BEGES, and Management started to follow up to ensure that the Contractor complies with its contractual provisions in this regard. In October 2017 the Supervising Engineer reported that every worker had signed a work contract.³³⁸ In its November 2017 Aide-Mémoire Bank Management noted it received copies of signed contracts for all workers.³³⁹ The January 2018 action plan noted that every contract is archived with the Supervising Engineer and a report by the Supervising Engineer on contract verification was transmitted on December 11, 2017.³⁴⁰

237. *Child Labor.* While the Requesters alleged that the Contractor employed young boys, the Panel did not encounter such cases. Management's September 2017 Aide-Mémoire stated it reviewed the list of Contractor's employees and interviewed workers, community members, and children, and analyzed supplementary checks by BEGES, but could not substantiate this allegation.³⁴¹ Management asked that BEGES and the PIU make an unannounced visit to ensure that the law is applied in this matter.³⁴² The Panel heard from several workers that prior to the Contractor's change in management in September 2017 employee IDs were not systematically checked during the hiring process. From January 2017 onwards, the Supervising Engineer repeatedly noted that worker resumes were absent, and notes that they were only received in September 2017.³⁴³

238. The Panel team spoke to headmasters and teachers of schools located near workers' camps and quarries who explained that many underage boys and girls supplied food and beverages to the Contractor's employees and that several were dismissed from school due to repeated absences from class. While the Panel notes it is outside the Contractor's direct control, neither the Contractor

³³⁴ Law 16/010, July 15, 2016, clause 119, <http://www.leganet.cd/Legislation/DroitSocial/Loi%2016.010.15.07.html>

³³⁵ Supervising Engineer's report, May 2017, p. 35.

³³⁶ ESIA, February 2017, p. 158.

³³⁷ Supervising Engineer's report, August 2017, p.20, point 4.5.

³³⁸ Supervising Engineer's report, October 2017, p. 111.

³³⁹ World Bank Aide-Mémoire for mission of November 14-21, 2017, p. 20, point 29.

³⁴⁰ Action plan dated January 17, 2018, action point 29.

³⁴¹ World Bank Aide-Mémoire for mission of September 19-25, 2017, p. 3

³⁴² Ibid., p. 10.

³⁴³ Supervising Engineer's report, December 2016 – January 2017, p.34; Supervising Engineer's report, February 2017, p.48; Supervising Engineer's report, March 2017, p.35; Supervising Engineer's report, April 2017, p.13; Supervising Engineer's report, May 2017, p.11; Supervising Engineer's report, June 2017, p.12; Supervising Engineer's report, July 2017, p.11; Supervising Engineer's report, August 2017, p.24; Supervising Engineer's report, September 2017, p.12.

nor CI, the Supervising Engineer, or BEGES reported engaging with local authorities or local stakeholders to sensitize teachers, parents, and children about the long-term impoverishment risks of dropping out of school to take advantage of short-term income opportunities associated with the construction work.

239. *Workers' Accommodations and Occupational Health and Safety.* The Contractor informed the Panel that three types of workers' camps are used: a permanent camp in Sake for foreign workers, six intermediate camps in larger towns/villages, and temporary camps used by local workers. The Panel visited several of these camps. In the case of the intermediate camps along the road corridor, the Panel understands the Contractor rented houses for foreign workers. Project workers told the Panel national workers need to find and rent accommodation at their own cost and workers sometimes slept in the street or in the Contractor's car to save money.

240. The Panel notes the permanent camp in Sake generally meets adequate standards. With regards to the temporary camps at worksites, during its visit the Panel observed that workers stay in tents on the roadside without access to latrines, kitchens, and other basic facilities. Workers told the Panel that some of them use these temporary camps for months.



Picture 8: Worker's temporary camp.

241. The Panel spoke to several workers who explained they were not provided access to safe drinking water during working hours, forcing them to obtain drinking water from nearby water points and streams without any guarantee or information about water quality. They also mentioned the recent cholera outbreak in this context and explained that workers affected by waterborne diseases and/or other health issues did not benefit from any sick leave or health insurance.

242. The reports from the Supervisor Engineer flagged the Contractor's non-compliance with health and safety measures, including the lack of temporary toilets for workers and the lack of workers' vaccinations, such as for tetanus.³⁴⁴ Monthly reports from the Contractor's Environmental Specialist also expressed concerns related to the sanitary conditions and lack of potable water from February to September 2017.³⁴⁵ The September 2017 report of the Supervising Engineer mentioned that toilets were provided in September following the recommendations made

³⁴⁴ Supervising Engineer's report, August 2017, p.20, point 4.5

³⁴⁵ Reports from February, April, etc.

in August.³⁴⁶ According to the 2018 January action plan, further reports on the working conditions would be transmitted to Management when available.³⁴⁷

243. Workers also told the Panel about incidents of miscommunication, harsh treatment by the Contractor, and occasional physical violence against workers. The Panel understands that foreign workers in managerial positions spoke neither French nor Swahili and, until August 2017, there was only one interpreter based in the permanent camp in Sake. Many workers expressed frustration about being unable to communicate with their supervisors. The Panel was told that workers found taking short breaks to obtain water, purchase food from the roadside vendors, or search for a toilet were harshly treated by the Contractor's supervisors and sometimes beaten.

244. A truck driver reported that when driving a truck full of stones he broke a pipe while parking. In retaliation he was beaten by two foreign workers. He explained that the foreign workers also instructed the military to shoot him. He stated he ran away and when he came back to work the next day he was dismissed. The worker explained the incident happened in May 2017 and he had not been paid for a month of work. However, he stated that in October 2017 he was asked to sign a contract retroactively and was paid by the Contractor.

245. The Bank's October 2017 Aide-Mémoire highlighted the use of violence against workers and mentioned that a local NGO with whom Bank Management met reported several cases.³⁴⁸ These include a worker who was found carrying a plank from the Contractor on his way home and then beaten and dismissed without pay for seven days of work. The Panel also heard from other workers about this incident. Another case involved a worker found with nails in his pocket and thus dismissed without payment for three months. The Aide-Mémoire stated Bank Management demanded that CI, in coordination with BEGES, consider these cases and prepare a report to the Bank by November 15, 2017.³⁴⁹ The Panel understands from the January 2018 action plan update that some reports on incidents are still outstanding.³⁵⁰

246. The Panel spoke to several workers who alleged they were not provided with safety helmets, protective boots, and overalls. Reports from the Contractor's Environmental Specialist consistently raised concerns about the insufficient availability of PPE to ensure a safe working environment. The Panel notes that the Contractor's Environmental Specialist repeatedly raised this issue³⁵¹ which, according to the Supervising Engineer, was resolved in November 2017.³⁵²

247. The Panel notes the reports of the Supervising Engineer did not systematically follow up on aspects of occupational health and safety and provided inconsistent information. The April 2017 report mentioned that all new workers had been given PPE.³⁵³ The June 2017 report stated the Supervising Engineer reminded the Contractor it should display environmental and social regulations on the site, that the toilets should have doors as well as higher walls, and that every

³⁴⁶ Supervising Engineer's report, September 2017, pp. 15 or 16.

³⁴⁷ CI, January 2018 action plan, p. 9., point 33.

³⁴⁸ World Bank's Aide-Mémoire for mission of October 10-13, 2017, p.10.

³⁴⁹ Ibid, p.10.

³⁵⁰ January 2018 action plan, 33.

³⁵¹ Reports from December 2016 and February 2017 and April to November 2017.

³⁵² Supervising Engineer's report, November 2017, p. 22.

³⁵³ Supervising Engineer's report, April 2017, p. 19.

worker should have access to PPE.³⁵⁴ In July 2017, the Supervising Engineer mentioned that the Contractor should take measures to avoid dust and renew its PPE. From August 2017 onwards, the reporting on health and safety measures became more systematic, with a new chapter on social and environmental compliance and a table including categories on health and safety measures on the site, vaccinations, dust, health risks due to solid and liquid waste, health risks due to toxic products, health risks due to insalubrity on the site, health risks due to mental pressure, PPE, accidents, night work, safety rules on the site and Code of Conduct.³⁵⁵ The August 2017 report included comments on the absence of toilets for the workers on the site, as well as non-compliance regarding PPE, vaccinations, dust, and occupational safety.³⁵⁶

248. Several workers told the Panel about severe occupational accidents. The Panel notes the Contractor reported on accidents every month but had no detailed accident log with systematic recording. The Bank's October 2017 Aide-Mémoire also found all incidents related to the site were not yet subject to systematic reports, such as an accident in April 2017 involving a Contractor's truck and a motorbike in which people were injured. The Aide-Mémoire noted that CI should do an immediate call to order.³⁵⁷

249. The Panel reviewed the monthly reports from the Contractor's Environmental Specialist and those of the Supervising Engineer from November 2016 to November 2017 that recorded some occupational and community accidents. One case related to a worker who lost his finger while working with an electric saw in October 2016. A report by the Supervising Engineer explained that the worker received medical treatment initially but did not seek continuous care because the Contractor subtracted the medical expenses from his salary. According to the report, he eventually stopped treatment and died after contracting an infection in April 2017.³⁵⁸ Another document explained he possibly died from tetanus.³⁵⁹ This case was only reported in September 2017, after receipt of the Request and after Management learned about this case through the NGO RARIP-RGL. The Bank's October 2017 Aide-Mémoire recommends BEGES and CI investigate this death. The Compliance Audit also mentioned this case and concluded that the absence of a report on this accident and the lack of a health committee are clear situations of non-compliance that must be corrected.³⁶⁰ In a report dedicated to this case, CI and BEGES were asked to ensure that Contractor actions conform to the Hygiene and Security Plan and the Labor Code.³⁶¹ Another severe occupational accident is mentioned in the Bank's Aide-Mémoire of February 2018. During the loading of a truck on November 12, 2017, two workers were injured and one of them died. The Aide-Mémoire mentioned that the Contractor paid for the medical care of the injured worker and

³⁵⁴ Supervising Engineer's report, June 2017, p17.

³⁵⁵ Supervising Engineer's report, August 2017, p18-21; Supervising Engineer's report, September 2017, p18-21. Supervising Engineer's report, October 2017, p19-24; Supervising Engineer's report, November 2017, p19-24.

³⁵⁶ Supervising Engineer's report, August 2017, p18-21

³⁵⁷ World Bank's Aide-Mémoire for mission of October 10-13, 2017, p.5-6

³⁵⁸ "Rapport Circonstancie Deces", signed by the Supervising Engineer, p.1-2. In December 2017, the Contractor issued a letter explaining that they later reached an agreement with the family and paid a compensation in the amount of USD4,660. Contractor's letter to CI, December 2017.

³⁵⁹ Action plan Update January 17, 2018.

³⁶⁰ Compliance Audit, February 2018, p. 27, para 39(a).

³⁶¹ World Bank's Aide-Mémoire for mission of October 10-13, p.11-12

compensated the family of the deceased worker. According to the Aide-Mémoire, an inquiry into this accident is ongoing.³⁶²

250. Workers also claimed that injured employees were not paid during sick leave and were often dismissed and replaced by other workers. The Panel understands that in most cases the Contractor covered their medical expenses, but no other compensation was paid and there was no evidence that workers were covered by insurance. The Panel also notes that the Contractor's poor signage along working areas, an issue that was consistently flagged by the Supervising Engineer from April to October 2017, raised further safety risks for workers and community members.

251. The 2018 January action plan mentioned that BEGES and a legal consultant attempted to verify whether there had been any abusive dismissals, and none were identified.³⁶³ In its Response, Management noted that incidents of Contractor staff engaging in physical or verbal abuse against Project workers were brought to the Bank team's attention following receipt of the Request. Management required CI to enforce the contract with the Contractor and investigate such incidents.³⁶⁴ A formal Notice to Correct had been issued to the Contractor on October 2, 2017 instructing it to comply with the applicable rules and Code of Conduct.

252. The 2017 ESIA identified health and safety issues as Project challenges and rated the risks of occupational accidents as likely. It envisioned several prevention and mitigation measures including the implementation of a health and safety plan, training on security for staff on the worksite, and the wearing of PPE.³⁶⁵ The contract between the Contractor and the PIU required that a site-specific ESMP be prepared within 45 days of the contract award.³⁶⁶ The Panel notes that the lack of adequate measures in the Contractor's ESMP to ensure the health and safety of workers contributed to the problems described above. The mitigation measures outlined in this ESMP lacked sufficient specificity to protect workers and the community meaningfully. For instance, to mitigate the risk resulting from population increase due to labor influx, the Contractor's ESMP proposed adequate provision of housing for workers, but did not specify the type of housing or who is responsible for providing it. The ESMP also mentioned the need for appropriate signage on the site, but gave no further information. During staff interviews the Panel heard that the Contractor's ESMP was not reviewed by Management. The Panel notes the 2018 ESIA did not delve any deeper into occupational health and safety. However, it added that the site-specific ESMP should include the management risks arising from the influx of workers, the management of complaints on the site and its connection with the GRM, and clauses related to child labor.

253. In the Aide-Mémoire of October 2017 Management asked to be informed immediately by CI about serious non-compliance on the site, and noted that sanctions would be meted out in conformity with contractual clauses and the Code of Conduct.³⁶⁷ The Code of Conduct included clauses relating to working hours – Monday to Saturday, 7:00 am to 12:00 pm and 1:30 pm to 4:30 pm – and requiring overtime payment.³⁶⁸ The Code of Conduct also included provisions on health

³⁶² World Bank Aide-Mémoire for mission of February 8-16, 2018, p. 2.

³⁶³ Action plan Update January 17, 2018.

³⁶⁴ Management Response, dated October 20, 2017, page 26.

³⁶⁵ Updated ESIA, February 2018, p34, p105

³⁶⁶ Ibid., p. 173

³⁶⁷ World Bank's Aide-Mémoire for mission of October 10-13, p.12.

³⁶⁸ Article 1

and safety, mandating the Contractor to provide medical services and to supply PPE, which the employees are obliged to use.³⁶⁹ Employees should also report any accident they caused or suffered and are forbidden to use dangerous equipment without adequate training, skills, or authorization or to drive a vehicle that does not work properly.³⁷⁰ The Code of Conduct also included a detailed table of various types of professional negligence and their related sanctions, and the telephone numbers of the Contractor's Environmental Specialist and the Supervising Engineer for workers wishing to complain.³⁷¹ The Notice to Correct instructed the Contractor to comply with the Code of Conduct. The January 2018 action plan also mentioned that MIPW instructed the Provincial Governors to involve the Labor Inspectorates and legal authorities to ensure application of the law.

3.4.5 Compliance Findings

254. The Panel notes the occurrence of serious infractions related to payments to Project workers and poor working conditions affecting their health and safety. **The Panel finds Management's failure to adequately monitor or provide implementation support to safeguard workers' health and safety in non-compliance with Bank policies on Environmental Assessment (OP/BP 4.01), Investment Project Financing (OP/BP 10.00), and the Bank's EHS Guidelines.** The Panel did not find instances of child labor in the Project.

255. Management acknowledged issues related to workers' health and safety following receipt of the Request. The Panel welcomes the improvements since then regarding issuance of worker contracts, ID checks, retroactive payment for exchange rate losses, working conditions, and strengthened supervision of labor issues.

³⁶⁹ Article 2

³⁷⁰ Article 2

³⁷¹ Internal regulations and Code of Conduct, p.4-5.

Chapter 4: Gender-Based Violence

4.1 Introduction

256. This chapter analyzes harm related to different forms of gender-based violence (GBV) linked to the Project. The chapter presents the Request, the Management Response, and a summary of the situation of women and girls in the DRC context, and describes the methodology used by the Panel team to evaluate the Requesters' claims. The chapter concludes by presenting the Panel's observations and analysis of Bank compliance.

4.2 Request for Inspection

257. The Requesters claimed there has been violence against women and girls in the course of implementing Project activities. Communication submitted to the Panel as part of the Request specifically mentioned rape and other physical violence against women and young girls from the village and sexual violence due to Project activities in the quarries but gave no further details on specific incidents or the identities of alleged perpetrators.³⁷²

4.3 Management Response

258. Management stated it "takes particularly serious the allegations regarding GBV,"³⁷³ and explained that immediately after receiving the complaint from the Panel it sent three missions to the field between August and October 2017. These missions included "highly qualified and experienced social development specialists trained in methodologies to assess GBV and familiar with the local context and language."³⁷⁴ Despite these efforts, Management stated it could not substantiate any GBV claims. Management explained that the "allegations have remained general" and, since GBV and other human rights abuses are common in eastern DRC, "it has been difficult to ascertain any link to the Project."³⁷⁵

259. Management noted that during its September mission it heard allegations from three individuals (who were not the victims) of two instances of GBV related to the Project involving three potential victims who were minors.³⁷⁶ However, the victims could not be identified and the allegations were not supported by others. Management also stated that it heard from two local civil society organizations about four cases of sexual harassment of the Contractor's female employees.³⁷⁷ Management explained it had hired additional GBV experts for the Project who will work with the Borrower and Contractor to investigate allegations of GBV and sexual abuse, and would conduct mandatory staff training on the Code of Conduct. Management further recognized that safeguard documents did not include specific measures to mitigate risks from GBV, and explained that the documents, including the ESIA, would be updated to address these risks and to reflect lessons from the Uganda Transport Sector Development Project.³⁷⁸

³⁷² E-mail to World Bank dated April 10, 2017 and e-mail to the Panel dated August 29, 2017.

³⁷³ Management Response, p. vi.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

³⁷⁶ Ibid, p. 11.

³⁷⁷ Ibid, p. 12.

³⁷⁸ Ibid, p. 6.

260. In its update to the Management Response dated November 27, 2017, Management reported that during its fourth high-level mission to the Project site it met with alleged survivors of SBGV and accompanied them to a service provider for support.³⁷⁹ Management also met with several Government authorities to communicate the gravity of the Panel’s observations during its eligibility visit, and to secure the local authorities’ commitment to prevent any form of retaliation against the complainants or victims of GBV. Management informed it will support the Borrower to “select one or more SGBV prevention CSO(s) to undertake third-party monitoring of SGBV in the area of influence of all roads with ongoing Pro-Routes support.”³⁸⁰

4.4 Bank Policies

261. The Bank Policy on Environmental Assessment (OP/BP 4.01) requires the project EA to take into account the “human health and safety and social aspects” of the project.³⁸¹ According to this Policy, the EA should consider natural and social aspects in an integrated manner, take into account the variations in project and country conditions, and propose measures to avoid, minimize, mitigate, or compensate adverse project impacts.

262. The World Bank EHS Guidelines recognize the need to assess the risks associated with communicable diseases caused by infrastructure projects and state that “communicable diseases of most concern during the construction phase due to labor mobility are sexually-transmitted diseases (STDs), such as HIV/AIDS.”³⁸²

263. The Interim Guidance Note on Assessing Social Impact and Risks Under OP/BP 4.01 states that “special attention should be paid to vulnerable or disadvantaged groups who could experience adverse impacts from the proposed project more severely than other groups.” It also points out that “gender differentiated impacts should also be examined and the assessment should propose measures to ensure that one gender is not disadvantaged over another.”³⁸³

264. The Operational Policy on Gender and Development (OP/BP 4.20) requires the Bank to “assess the gender dimensions of development within and across sectors” and discuss this assessment in the Country Partnership Framework (CPF).³⁸⁴ In sectors where the CPF has identified the need for priority gender-responsive interventions, the Bank must ensure that project design addresses the ways in which the project might disadvantage one gender relative to the other. The CAS for DRC (FY 2013-2016) recognizes that “gender-based violence is a bleak day-to-day reality for a large number of Congolese women.”³⁸⁵

³⁷⁹ Update to the Management Response, November 27, 2017, p. 1.

³⁸⁰ Ibid, p. 3.

³⁸¹ OP 4.01, Environmental Assessment, para 3.

³⁸² World Bank Group Environmental, Health and Safety Guidelines, April 2007, p. 85.

³⁸³ World Bank, Interim Guidance Note for Assessing Social Impact and Risks Under OP/BP 4.01 – Environmental Assessment, February 2012, p. 2.

³⁸⁴ OP/BP 4.20 Gender and Development, March 2015.

³⁸⁵ DRC Country Assistance Strategy (FY13-16), p. 15. Available at

<http://documents.worldbank.org/curated/en/664211468246896400/pdf/661580CAS0Box30C0disclosed050160130.pdf>.

265. The Bank Operational Policy on Investment Project Financing (OP/BP 10.00) requires the Bank to monitor the borrower's compliance with agreed mitigation measures and provide implementation support to the borrower.³⁸⁶

266. As part of the Bank's response to the Panel's investigation of the Uganda Transport Sector Development Project (TSDP), Management in December 2016 issued a guidance note to staff on "Managing the Risks of Adverse Impacts on Communities from Temporary Project Induced Labor Influx." This guidance identifies a range of potential social impacts associated with labor influx including increased risk of social conflict, illicit behavior and crime, communicable diseases, child labor and school dropouts, and gender-based violence. The guidance mentions the importance of understanding the country context while assessing labor influx impact. According to the note, mitigation measures should be proposed as part of the ESIA/ESMP and should be consulted with local communities and stakeholders, including vulnerable groups.³⁸⁷

267. A further response to the Uganda TSDP investigation was the Bank's establishment of an independent Task Force of experts to provide guidance on how to prevent and mitigate the risk of sexual exploitation and abuse, as well as other forms of GBV in World Bank projects. The Task Force's recommendations from July 2017³⁸⁸ include the development of a robust risk assessment methodology to identify and mitigate sexual exploitation and abuse and GBV risks, with high-risk projects triggering actions in project design and supervision, such as identifying service providers for survivors. It also cites the need to foster a continuous partnership with community actors to prevent and respond to sexual exploitation and abuse. Finally, the Task Force recommends that contractor obligations related to GBV measures be built into the bidding documents, and that oversight be strengthened through third-party monitoring in the case of high-risk projects.

4.5 Context: Women and Girls in DRC

268. *Gender Equality in DRC.* DRC is ranked as one of the most gender unequal countries in the world. According to the Gender Development Index from 2016, women's development in DRC is about 83 percent that of men.³⁸⁹ The Gender Inequality Index ranks DRC 153 out of 159 countries.³⁹⁰ DRC routinely appears on the list of the five most dangerous countries in the world for women, primarily owing to the pervasive, systemic sexual violence experienced by them.³⁹¹ Harmful attitudes towards women, a context of impunity, and weak governance contribute to widespread violence against them.

³⁸⁶ OP/BP 10.00, April 2013.

³⁸⁷ World Bank, *Managing the Risks of Adverse Impacts on Communities from Temporary Project Induced Labor Influx*, December 2016.

³⁸⁸ Working Together to Prevent Sexual Exploitation and Abuse: Recommendations for World Bank Investment Projects, July 2017, pp. 5-8. Available at <http://documents.worldbank.org/curated/en/482251502095751999/pdf/117972-WP-PUBLIC-recommendations.pdf>.

³⁸⁹ UNDP, Gender Development Index, available at <http://hdr.undp.org/en/composite/GDI> (accessed February 4, 2018).

³⁹⁰ UNDP, Gender Inequality Index, available at <http://hdr.undp.org/en/composite/GII> (accessed February 4, 2018).

³⁹¹ Thomson Reuters Foundation, http://www.operationspaix.net/DATA/DOCUMENT/4061~v~The_World_s_Five_Most_Dangerous_Countries_for_Women_Detailed_Report.pdf (accessed March 11, 2018).

269. Gender inequality permeates all aspects of society. Only 10.7 percent of women are educated to the secondary level, compared with 36.2 percent of men,³⁹² and girls are often forced to drop out of school due to early marriage or early pregnancies.³⁹³ Although the women's labor force participation rate in DRC is 70.7 percent, women primarily engage in agricultural and informal labor, often leaving them without social and legal protection, and without benefits afforded to those engaged in higher paying, more formal work.³⁹⁴

270. *Conflict-Related Sexual Violence in Eastern DRC.* The conflict in eastern DRC exacerbates the gender inequalities described above, placing women and girls at high risk of both domestic violence and GBV at the hands of state and non-state armed groups and other conflict actors. In 2016 MONUSCO verified 514 incidents of conflict-related sexual violence in conflict-affected provinces, with 68 percent of these incidents attributed to non-state armed groups and 27 percent attributed to the Congolese Armed Forces.³⁹⁵ Notwithstanding the limitations on collecting sexual violence data, it is notable that conflict-related sexual violence continues to be a significant factor in the sociopolitical landscape. Access to services for victims of GBV remains limited, particularly in the eastern conflict-affected provinces of North and South Kivu.

271. *DRC Legal Framework.* DRC has ratified numerous international human rights treaties requiring the state to prevent gender discrimination and violence against women.³⁹⁶ The 2006 Constitution outlines the Government's responsibilities to eliminate all forms of discrimination and violence against women, and classifies sexual violence as a crime against humanity.³⁹⁷ Laws 06/018 and 06/019 of 2006 on sexual and gender-based violence expanded the definition of rape and criminalized sexual violence crimes for the first time.³⁹⁸ They set the age of consent for any sexual interaction at 18,³⁹⁹ any form of sexual intercourse with a minor is categorized as rape by use of force, regardless of "consent."⁴⁰⁰ Despite such legal protections law enforcement remains weak. In 2013 the Committee on the Elimination of Discrimination against Women found that women lacked effective access to justice in DRC due to continued delays in judicial and criminal justice reform, the prevalence of corruption, and the high costs of legal proceedings.⁴⁰¹ Furthermore, many women are unaware of the laws and how to access the justice system.⁴⁰² Women are also often afraid to report cases of sexual violence due to fear of stigmatization and

³⁹² The University of Sydney, University of Technology, Sydney, ActionAid, and Australian Aid, Making Justice Work for Women: Democratic Republic of the Congo Country Report (August 2016), p. 17. Available at: <https://ses.library.usyd.edu.au/bitstream/2123/15628/2/DRC%20Full%20Report.pdf>.

³⁹³ JICA, Country Gender Profile Democratic Republic of the Congo Final Report (March 2017), p. 11.

³⁹⁴ The University of Sydney, University of Technology, Sydney, ActionAid, and Australian Aid, Making Justice Work for Women: Democratic Republic of the Congo Country Report (August 2016), p. 75.

³⁹⁵ UN Security Council, Report of the Secretary General on Conflict-Related Sexual Violence (April 2017), p. 9.

³⁹⁶ The DRC has ratified the Convention on the Elimination of all forms of Discrimination Against Women; the Convention on the Rights of the Child; the Rome Statute; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the African Charter on Human and People's Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa.

³⁹⁷ The Constitution of the Democratic Republic of Congo (2005), Articles 14 and 15.

³⁹⁸ JICA, Country Gender Profile Democratic Republic of the Congo Final Report (March 2017), p. 22.

³⁹⁹ The legal age of consent for sexual interactions was formally set at age 14. The current legal age of 18 is consistent with UN Convention on the Rights of the Child, which defines a child as a person younger than 18.

⁴⁰⁰ Law 06/018, Art. 170.3 and Art. 167.2 (2006).

⁴⁰¹ Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of Congo, para 9 (July 30, 2013).

⁴⁰² The University of Sydney, et al., *ibid.*, pp. 96-97.

retaliation and a widespread distrust of the legal system.⁴⁰³ Consequently, many victims and/or their families resort to out-of-court settlements with the perpetrator or the perpetrator's family.

4.6 Focus, Design, and Methodology related to GBV

272. To examine GBV harm, in addition to an extensive review of Project documentation, the Panel based its field investigations on Focus Group Discussion (FGD) and in-depth interviews with victims, community members, service providers, and Government officials. At the start of each interview or FGD the Panel explained that participation was voluntary and participants could decline to answer any question or withdraw at any stage of the interview. The consultants framed the FGDs in a general manner by initially asking about community trends rather than individual experiences.

273. The interviews with victims took special caution to avoid creating more harm and followed the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, which provides global good practices for conducting investigations.⁴⁰⁴ This guidance prioritizes safety, confidentiality, and protection from re-traumatization and stigmatization. All individual interviews related to sexual violence were conducted by experts with significant prior experience in fact-finding and data collection on GBV issues.

274. *Confidentiality and Informed Consent.* To ensure privacy and confidentiality the Panel worked with local intermediaries to arrange a convenient and safe location and time for the interviews and FGDs. This was particularly important in the context of girls divulging extremely sensitive information about their experiences. The Panel obtained interviewees' informed consent prior to commencing the interview or collecting external records. For minors, the team obtained informed consent from a parent or guardian where appropriate and factored in the age, needs, and level of understanding of each interviewee. The Panel also explained to all interviewees the purpose of the interview, the nature of the information sought, how confidentiality applies to the investigation, and what information might be disclosed in the report, stressing that personal information would not be publicly disclosed without prior consent.

275. *Mitigating Risk of Re-Traumatization.* The Panel utilized a conversational approach, beginning each interview with open-ended questions while ensuring that the interviewee maintained some control. The Panel approached questions by "funneling" events and establishing timelines.⁴⁰⁵ Investigators worked to prevent and minimize unintended effects of interview activities and monitored for signs of trauma. The Panel informed interviewees of available referral services, some of which have been engaged by Management after receipt of the Request, and put them directly in touch with such services when desired.

276. *Evaluating Credibility of Interviewees and Identifying Fact Patterns and Profiles.* It is highly significant that GBV is underreported, and women who report it often endure stigma and ostracization. It is important to consider this when evaluating victims' testimony and to appreciate

⁴⁰³ Ibid., pp. 98-99.

⁴⁰⁴ The International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (2017) was produced in collaboration with more than 200 gender and sexual violence experts.

⁴⁰⁵ This technique involves starting with general questions to obtain as much information as possible, asking more detail at each level, culminating with direct and specific closed questions.

the courage required to provide this information, particularly in a context of victim vulnerability and poverty in a fragile state.

277. The Panel did not seek to satisfy a legal burden of proof as it is neither mandated nor equipped to do so. Rather, the Panel established a uniform mechanism for assessing the validity of interview information by substantiating it with a minimum of two independent sources and by asking the same question more than once. In some instances, the Panel asked interviewees to verify information through drawings, identifying specific details of people, events, or geographic locations. The Panel was also aware that inconsistencies can be signs of trauma and reluctance. The Panel strived to maintain impartiality during interviews. After the interviews the Panel evaluated the credibility of each interviewee including: (i) what the interviewee may have said on a different occasion; (ii) the accounts of other interviewees in the same or similarly situated experiences, of witnesses, and of first responders, and (iii) the typology of behavior by alleged perpetrators and typology of harm suffered by victims.

278. The Panel substantiated information from respondents with other interviews or secondary sources before drawing conclusions. In addition to victims, interviews were also held with service providers, community members, NGO workers, and Government officials. The Panel debriefed on each interview at the end of each day. In briefings the Panel also analyzed information gathered from interviews with individuals and FGDs, as well as from site visits, material documentation, and reports.

279. The Panel then designed a case matrix to reveal patterns of behavior and profiles of alleged perpetrators and victims. This matrix helped identify common patterns of practice for perpetrators, the groups of people affected, the kinds of harm committed, the impact of harm on the victims, as well as the frequency, location, and major events associated with the harm. This body of consistent evidence was used together with expert opinion to substantiate GBV ranging from sexual harassment to sexual assault that had occurred as result of the Project as detailed below.

280. During the investigation the Panel noted that the Project evolved from having no community engagement or risk mitigation measures at Project commencement to having a constant presence of different actors external to the communities. The Panel fact-finding of harms related to the Project in this environment – combined with the context of high rates of poverty, vulnerability, and humanitarian dependency in the region – has proven to be more challenging with the expectation of monetary compensation by some community members. Nevertheless, the Panel made every effort to substantiate all allegations and filter out those that were not credible or unrelated to the Project.

281. Definitions. The following definitions are used to describe and draw distinctions among the various types of conduct identified and reported by interviewees. The Panel recognizes there is a spectrum of GBV ranging from sexual harassment (both verbal and physical) to sexual assault, including cases of rape.

282. *Gender-based violence* is “an umbrella term for any harmful act that is perpetrated against a person’s will and that is based on socially ascribed (gender) differences between females and

males.”⁴⁰⁶ Gender-based violence “is primarily used to underscore the fact that structural, gender-based power differentials around the world place women and girls at risk for multiple forms of violence.”⁴⁰⁷ It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”⁴⁰⁸

283. *Sexual violence* is understood as a specific form of gender-based violence and defined as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.”⁴⁰⁹ The UN Conduct and Discipline Unit further describes sexual abuse as “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.”⁴¹⁰

284. *Sexual exploitation* is defined as “[a]ny actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.”⁴¹¹ For example, under humanitarian relief guidelines, when the person obtaining sexual gratification is in a position of power or authority, the concept of “consent” is irrelevant since it requires an understanding of and ability to exercise the right to say “no.”⁴¹² Sexual exploitation can occur in situations where those exchanging sex for survival lack other options, known as “survival sex.” It may include the exchange of sex for food, clothes, money, shelter, school fees, rent, or other survival needs. In an effort to distinguish survival sex from other forms of sexual exchange, this report does not use the term “transactional sex,” defined here as the exchange of sexual services for compensation through money or goods “where both parties consent and negotiate the details of the transaction.”

285. *Sexual harassment* includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.⁴¹³

286. *Sexual assault* is “sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of ‘rape,’ especially because (a) it may be committed by means other than force or violence, and (b) it does not necessarily entail penetration.”⁴¹⁴ “Consent” occurs when an adult makes an informed choice to agree freely and voluntarily to do something.⁴¹⁵ Consent is irrelevant when the victim is a minor.

⁴⁰⁶ World Bank, [Working Together to Prevent Sexual Exploitation and Abuse: Recommendations for World Bank Investment Projects](#), 2016, p. 12.

⁴⁰⁷ UN Glossary on Sexual Exploitation and Abuse, October 2017, p. 10.

⁴⁰⁸ Ibid.

⁴⁰⁹ World Health Organization, World Report on Violence and Health (2002).

⁴¹⁰ U.N. Secretary General, Special measures for protection from sexual exploitation and sexual abuse, UN Doc. ST/SGB/2003/13.

⁴¹¹ UN Glossary on Sexual Exploitation and Abuse (2017).

⁴¹² ECHA/ECPS UN And NGO Task Force on Protection from SEA, Preventing Sexual Exploitation and Abuse (SEA) by Agency Personnel During The Haiti Emergency: First Steps For Humanitarian Agencies (2010), http://www.who.int/hac/crises/hti/haiti_guidelines_on_sexual_abuse.pdf.

⁴¹³ UN Secretary General, UN Doc. ST/SGB/2008/5.

⁴¹⁴ UN Glossary on Sexual Exploitation and Abuse (2017).

⁴¹⁵ GBV IMS classification tool.

287. This Report will use the term “victim” rather than “survivor” because “victim” is generally used in contexts discussing redress for those who have suffered harm. The term “victim” most often refers to a person within a medical or legal context rather than the term “survivor” which is generally used to emphasize the long-term recovery process of a person who has experienced sexual violence. Thus, identifying individuals as “victims” is consistent with identifying individuals who have suffered harm and may be entitled to general redress.

4.7 Panel Observations and Analysis

288. During its investigation the Panel substantiated many GBV allegations. The Panel used multiple, independent sources to understand and substantiate these allegations (in addition to primary information from victims), including but not necessarily limited to: interviews with civil society members and UN agencies, questionnaires distributed to service providers during the early stages of the investigation, a review of historical incident data provided by United Nations Population Fund and other service providers, medical and police records where available, and reports by Heal Africa and ECC-MERU. The investigation also examined relevant safeguard and other Project documents. The Panel’s observations make a distinction between GBV cases that occurred in the Contractor’s permanent camp in Sake and those occurring in communities along the road.

289. Several combined factors contributed to the perpetuation of GBV along the Bukavu-Goma road: (i) an influx of national workers, including workers from different areas of the country and from different parts of the road following the advancement of works; (ii) foreign workers who have higher incomes and are protected by military forces, and (iii) high rates of poverty and vulnerability in the area, especially among women and girls.

290. The Panel observed a wide range of GBV types related to the Project including sexual harassment, sexual exploitation and abuse, and rape. Inside the Contractor’s permanent camp all female workers interviewed were subjected to sexual harassment, and several also experienced sexual exploitation and abuse. Outside the camp the Panel observed a pattern of sexual exploitation and abuse experienced by women and girls along the road who in many cases entered into coercive relationships with the perpetrators. In some cases the actions reached the threshold of rape as it involved minors. Some of the abuses of minors resulted in pregnancies. The significant, disparate power imbalances between Contractor staff and women and girls in the communities of the Project area weigh heavily in the Panel’s consideration of these incidents as sexual exploitation and abuse. The Panel noted that even in circumstances where “consent” was supposedly given, the characteristics of these relationships still meet the threshold of sexual exploitation.

291. The Panel team interviewed 22 alleged victims and substantiated most, but not all, allegations. The Panel observed that societal norms and stigma hinder the denunciation of such incidents, and therefore the Panel cannot definitively determine the total number of incidents. However, the Panel can conclude that the substantiated incidences are largely representative of systemic patterns of risk.

292. Victims were often young; some were minors and still attending school. Several victims interviewed expressed views about the lack of options for work, the need for survival, and that in

many cases they had no option but to “consent” to providing sexual services that they may not have agreed to in other circumstances. This financial pressure often acted as its own form of coercion. The cases identified by the Panel typically involved different forms of coercion, including threats of loss of livelihoods and promises of marriage and/or gifts.

293. The Panel was able to determine a particular profile of the perpetrators: (i) foreign employees of the Contractor, (ii) national employees brought from other parts of the country because of their higher skills, and (iii) local employees from communities along the road who were moving as Project works advanced, with the majority of GBV harm committed by foreign workers. In at least one case military personnel engaged by the Contractor were cited as perpetrators of sexual violence. The Panel noted that while the actual use of force did not seem characteristic of the perpetrators in most cases, there was a perceived threat of potential use of force since foreign workers were protected by military forces.

Harm Experienced by Workers at the Contractor’s Permanent Camp in the Town of Sake

294. The Contractor employed female nationals for domestic work either as kitchen aid workers, gardeners, or clothes washers/cleaners, who would handle a variety of domestic chores. The team interviewed six female workers who had been employed at the Contractor’s permanent camp based in the town of Sake (hereinafter “the Sake camp.”) The Contractor referred to the Panel one of the workers interviewed and provided contact information for five workers.

295. Female workers told the Panel they experienced sexual harassment, sexual exploitation, and/or rape by foreign workers at the Sake camp. Workers described a hostile work environment characterized by constant sexual harassment and sexually exploitive conditions that included: (i) forced HIV testing, (ii) unwanted sexual comments, gestures, body touching and/or groping on shoulders and backs as well as on intimate parts, (iii) extended work hours, withholding of salaries, and other unfair labor practices that created a coercive environment, (iv) forced exhibition of intimate body parts with photographs taken without consent, (v) sexual abuse including rape or sexual exploitation as conditions for maintaining employment, and (vi) dismissal without cause.

296. Female workers described experiencing constant, uninvited sexual advances from foreign workers while trying to perform their duties. Forms of consistent harassment included being verbally accosted, chased, and subjected to unwanted sexual touching. Some workers reported they had to endure sexual exploitation – such as submitting to intercourse with foreign workers and spending the night at the Sake camp – in order to retain their employment. Foreign workers often touched female workers in front of other employees. In one case a female worker reported she was raped by a foreign worker. Female workers described foreign workers making hand gestures imitating sexual acts⁴¹⁶ and thrusting their hips in a sexually provocative manner. These same experiences were described by all six interviewees who worked at the Sake camp. Female workers also reported working long hours without taking adequate breaks. One worker stated she usually started work at 7:00 am and would sometimes work as late as 10:00 pm.

⁴¹⁶ Hand gestures included forming a “V” with the index and middle finger on one hand, while the index finger on the other hand repeatedly crosses in between the two fingers in a sexualized manner.

297. Several female workers reported feeling pressured into providing sexual services to foreign workers because they feared losing their jobs. Each described independently in interviews the layout of the Sake camp and a small structure behind the main camp that housed a room with four beds lined up next to each other where the female workers were told to sleep overnight. These workers also reported witnessing other female workers being fired for refusing to spend nights at the Sake camp. Four of the six workers interviewed stated they spent their nights at the Sake camp for fear of losing their jobs. The Panel received confirmation from other workers and service providers to the Contractor that female workers regularly spent the night at the Sake camp. The new Contractor's management team, which arrived in September 2017 (after receipt of the Request), stated that no national workers spent the night at the Sake camp except the occasional driver when it was too late (and thus dangerous) to travel home. The Panel believes this to be the current situation.

298. In one case a female worker told the Panel that she was asked to deliver a towel after dinner to the living quarters of a foreign worker, who was her supervisor. When she went to his room he began undressing her. She reported that she pleaded with him to wear a condom and verbally and physically demonstrated her refusal to consent to intercourse without the use of a condom. While the worker did not describe the event as physically violent, she stated that the foreign worker proceeded to forcibly engage in sexual intercourse without her consent, and that she felt she had no choice but to submit, for fear of physical injury and losing her employment. The next day her supervisor told her she was dismissed.

299. In another case a female worker who submitted to spending the night at the Sake camp told the Panel that a foreign worker bought alcohol and pressured her to drink. She stated she became severely intoxicated and was sexually assaulted. According to her, the next morning when she reported to work other foreign workers showed her photos of herself on their cellphones. The photos showed her naked and passed out in bed. The foreign workers laughed and made disparaging gestures while continuing to share the photos, speaking in Chinese amongst themselves. In another case a female worker described how her supervisor, a foreign worker, showed her pictures of naked Congolese women on his cellphone.

300. According to female workers, they were told, usually within a week of their employment, that they would need to take an HIV test to remain employed. The Panel asked five of the workers if they were required to take any sort of health test to maintain their employment. All five affirmed they were required to take an HIV test.⁴¹⁷ Interviews with three of the Contractor's male workers also confirmed that while female workers were required to undertake an HIV/AIDS test, male workers were not. The Contractor's management team responded that women who worked in the kitchen were required to take a hepatitis test, not an HIV test. One worker named the Sake health center as the site of her test and the Panel was able to confirm with the health center that she did indeed take an HIV test. Some of the other workers and the Contractor explained that tests were taken in the Goma General Hospital. The Panel requested information on February 7, 2018, and was officially informed by the Goma General Hospital that it had no records of these workers receiving either hepatitis or HIV/AIDS tests. However, it is not uncommon for women to give false names for HIV tests owing to the stigma attached. Furthermore, as a matter of cultural

⁴¹⁷ One of the five workers was later told she would not have to take the HIV/AIDS test.

practice people in DRC have several names and may use different versions of their names on different occasions.

301. All six workers reported signing timesheets at the end of each day that recorded the days they worked for an agreed rate of USD3.00 per day. The Contractor's legal counsel provided a detailed description of the timesheets including employee signatures and logged times that matched the description provided by the female workers who were interviewed. The Contractor also provided the Panel with a list of the 16 female workers employed during the Project, but the list appears incomplete and lacks the names of some workers either interviewed by the Panel or identified by the legal counsel or by other workers.⁴¹⁸ The Contractor concurred that employment records before the new manager arrived in September 2017 might be incomplete and did not capture employees who had worked less than one month.

302. The Contractor hired legal counsel to investigate sexual harassment within the Sake camp in September 2017. The Panel reviewed the report which details the results of that investigation. It contained nine statements signed by female workers who had worked in the Sake camp. Five of the six workers interviewed by the team signed the statement. The report stated the investigation took place during three days at the Sake camp, and was unable to substantiate any claims of sexual harassment in accordance with the Congolese legislation.

303. The Contractor confirmed that the legal counsel interviewed nine women, and recorded their signed statements in the Sake camp. When shown the documents they signed, all five workers stated there were inaccuracies and untrue statements as to what happened during their employment with the Contractor. For instance, one document stated that the worker left of her own volition because her mother was ill. The Panel interviewed the worker's mother who stated she was never ill during or after her daughter's employment with the Contractor. While the documents stated the interviews were conducted in Swahili, only French versions of the document were made available.

304. Four of five workers interviewed by the Panel remember signing a document but did not know it was a legal statement.⁴¹⁹ They said they were told it was simply an employment verification document, stating that they were indeed employees who left the Contractor in good standing.⁴²⁰ Four of the five reported they did not read the document before signing. Three of the five workers said they never met with the legal counsel and two of the five said they were visited at their homes in the evening by the Contractor's senior staff. They both described the visits as "rushed." In one case, for instance, the worker claimed two men showed up at night at her home. She lives with her parents, who were present when the men came. The worker was told that they were there to collect her signature on a certificate which would confirm she was in good standing, and that by signing this document she stood a good chance of getting her job back. The two men explained that a new manager was arriving soon and that they would talk to him about rehiring her. The Panel interviewed the worker's mother, who confirmed her story. Another worker claimed

⁴¹⁸ One worker interviewed by the Panel was not listed in the Contractor's list of employees while the remaining five workers were.

⁴¹⁹ While five workers who signed statements were interviewed, one interview ended before the interviewee could be questioned about her statement due to privacy constraints.

⁴²⁰ It is common practice in DRC for employees to get certificates of employment ("*attestation de travail*") at the end of their contracts. The certificate can be anything from a simple confirmation of employment to a description of the employee's tasks, evaluation of performance, and a declaration of departure in good standing.

two men showed up late at night at her house and asked her to sign an employee verification form to show she was in good standing. They all stood in her apartment and waited for her to sign, which she did, while holding her child in her arms. Like the other workers who signed these documents she was neither asked nor given the opportunity to review the document she signed.

305. The patterns identified by the Panel are substantially similar to those presented in a report by Heal Africa, one of the NGOs selected by the World Bank and CI to provide services for GBV victims under the Project after the Request was received. The Panel spoke with two of Heal Africa's representatives and analyzed its report. That report was based on a FGD with six former female workers and individual interviews with specific workers.⁴²¹ According to the Heal Africa report, the female workers said they had experienced different types of GBV, including non-consensual sexual relations with foreign workers without protection, and sexual exploitation and abuse.⁴²² The report stated that all the women were subjected to unwanted touching and forced HIV/AIDS testing, and three of them were raped by foreign workers.⁴²³ The report quoted one worker as saying that one day her boss asked her to arrange his room. He followed her and began touching her breasts and asked for sex. She understood that he had only sent her to his room to have sex with her and escaped the room.⁴²⁴

306. The Panel has also reviewed the Contractor's response to the Heal Africa report. The response argues that Heal Africa lacks investigative capacity and has produced a methodologically flawed report. In a meeting with Heal Africa in January 2018, the Contractor stated the report contained unverified facts that unfairly considered its employees as perpetrators of alleged rapes, without this having been proven by legitimate investigations.⁴²⁵ In the response, the Contractor explained it conducted an internal investigation and found no allegations of GBV to be true.

307. The Panel understands the Heal Africa report was not prepared as an investigation report, but was based on interviews and a FGD, and is independent. The report detailed testimony shared by women who participated in the sessions. The report explained that it contains qualitative information that can be used to indicate the scope of the problem and can provide orientations to different stakeholders for the development of future protection and prevention actions related to GBV within the context of the Project.⁴²⁶ The Panel also notes that Heal Africa is considered a reputable organization and is financed by the Bank to provide holistic support to victims of complex GBV cases under the Great Lakes Emergency Sexual and Gender-Based Violence Project.

⁴²¹ Three of the six female workers interviewed by the Panel were also interviewed by Heal Africa.

⁴²² Heal Africa, *Rapport d'expertise des interventions de HEAL AFRICA en faveur des membres du staff féminin du projet ProRoutes RN2 « axe Sake-Kirotshe-Minova »* p. 5.

⁴²³ *Ibid.*, p. 11.

⁴²⁴ *Ibid.*, p. 6. Based on the French text: "Un chef m'a envoyé un jour arranger sa chambre. Il m'a suivi, il a commencé à toucher mes seins et me demander le sexe. J'ai compris qu'il m'avait envoyé dans sa chambre avec l'intention de coucher avec moi. Je me suis sauvée par force et ainsi m'échapper."

⁴²⁵ SZTC, *Réponse au Rapport d'expertise des interventions de Heal Africa en faveur du staff féminin du Projet Proroutes RN2 <axe Sake-Kirotshe-Minova>, January 29, 2018, Annex I Compte Rendu de la Réunion du 25 Janvier 2018 à Heal Africa à Goma*, p. 3.

⁴²⁶ Heal Africa, *Rapport d'expertise des interventions de HEAL AFRICA en faveur des membres du staff féminin du projet ProRoutes RN2 « axe Sake-Kirotshe-Minova »*, p. 13.

308. The Panel also notes that cases from the Sake camp were acknowledged in the Bank's Aide-Mémoire from its mission in November 2017 with special focus on GBV. This document explained that Management conducted FGDs with community members along the road and that according to participants in the discussions, the Contractor's staff reportedly asked women working at the camp to spend the night in the camp and/or provide sexual services. According to the document, given the position of economic vulnerability of these women, and the power relationship vis-a-vis the Contractor, the solicitation of sexual services made to female workers by Contractor staff can be considered, de facto, as a form of coercion and violence.⁴²⁷ The Aide-Mémoire mentioned two cases of sexual harassment of the Contractor's female employees, in which one of the victims reported being a minor when the incident happened. It detailed an additional case of sexual exploitation in which a worker reported agreeing to sleep with at least two foreign workers, but according to the Aide-Mémoire, her consent was biased by the fact that she was afraid of losing her job.⁴²⁸ Furthermore, the Panel notes that six cases of sexual harassment among the Contractor's female workers have also been documented by an independent local NGO, RARIP-RGL.

309. The female workers suffered a range of psychosocial trauma as reported by Heal Africa. Some have been ostracized by their communities and forced to move away. Others reported that no man in their community would ever marry them or that their partners ended their relationship or marriage because of the stigma resulting from working for the Contractor. Some suffered from health problems because of sexual intercourse with the foreign workers, including sexually transmitted infections (STIs). The Panel was informed by Management that in three cases victims are undertaking legal proceedings.

Harm Experienced by Women and Girls in Communities along the Bukavu-Goma Road

310. The Panel interviewed alleged victims of GBV in several different locations on the Bukavu-Goma road. The Panel substantiated a general pattern of sexual exploitation and abuse related to the Project along RN2. The Panel interviewed 16 women and girls living along the road who alleged they experienced GBV related to the Project, and substantiated the majority of incidents. All women confirmed they would not have met the perpetrator were it not for the Project. The Panel could not identify all possible incidents, given data constraints and the stigma still associated with reporting sexual violence in this region. Some of the GBV incidents are elaborated in this section as examples to highlight the types of behavioral patterns of sexual exploitation and abuse by some of the Contractor's foreign and local employees and military personnel.

311. *Sex Work.* The Panel was able to identify, especially near the Sake camp, a pattern of sexual services linked to the Project provided by women identified as sex workers in communities along the road. This pattern was substantiated extensively via interviews and focus group discussions with sex workers, business owners, and other actors. Negotiations for these services took place via national workers who served as communication facilitators in bars, restaurants, and hotels in

⁴²⁷ World Bank Aide-Mémoire, *Mission de suivi des risques de VBG associés au projet*, November 2017, p. 2. Based on the French text: "*Compte tenu de la position de vulnérabilité économique de ces femmes et de la relation de pouvoir au sein de la SZTC, la sollicitation des services sexuelles faite aux travailleuses par le staff chinoises de la SZTC est à considérer, de facto, comme une forme de coercition et de violence.*"

⁴²⁸ Ibid., p. 3.

“boomtown” areas along the road. Sexual services seem to have been provided in hotels, “*maisons de tolérance*” – a term used in DRC to depict basic facilities in which sexual exchanges take place, usually adjacent to bars – and in homes rented by the Contractor’s employees. At least one interviewee reportedly witnessed foreign workers bringing women to a rented house along the road for presumed sexual activity. This pattern was mentioned in other interviews conducted by the Panel. Testimony shared during a FGD with sex-workers indicated that foreign employees did not always wear condoms, further increasing risks of HIV transmission and other, far-reaching, GBV-related harm. The pattern of sex work by foreign workers was echoed in different interviews along the road and confirmed by the Bank’s November 2017 Aide-Mémoire on GBV risks that stated FGDs conducted by Management revealed that the Contractor’s staff resorted to sex workers at their permanent camp in Sake and their intermediate camp in Makelele.⁴²⁹

312. *Sexual Exploitation and Abuse.* The Panel noted that as works progressed along the road foreign and local workers had to look for accommodation outside the Sake camp due to the long distances involved. The Panel noticed that the risks of exploitative sexual relationships were particularly elevated in situations where workers lived outside the permanent camp in Sake. The Panel visited locations where temporary camps had previously existed or where houses had been rented to foreign workers. The Contractor provided the Panel with a list of six intermediate camps (in addition to the main one in Sake) where foreign workers lived at different points along the road. In these locations local employees were expected to find their own housing and this was largely unmonitored by the Contractor. Community members from these locations spoke of typical boomtown effects: survival sex, sale of alcohol and cigarettes, girls engaging in business and other activities rather than going to school, and additional adverse social impacts.

313. Several cases substantiated by the Panel implicated foreign employees of the Contractor, and some met the threshold of rape since the victims were minors. The Panel observed a pattern of behavior by the perpetrators in which the foreign workers approached women and girls through national workers who established contact and acted as communication facilitators. According to a civil society member, foreign workers would use a hand sign (an upwards directed thumb) to indicate their interest in a particular woman or girl. Women and girls would meet the foreign workers while they were walking along the road, selling them food and drinks, or when they were living near them.

314. A couple who own a bar and other community members close to one of the houses rented by foreign workers confirmed that the workers frequented the bar at nighttime, consuming alcohol and “bringing girls” there, despite claims from the Contractor that curfews were strictly implemented. It was evident to the Panel that neither the curfew nor the Code of Conduct were respected, particularly in situations where workers lived outside the Sake camp. Community members interviewed by the Panel on northern and southern parts of the road alike confirmed the rise in small businesses selling food, alcohol, and cigarettes to foreign and local workers of the Project and the social risks experienced by women and girls who generally run and operate these businesses.

315. There was also an overarching pattern of sexual exploitation and abuse that manifested in the form of sex with minors, survival sex, and coercive relationships. The majority of women and

⁴²⁹ Ibid., p. 2.

girls were attracted by the payment of small amounts of cash or the provision of food, promises of more money in the future, gifts, or stable long-term relationships and marriage. In two cases foreign workers rented either a nearby house or room for the victims.

316. In one case a girl reported that foreign workers would flirt with her when she walked along the road. While she said she was not offered any money, a foreign worker told her that he would marry her and they would leave together. The girl said she was a virgin before this relationship and later became pregnant as a result. She also told the Panel she was a minor. The worker left and the girl now lives with her mother. In this case the incident meets the threshold of rape since the victim reported she was a minor, for whom consent is irrelevant.⁴³⁰

317. One of the girls interviewed by the Panel reported she met the foreign workers because her mother had rented some of the local workers an annex to their house. She and her mother would also sell alcoholic beverages, and both local and foreign workers would come to drink at their house. The girl stated that on one occasion when her mother was absent from the house a foreign worker was there accompanied by a military guard engaged by the Contractor. According to her, the foreign worker conveyed to the military guard through gestures that he wanted to have sex with her. She reported that when she refused he raped her. She also told the Panel that during the incident the military guard watched the door. She explained that when her mother found out, her mother wanted to complain but was afraid since she already knew of the beating suffered by one of the Requesters at the hands of the military. This event was first recounted to the Panel by the victim in an interview in the presence of her mother. A few days later the same story was told to the Panel by the girl's teacher and the Panel understands the girl has since returned to school.

318. There was also a pattern of foreign workers bringing local women and girls for exploitive sex in their rented houses and temporary camps. This was substantiated by a local homeowner who rented out his house to a group of foreign workers and stated that he explicitly refused to allow foreign workers to bring women or girls there, which he saw happening in other rented houses. Subsequently, some victims said sexual intercourse took place in the open near foreign workers' housing or at housing facilities of national workers who had temporarily settled in affected communities.

319. One woman interviewed by the Panel reported she was married but started providing sexual services to a foreign worker because she was promised money. She explained that while she initially received some money, she was not paid the full amount promised. When her husband found out about her relations with the foreign worker he left her. Two other women with whom the Panel spoke reported that foreign workers had rented them houses or rooms near their houses, and provided them with food supplies.

320. Generally, the cases also show a pattern in which foreign workers allegedly refused to use a condom during sexual intercourse. This was mentioned by all the women and girls with whom the Panel spoke who had engaged in sexual relations with foreign workers. As a result, there were a few unwanted pregnancies, including two girls who reported they were minors, and two women who reported they contracted sexually transmitted infections. In all cases the women and girls were abandoned by the workers and left to raise the child alone.

⁴³⁰ See para. 272 on the DRC Legal Framework

321. The Panel also identified several cases where perpetrators were either national workers from other parts of the country and other villages along the road, or military personnel engaged by the Contractor. The Contractor told the Panel during the investigation that there was little they could do to monitor the activities of national staff outside the Sake camp and after workhours. This highlights key challenges observed during the investigation: weak supervision and monitoring, and the lack of measures to mitigate GBV risks and those associated with the labor influx.

322. One girl with whom the Panel spoke reported she was raped by a national worker from outside the community who had rented a house next to hers. After the incident the perpetrator left the community unannounced. She told the Panel she was a minor and became pregnant because of this incident. She explained she is now concerned about having to care for the baby in addition to taking care of her younger siblings, who are orphans. This case was independently substantiated through interviews and FGDs with community members, including by the *Chef d'Avenue* – a local Government official, the school headmaster, and two teachers. This incident meets the threshold of rape, given both lack of consent and presumed minor status of the victim.

323. In another case a minor reported being raped by a military guard engaged by the Contractor to provide security for foreign workers in one of the intermediate camps along the road. She said she was assaulted while returning from the local manioc mill after dark; she screamed for help but no one came to her rescue. This case appears well-known in the community and was substantiated by local school teachers and the *Chef d'Avenue*. Testimony about this incident is indicative of well-established narratives and patterns of conflict-related, sexual violence perpetrated by arms bearers in eastern DRC and it reinforces known protection risks experienced by women and girls during their daily work.

324. The use of military personnel by the Contractor engendered a specific set of GBV-related risks in communities surrounding the road, particularly in the context of eastern DRC where state security actors continue to perpetrate sexual violence. The Panel observed that in some cases the use of military forces by the Contractor contributed to feelings and perceptions of insecurity. The Panel also heard of at least one incident of sexual violence in the communities along the road perpetrated by the military personnel engaged by the Contractor, as mentioned above.

325. Management informed the Panel in February 2018 that it had heard of four GBV allegations related to RN2 experienced by women and girls in the communities along the road. This information was based on a report prepared by BEGES' GBV expert who had met with the four alleged victims, one of whom was a pregnant minor. According to the report, these cases had been perpetrated by both national and foreign Contractor workers. Based on their descriptions some of the cases identified by BEGES overlap with those identified by the Panel. In April 2018, Management informed the Panel of nine new allegations of GBV incidents allegedly linked to RN2 identified by Management independently from the Panel.⁴³¹ Among the nine new alleged cases, four involve minors, two of whom became pregnant. In four cases the alleged perpetrators are foreign employees of the Contractor, in another four cases the perpetrators are national employees, and in one case the nationality of the perpetrator is unknown. Management explained that all nine alleged victims were referred to GBV service providers.⁴³²

⁴³¹ It is not clear how many of those overlap with the cases substantiated by the Panel.

⁴³² E-mail dated April 11, 2018.

326. The Panel found a pattern in which abused women and girls were abandoned after the incidents and/or relationships with Contractor personnel. In all cases promises were broken. In some cases perpetrators left the communities suddenly and unannounced, and victims were evicted from places rented for them by foreign workers who paid rent for shorter periods than initially agreed. In other cases victims lacked financial support for hospital stays directly resulting from the sexual relations. For example, one victim reported she had gone to the hospital because a condom broke inside of her and one victim reported she sought medical services due to a miscarriage. Other women and girls stated they contracted sexually transmitted infections but sought only pharmaceutical treatment because they could not afford appropriate health services. In all cases these women and girls are now subjects of stigma and shame in their communities, especially those who provided sexual services to foreigners.

Unsubstantiated Cases

327. During the investigation, not all cases identified could be substantiated as having a link to the Project. Some of the 22 interviews conducted lacked sufficient evidence to link them to the Project. Unsubstantiated cases included those that did not seem credible, did not fit the pattern of other cases heard by the Panel, as well as cases that could not be substantiated by anyone else in the community.

328. *Allegations related to the Training Center.* During its investigation, the Panel paid special attention to the allegations included in its Eligibility Report. One of them was the case described as “two girls ages 14 and 17 who were students in a skills training center for out-of-school girls. Because these girls were originally not from the community, they lived in the center with another girl who experienced the same harms, but was not present during the meeting with the investigation team. According to the girls, five of the Contractor’s employees, who were working nearby and were protected by military forces, broke into the building where the girls were lodged and engaged in non-consensual sexual relations with them over the course of three weeks.”⁴³³ During the eligibility visit, the Panel had been told that some of the center’s chairs were used as firewood and that sewing machines were destroyed by the Contractor’s employees. During its investigation visit the Panel separately interviewed the alleged victims and the previous manager of the training center. The Panel also visited the training center where it held a FGD with five women trainees at the center and other community members who happened to be in the vicinity.

329. While in general terms the victims’ testimony when interviewed was similar to that shared with the Panel during the eligibility mission, the team noticed some discrepancies. The Panel also noted discrepancies between the alleged victims’ statements and the version told by the previous manager of the training center, who was presented to the Panel as holder of this position during the eligibility mission and whom the Panel re-interviewed during the investigation. Community members’ interviews confirmed that the Contractor tried for approximately a week to extract sand from a quarry opposite the training center, with machinery guarded by military personnel. This site is clearly visible by the roadside opposite the training center. Community members with whom the Panel team spoke said foreign workers did not spend three weeks at the site and that armed forces, although present, did not enter the training center. The Panel was told by the previous

⁴³³ Inspection Panel, Report and Recommendation on a Request for Inspection DRC: Second Additional Financing for the High Priority Roads Reopening and Maintenance Project, November 21, 2017, p. 11.

manager that foreign workers spent one night at the center during the time the girls were there and that, according to the girls, sexual services were provided. One of the girls reported she was a minor.

330. The Panel learned local police had investigated this allegation. The Panel received a copy of the police report detailing a community meeting that took place in December 2017 and interviewed a representative of the police unit responsible for the investigation. The Panel noted that the methodology used to investigate the claims was inconsistent with good practice and was non-conducive to the reporting of GBV incidents. The Panel also analyzed a video recording of a community meeting, which was the main method used for the investigation. Those present included the village chief and other traditional and civil authorities and leaders. This community meeting was public with approximately 23 individuals present, including only three women who were not associated with the allegations, as reported by the village chief to the Panel. When interviewed, local police confirmed to the Panel team that no other investigative procedures were followed apart from this meeting.

331. The video showed the discussion between local police and community members in which local police highlighted the importance of the road construction and reminded community members that road works had stopped due to community members' complaints. There was also a suggestion for community members to write to the World Bank, indicating that there were no GBV cases, so that road works would continue. Local police suggested GBV allegations were being made for financial reasons, as the World Bank was in the process of compensating victims for economic harm. Local police told the Panel team there had not been any GBV incidents linked to the Project. Local police also explained that according to their investigation the sewing machines were not destroyed by the Contractor.

332. The Panel also reviewed a report prepared by ECC-MERU dated December 23, 2017. The report analyzed the training center allegation. The Panel also met with ECC-MERU staff who explained their organization was commissioned by the Contractor to evaluate the community compensation measures for the population in the IDP camp after the water services rupture. As part of the investigation for this contract ECC-MERU also inquired into the training center allegations. The report concluded that the Contractor's foreign workers had not committed acts of sexual violence or looting of materials at the training center. According to the report the only rape cases in the training center took place in 2011 and were perpetrated by FARDC personnel after they withdrew from Goma following an attack by the M-23 rebel group.⁴³⁴

333. The Panel noticed methodological weaknesses in the ECC-MERU's investigation. First, it is unclear whether the organization has the necessary expertise or experience to inquire into GBV cases. According to ECC-MERU, the organization does not offer services for GBV victims and has never identified any GBV case in the IDP camp where it primarily works.

334. Second, the interviewers for ECC-MERU's inquiry spoke only to the following people: a person who presented himself as the manager of the training center since October 10, 2017, several

⁴³⁴ Eglise du Christ au Congo, *Rapport d'une Enquête sur les Rimeurs de Violence Sexuelle Commise par les Chinois dans le Village de Buganga lors de la Réhabilitation de la RN2 Tronçon Sake-Kavumu Portant Atteinte de la Société Zengwei Technique Coopération SARL*, p. 7.

months after the alleged incident; a manager of the local NGO currently using the training center, and the three daughters of the deceased former manager of the training center. At no point did the investigation actually interview the alleged victims of the incident under inquiry.

335. Finally, the impartiality and independence of this investigation could be questioned, as the inquiry into the alleged GBV cases was conducted under the umbrella of a contract focusing on the evaluation of community compensation measures established by the organization and financed by the Contractor, whose foreign workers were at the core of the allegations.

336. Based on the above, it is the Panel's understanding that foreign workers accompanied by the military were present in the area during the period in question, but not for three weeks, with the purpose of exploiting sand from an area clearly visible on the roadside opposite the training center. They were accompanied by military personnel. Since the center was unoccupied at night, they could have overnighted in the training center when the girls interviewed were staying there, and the girls might have provided them with sexual services. However, given the contradictory information as explained above, the Panel does not consider the allegations at the training center mentioned in its Eligibility Report to be substantiated.

337. *Other unsubstantiated cases.* Another incident which the Panel paid special attention to during its investigation was the case described in the Eligibility Report of "a 14-year-old girl on her way to fetch water, (who) was allegedly abducted by one of the Contractor's employees under the protection of a military guard engaged by the Contractor. She was taken to a nearby bar and raped."⁴³⁵ During the investigation visit the Panel conducted an interview with the alleged victim, who gave testimony consistent with what she, her mother, and her sister had told the Panel during the eligibility visit. She claimed the incident took place on July 30, 2017, and that she had gone to a local health center after the incident.

338. The Panel was informed by Management that a local NGO had received and provided legal assistance to the same alleged victim. The Panel visited this NGO and reviewed their records. The Panel noted that the victim's report, which had been extensively documented by this organization and within the Congolese judicial system, did not correspond with the testimony shared by the victim with the Panel. The alleged perpetrator documented in the case was a local boy working in one of the quarries along the road and the incident took place on July 23, 2017. This was also confirmed by police reports shared with the Panel detailing the original testimony of the victim. The Panel also visited the health center where the victim reportedly received medical care. The hospital had a record of only one visit by the alleged victim, and therefore there was no evidence that these were two separate incidents. Hence the Panel concludes that there is insufficient evidence to substantiate that this allegation is linked to the Project.

339. Community members also provided the Panel with detailed information of three additional cases (not in the sample of the 22 victims interviewed by the Panel), two of which involved minors, but it was impossible to substantiate these because the victims had left their respective villages or were unavailable to meet with the Panel.

⁴³⁵ Inspection Panel, Report and Recommendation on a Request for Inspection DRC: Second Additional Financing for the High Priority Roads Reopening and Maintenance Project, November 21, 2017, p. 11.

340. While the Panel was not able to substantiate some allegations as explained above, based on interviews with victims, civil society representatives and community members the Panel was able to conclude the following: While the Contractor rented houses for foreign workers along the road, national workers coming from other regions rented their own rooms and houses in the communities. Around these houses economic opportunities for the local communities emerged which exposed women and girls to the risk of sexual exploitation and abuse. In some communities these new, economic opportunities also contributed to some students – both male and female, but especially female – temporarily dropping out of school. Interactions between local women and girls and the Contractor’s workers were permeated by a threat of force implied by the permanent presence of the military personnel accompanying foreign workers. Finally, the lack of community engagement ahead of road works and the absence of mitigation measures further exacerbated the risks mentioned above.

Risk Assessment, Mitigation Measures, and Remedial Actions

341. *Risk Assessment and Mitigation Measures.* The PAD of the parent project did not recognize any potential social risk related to gender. The PAD had a section on gender, but it focused on the legal and regulatory barriers that women face in starting a business and stated the project will strive to promote the participation of women in road works.⁴³⁶ While the AF1 Project Paper contained some indicators disaggregated by sex, it did not specifically mention the potential gender impact, positive or negative, resulting from the project. The lack of attention to gender issues in Pro-Routes was highlighted in a DFID Project Completion Review from 2015 prepared for the parent project and AF1, which stated “the project itself includes no specific measures to ensure that [sic] maximize [sic] its benefit to women and adolescent girls” and “more attention to gender issues within the design and theory of change of roads project would enable such measures to be identified and incorporated.”⁴³⁷ This lack of specific measures either to enhance project benefits to women or minimize potential risks continued under AF2.

342. The Project Paper and ISDS prepared for the Project did not indicate any potential adverse impact on women and girls. The Project Paper only envisioned a positive impact on women and stated the roads financed under the parent project and AF1 have reduced travel costs and times for women and provided access to services and markets.⁴³⁸

343. The ESMF updated in October 2015 for AF2 contained limited information about the situation of women and girls in the Project area and made no mention of GBV in the country. It only identified female-headed households among the vulnerable groups in the Project area.⁴³⁹ No risks related to labor influx or GBV were identified other than increased STIs and social conflict between the local population and Project workers.⁴⁴⁰ In order to mitigate the impact of increased rates of STIs the ESMF proposed awareness-raising and condom distribution among Project workers and the local population. To prevent and manage social conflicts the ESMF proposed that women be given priority in hiring for unskilled jobs and that measures be taken to inform and

⁴³⁶ Project Appraisal Document, February 25, 2008, p. 66.

⁴³⁷ DFID Project Completion Review 113872, UK DFID, July 2015, p. 13. Available at: [https://devtracker.dfid.gov.uk/projects/GB-1-113872/documents/Completion Report 2015](https://devtracker.dfid.gov.uk/projects/GB-1-113872/documents/Completion%20Report%202015), p. 13.

⁴³⁸ Project Paper, p. 12.

⁴³⁹ ESMF, October 2015, p. 38.

⁴⁴⁰ Ibid., p. 95.

sensitize the local population.⁴⁴¹ The ESMF also contained a section on gender mainstreaming in labor-intensive work that stated women and girls would be encouraged to participate in paving works, sensitization activities, etc.⁴⁴² Nonetheless the Panel found no evidence any of these measures were implemented during RN2.

344. The RN2 ESIA prepared in February 2017 contained no analysis of the endemic GBV situation in the Kivu regions that could be exacerbated by an infrastructure project. However, the ESIA did recognize some risks to women and girls associated with the Project. Under health and safety risks, the document acknowledged the risk of increasing the already high rates of STIs – especially HIV/AIDS – in the Project area, particularly in the localities of Bushushu, Nyabibwe and Minova due to intermixing of the local population, Project workers, and road users. The risk was deemed high and permanent.⁴⁴³ The proposed mitigation measures were the implementation of an information, education, and communication (IEC) plan to raise awareness about STIs among Project workers and local residents, distribution of condoms, and a behavior and attitude survey on STIs at the beginning and end of the Project.⁴⁴⁴ Another risk identified was the potential social conflict between Project workers and local communities.⁴⁴⁵ The mitigation measures envisioned were to give priority to local people for unskilled work, to inform and sensitize the local population, and to sensitize the workers about local customs. However, the Panel notes that no details were provided on the types of sensitization, how it would be delivered, by whom, and the resources needed.

345. The ESIA stated the presence of salaried workers (100 to 200) could lead to harassment, abuse and sexual violence against vulnerable groups, particularly women, minors and girls and qualified this risk as high and temporary.⁴⁴⁶ The mitigation measures envisioned were to conduct sensitization and education sessions for vulnerable groups and workers on harassment, sexual violence against women, and child exploitation; penalize cases of harassment, abuse and sexual violence against women, and the exploitation of children reportedly found on the site; and identify the medical, legal and psychological support centers available in the community and refer victims of harassment, abuse and sexual violence.⁴⁴⁷ Although the risk was perceived as high the document lacked further specificity on these proposed activities and who would be responsible for undertaking them.

346. As part of the monitoring plan the ESIA mentioned implementation of a mechanism to collect and manage complaints related to sexual harassment, abuse, and violence against vulnerable groups, especially women, girls, and minors.⁴⁴⁸ This information would be included in the reports of BEGES and the Supervising Engineer. According to the document, the report of the Contractor's environmental expert should also contain a specific section on sexual harassment, sexual abuse, and violence against women and children.⁴⁴⁹

⁴⁴¹ Ibid., p. 100.

⁴⁴² Ibid., p. 129.

⁴⁴³ ESIA, 2017 pp. 6, 13, 17 and 87.

⁴⁴⁴ Ibid, pp.20, 21 and 27.

⁴⁴⁵ Ibid, p. 18.

⁴⁴⁶ Ibid, p. 91.

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid, pp. 116-117.

⁴⁴⁹ Ibid, p. 174.

347. As per the ESIA's annex, one month prior to the start of works the Contractor was expected to submit measures to prevent and sanction cases of harassment, sexual violence and abuse, and child exploitation for the approval of the PIU.⁴⁵⁰ The document also stated the Contractor should establish a Code of Conduct prohibiting sexual harassment, sexual violence and abuse, and child exploitation.⁴⁵¹ This requirement was also included in the March 2017 amendment to the contract awarded to the Contractor.

348. Management stated in its Response that the ESIA “did not include specific and focused measures to mitigate risks and impacts from GBV in the area.”⁴⁵² The Panel notes that the high prevalence of GBV in eastern DRC was well-known during Project preparation as evidenced by the fact that the Bank was already financing the Great Lakes Emergency and Sexual and Gender-Based Violence and Women's Health Project with activities in the Kivu region. According to the latter project's PAD, “there is broad based agreement that levels of sexual violence in DRC are high despite the challenges in producing accurate data. The 2007 Demographic and Health Survey (DHS) found that nearly two-thirds of women in DRC report suffering from physical violence.”⁴⁵³ World Health Organization data indicates that about one in three (35 percent) women worldwide have experienced physical and/or sexual violence by an intimate partner or non-partner during their lifetimes, which puts DRC at double the global average.⁴⁵⁴ Given that the prevalence of GBV in the Kivu region is well-known, the risk of the Project exacerbating this problem should have been addressed better in Project documents and robust mitigation measures should have been put in place. The Panel acknowledges that the ESIA envisioned some mitigation measures, and that had these been implemented they could have prevented some of the harm that occurred, but these were not robust enough considering the well-known, high risks related to violence and vulnerability in the area.

349. The Panel observed that most of the measures envisioned were either not implemented or only implemented after receipt of the Request. While HIV/AIDS plans were prepared for other roads under Pro-Routes, the Panel found no evidence a specific plan was prepared for RN2. The Panel understands an HIV/AIDS expert was hired by Pro-Routes in March 2017 to coordinate the HIV/AIDS strategy and activities for all the project roads. The Panel, however, found no evidence that sensitization activities with workers or community members had taken place in RN2 prior to the Request.

350. As explained in Chapter 2, the Panel was informed of the weak consultation process and poor engagement with local communities. No community member with whom the Panel spoke reported being consulted by the Project and they stated they were unaware of Project activities until they actually saw the beginning of works. The report prepared by SODEICO, an organization hired by the Contractor, points out that community members stated during the meetings that the sensitization activities should have occurred before the start of works to facilitate understanding

⁴⁵⁰ Ibid, p. 159.

⁴⁵¹ Ibid, p. 160.

⁴⁵² Management Response, p. 6.

⁴⁵³ Great Lakes Emergency and Sexual and Gender-Based Violence and Women's Health Project, Project Appraisal Document, February 25, 2008, p. 4.

⁴⁵⁴ World Health Organization. 2013. <http://www.who.int/mediacentre/factsheets/fs239/en/> (accessed March 11, 2017).

of the Project.⁴⁵⁵ Early consultation and engagement with the affected communities, including with women and girls, could have created a better understanding of GBV risks and increased the communities' resilience in facing these risks.

351. The Panel also notes the mechanism to collect and manage complaints related to sexual harassment and abuse mentioned in the ESIA was never implemented. Management acknowledged in its Response that the Project GRM was not operational. Staff interviews and meetings with members of the GRM also revealed that even the local GRM committees created after the Request are unsuited to receive sensitive complaints since the current mechanism does not guarantee confidentiality of complainants. The complainant's name is required to register a case in the complaint book and is accessible to all committee members. Furthermore, its members lack the expertise required to assess these types of complaints.

352. The Panel notes the weak reporting on the implementation of the GBV-related mitigation measures prior to receipt of the Request. World Bank Aide-Mémoires were silent on these issues and Implementation Status and Results reports consistently rated safeguards performance as satisfactory. This was partly because Management was not visiting the road to supervise the Project and was relying on reports from BEGES, CI, and the Supervising Engineer, none of whom had the requisite expertise. Moreover, Management had not received many of these reports and those analyzed by the Panel were weak and did not substantially address the issue (for more information on supervision, see Chapter 5).

353. The monthly reports of the Contractor's Environmental Specialist from April to July 2017 consistently stated no cases of sexual harassment, abuse and violence against women and child exploitation in the worksite were registered and presented no other analysis on these issues. From August to October 2017 the reports were silent on the topic, and the November 2017 report only explained that training on the Code of Conduct and sensitization activities were implemented.⁴⁵⁶

354. Reports from BEGES prior to the Request analyzed by the Panel also failed to mention any issues related to GBV. They reported on HIV/AIDS activities, but did not mention any activity conducted specifically along RN2.⁴⁵⁷ In September 2017, BEGES conducted an investigation in seven health centers in North and South Kivu to substantiate whether cases of sexual violence related to the Project were registered. Its report stated no such cases were found.⁴⁵⁸ However, the Panel heard during its visit to health centers in the region that the only information they record for rape cases is whether the perpetrators are civilian or military and thus, based on the data they capture, they cannot know whether the perpetrators are related to the Project. In the BEGES report Heal Africa responded that military forces were often cited as perpetrators, but they did not have supplemental information to attest to whether these military guards were specifically protecting the Contractor rehabilitating RN2.⁴⁵⁹

⁴⁵⁵ SODEICO, *Rapport de Mission d'Information, de Sensibilisation et Vulgarisation du Règlement d'Ordre Intérieur de la Société SZTC auprès de Communautés Vivant le Long de la Route Sake-Kavumu*, December 2017, p. 8.

⁴⁵⁶ STZC, Monthly Report of November 2017, pp. 13-14.

⁴⁵⁷ BEGES, First and Second Quarterly reports, 2017.

⁴⁵⁸ BEGES, *Rapport sur la vérification des allégations liées aux violences sexuelles faites sur les femmes, entendues sur la société SZTC par rapport aux travaux de réhabilitation de la RN2 (Sake-Kavumu)*, p. 12.

⁴⁵⁹ *Ibid*, p. 6.

355. The Panel also notes the Project lacked GBV expertise prior to the Request, despite the high risks in the Project area. There was only one part-time HIV/AIDS expert at CI and one HIV/AIDS expert at BEGES. They were both responsible for all Pro-Routes roads. In any case the skills of an HIV/AIDS and a gender expert are not interchangeable. While acknowledging the challenges of finding qualified local GBV expertise, the Panel considers that assigning such expertise to the Project early on might have prevented some of the harm that occurred.

356. *Remedial Measures.* While the assessment of the Project's impact on women and girls and its mitigation measures were not robust enough and the measures envisioned were not implemented, the Panel acknowledges and welcomes Management's efforts to address the issue after receipt of the Request. From August 2017 to March 2018 there were seven Bank missions to the Project area, all of which included participation of senior Management from headquarters. Management has hired one international and two local GBV consultants to address GBV allegations. During its investigation the Panel also met with a newly recruited GBV expert among BEGES staff based in Goma. The Panel observes that the approach put in place by Management was not designed to identify individual cases, but rather aimed at creating a safe space in which victims could come forward.

357. The Panel understands that a Code of Conduct was only prepared in October 2017 after receipt of the Request. Management provided comments on the Code and in its September 2017 mission advised the Contractor to train the military personnel engaged by the Contractor in the Code. Management also required the Code to be translated into Chinese and Swahili.⁴⁶⁰ The Code establishes that violence and sexual abuse are transgressions sanctioned by immediate termination of employment. Training on the Code was held for Project workers in October 2017.⁴⁶¹ While this is a step in the right direction, the Panel notes weakness in the document, such as prohibiting soliciting sexual services only during working hours. According to the Bank's Aide-Mémoire of November 2017, this creates a gray area that promotes tolerance for sexual exploitation and other forms of GBV and given the context and extent of sex work of underage girls in the community it represents a significant risk for the Project.⁴⁶²

358. The Panel learned a sensitization session led by Heal Africa was conducted with Contractor staff in January 2018. However, the Panel was told the activity was cut short due to a lack of compliance with non-objection procedures for recruitment of the organization. Additionally, the Panel was informed during its investigation visit that only national workers participated in the sensitization session. Although awareness-raising activities for community leaders in three villages along the road were undertaken in December 2017 by SODEICO,⁴⁶³ an organization hired by the Contractor, community members told the Panel they were unaware of the Code and behavior prohibited by the Contractor. In any event these activities were organized only two months before the original closing date of the Project.

⁴⁶⁰ World Bank Aide-Mémoire for mission of September 19-25, 2017, p. 12.

⁴⁶¹ Action plan Update January 17, 2018.

⁴⁶² World Bank Aide-Mémoire, *Mission de suivi des risques de VBG associés au projet*, November 2017, p. 4.

⁴⁶³ SODEICO, *Rapport de Mission d'Information, de Sensibilisation et Vulgarisation du Règlement d'Ordre Intérieur de la Société SZTC auprès de Communautés Vivant le Long de la Route Sake-Kavumu*, December 2017.



Picture 9: GBV training for the Contractor's staff

359. While recognizing that the current GRM is not suited to receive GBV-related complaints, Bank Management is working with CI to establish a specific GBV complaints mechanism to ensure the safety and confidentiality of complainants. Management is also working with CI to put in place a system to refer all complainants to medical, psychosocial, and legal services. Towards that aim CI signed an agreement with the *Fonds Social de la République Démocratique du Congo* to expand the scope of the activities of the NGOs working under the Bank-financed Great Lakes Emergency and Sexual and Gender-Based Violence and Women's Health Project to cover RN2 for 12 months. Under this arrangement four local NGOs – *Collectif Alpha Ujuvi*, SARCAF, ADMR and *SOPROP* – will facilitate the identification of incidents, receive complaints related to GBV, and ensure provision of services to victims.⁴⁶⁴ Heal Africa in North Kivu and the Panzi Foundation in South Kivu were selected to receive the most complex cases and to provide holistic support to survivors. The NGOs will also strengthen the communication, information, and community sensitization campaigns with a focus on GBV risks related to construction works and on the dissemination of the Code and information about the GRM. The Panel understands Management has reviewed the Terms of Reference (TORs) for the hiring of the above-mentioned NGOs and that they started their activities on February 20, 2018.⁴⁶⁵

⁴⁶⁴ World Bank Aide-Mémoire for mission of December 11-15, 2017, pp. 2-4.

⁴⁶⁵ CI, *Note de l'auditeur sur l'application des mesures et actions de mise en conformité environnementale et sociale du Projet Pro-Routes*, February 2018.



Picture 10: Legal clinic of ADMR, one of the NGOs providing services under the Project

360. CI also hired Heal Africa to conduct a FGD with the Contractor’s female workers to identify GBV risks, assess their specific needs, and provide psychosocial support to survivors identified. This activity was conducted in December 2017 and its results were discussed above. In addition, Management is conducting a review of GBV risks and to date has identified a total of 32 GBV allegations in all roads financed under Pro-Routes.⁴⁶⁶

361. *Updated ESIA*. The February 2018 ESIA mentioned sexual harassment, sexual abuse, rape, and sexual exploitation as specific risks with a high probability of occurring. It identified risks associated with the use of security forces by the Contractor. The mitigation measures proposed were: respect for the Code of Conduct, employee and community awareness-raising on the Code, partnering with local organizations to provide psychosocial, medical and legal support, and the establishment of a GRM specifically for GBV cases to be managed by a GBV expert. The ESIA also referred to individual protections, which include being vigilant and respecting security rules during road works.⁴⁶⁷

362. As mentioned above, the Project was operating in a complex context of instability, high rates of poverty, and vulnerability. In this environment local communities were even less resilient to withstanding the well-known impact of labor influx, which in this case was exacerbated further by the use of military personnel. In the absence of mitigation measures implemented by the Project, sexual exploitation and abuse occurred. The Panel notes it is precisely in the context of fragility and conflict, such as that prevailing in eastern DRC, that the Bank must deploy its best skills and resources, and make every effort to ensure that its projects do not exacerbate existing risks. This was not the case for this Project.

⁴⁶⁶ Communication to the Panel, April 10, 2018.

⁴⁶⁷ ESIA 2018, pp. 108-109.

363. The Panel appreciates Management's efforts to address GBV allegations after receipt of the Request and Management's sharing of information with the Panel. The Panel welcomes the fact that Management is joining with recognized local partners to provide a safe space where victims can come forward and to ensure they receive psychological, medical, and legal support. These are important steps in the right direction. Nevertheless, the Panel underscores that victims require urgent assistance and that most of their pressing financial needs remain unmet. Moving forward the Panel hopes there is relevant reliance on gender expertise assigned to the Project, as well as livelihoods activities to support the social, economic, and psychological empowerment of the victims to enable their reintegration into their communities.

4.8 Compliance Findings

364. The Panel finds Management in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01) and Investment Project Financing (OP/BP 10.00) for not properly assessing the gender-based violence risks considering the endemic GBV rates and the high vulnerability of women and girls in the Project area, and for the lack of appropriate mitigation measures to address the high risks of GBV that led to serious harm to women and girls in the community.

365. The Panel further finds Management in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) for failing to supervise the implementation of measures to mitigate the risks of gender-based violence, or to identify and propose measures to redress harm caused by the Project.

366. The Panel acknowledges and welcomes the substantial efforts undertaken by Management after the receipt of the Request to seriously address the GBV issues related to the Project.

Chapter 5: Supervision and Bank Response

5.1 Introduction

367. This chapter examines the Panel’s analysis and findings on Project supervision and monitoring, from Project approval in February 2016 to receipt of the Request for Inspection in August 2017. The chapter also analyzes Management’s response to issues raised by the affected community after receipt of the Request.

5.2 Request for Inspection

368. The Request stated that development projects cannot be beneficial if project implementation is left to commercial companies to sabotage institutions and local inhabitants, including women and young people.⁴⁶⁸ The Requesters mentioned the lack of consultation and complained that the World Bank is promoting their development without their participation.⁴⁶⁹ The Requesters shared with the Panel two communications addressed to Bank Management in April and June 2017, which failed to elicit any response.

5.3 Management Response

369. The Management Response stated the Project is supervised by a senior transport specialist based in Kinshasa and that major works contracts are visited at least yearly “due to security restrictions on travel to worksites.”⁴⁷⁰ The Response noted that “both implementation of the Project works and supervision missions by Bank staff had to be temporarily suspended at several points in the past due to significant security concerns which remain a major challenge to date.”⁴⁷¹ The Response also stated that despite Project-level arrangements, significant weaknesses in safeguard supervision and reporting at the institutional level remain. According to the Response, there is little in-country capacity for safeguards and to mitigate this the Project has put in place a range of measures to manage safeguard issues at the Project level.⁴⁷²

370. With respect to communications sent by Requesters, Management acknowledged their lack of response stating “the Requesters had sent two emails informing the Bank of these claims and these should have received an immediate response.”⁴⁷³ Management states, however, that “once it received the complaint from the Inspection Panel, Management immediately sent a team to investigate the issues and made every effort to prompt the Borrower to provide remedies where non-compliance with its obligations under the Project’s legal agreements, including relevant safeguard instruments, could be identified.”⁴⁷⁴

⁴⁶⁸ Request for Inspection, p. 1.

⁴⁶⁹ Request for Inspection, p. 1.

⁴⁷⁰ Management Response, p. 2.

⁴⁷¹ Ibid., p. 6.

⁴⁷² Ibid., p. 5.

⁴⁷³ Ibid., p. 9.

⁴⁷⁴ Ibid., p.vi

5.4 Bank Policies

371. In accordance with Bank Policy on Investment Project Financing (OP/BP 10.00), the Bank monitors the borrower's compliance with its obligations as set out in the legal agreements during project implementation. The Bank also provides implementation support to the borrower by reviewing information on implementation progress, progress towards achievement of the project's development objectives and related results, and updates the risks and related management measures.⁴⁷⁵

372. OP/BP 10.00 states that in providing implementation support, the Bank pays particular attention to reviewing the borrower's monitoring of the performance of the project and compliance with its contractual undertakings. The Bank periodically assesses the project and reviews the borrower's monitoring of results, risks, and implementation status, updating project information and identifying follow-up actions needed as appropriate.⁴⁷⁶ Implementation support and monitoring starts after project approval and includes signing and effectiveness of the project legal agreements, project implementation and completion, and closing of the financing account.⁴⁷⁷

373. According to the Bank Policy on Environmental Assessment (OP/BP 4.01), “[d]uring project implementation, the borrower reports on (a) compliance with measures agreed with the Bank on the basis of the findings and results of the EA, including implementation of any EMP (Environmental Management Plan), as set out in the project documents; (b) the status of mitigatory measures; and (c) the findings of monitoring programs. The Bank bases supervision of the project's environmental aspects on the findings and recommendations of the EA, including measures set out in the legal agreements, any EMP, and other project documents.”⁴⁷⁸

5.5 Panel Observations and Analysis

Supervision from Project Approval until Receipt of the Request

374. In line with Bank practice, the Project planned for two supervision missions per year. The Panel notes that while Management visited RN2 in May 2015 for Project preparation, there were no supervision missions to RN2 until the receipt of the Request in August 2017. Following approval of the Project in February 2016, Management conducted supervision missions only to other roads under AF2. There was also a Mid-Term Review of Pro-Routes on June 16-27, 2017, to assess implementation progress and discuss preparation of Pro-Routes II. However, this mission was conducted in Kinshasa and did not involve a field mission by the Bank.⁴⁷⁹

375. The Bank's Aide-Mémoire from the December 2017 mission analyzed all supervision missions undertaken by the Bank, CI, and BEGES between November 2016 and December 2017 and stated that, counting all CI missions, all roads financed by AF2 will have received an average of between one-and-a-half and two supervision missions per quarter over the last 12 months. The

⁴⁷⁵ OP/BP 10.00, para 21.

⁴⁷⁶ Ibid., para 40.

⁴⁷⁷ Ibid., para 32.

⁴⁷⁸ OP/BP 4.01, para 19.

⁴⁷⁹ World Bank Aide-Mémoire for mission of June 16-27, 2017, p. 1.

document went further to state that if BEGES missions are added it would raise this average to one visit per month for each road.⁴⁸⁰ The Panel, however, considers the information presented somewhat misleading since it was based on average visits for all roads and did not indicate the number of supervision missions specifically to RN2.

376. The Mid-Term Review of Pro-Routes stated the Bukavu-Goma road was experiencing significant delays in their implementation schedule. The review called CI's special attention to ensure completion of the road by project closing date, including appropriate measures and a very close follow-up for this subsection.⁴⁸¹ Overall the performance of the first component of the Project (road works) was judged "satisfactory."⁴⁸² Furthermore, the review deemed the Project's safeguard performance "satisfactory."⁴⁸³ It also mentioned that overall the Project's ESMPs and resettlement activities were satisfactorily implemented.⁴⁸⁴ The supervision ratings of Pro-Routes in the period 2014-2017 were generally satisfactory or moderately satisfactory for all factors rated including for safeguards. It is important to note the Mid-Term Review took place after the events in April 2017 related to the quarry described in the Request.

377. The Panel also reviewed project supervision ratings in the period 2014-2017, thus covering the full period of AF2. The ratings addressed several areas including: progress towards achievement of PDO, overall implementation progress, road reopening and maintenance, institution-building, environmental and social programs, monitoring and evaluation components, and compliance with each of the safeguards policies triggered. The rating uses four categories: satisfactory, moderately satisfactory, unsatisfactory, and highly unsatisfactory. Ratings were generally satisfactory or moderately satisfactory for all areas. The ISR from August 2017, for instance, rated compliance with all safeguards policies triggered as satisfactory.⁴⁸⁵ The ISR also stated that the "GRM has worked well for the implementation of the project RAP and IPP."⁴⁸⁶ These satisfactory or moderately satisfactory ratings only became unsatisfactory or highly unsatisfactory during Bank supervisions in November-December 2017, following receipt of the Request. The safeguards rating in particular changed to highly unsatisfactory from a generally satisfactory rating.⁴⁸⁷ This suggests that a more accurate rating exercise only occurred after receipt of the Request. The current institutional arrangements for monitoring and supervision have already been analyzed in Chapter 2 and this chapter will focus on its implementation.

378. *Reports from the Supervising Engineer.* The Panel reviewed monthly reports from the Supervising Engineer covering the period January 2017-November 2017. Generally these reports focused on engineering and technical aspects of road rehabilitation and maintenance, including percentage advancement of the works, information on building materials, and financial reporting. The Panel notes the weak reporting from the Supervising Engineer. Until August, reports often flagged the same issues from month to month and only devoted sparse attention to environmental and social issues. It should be noted that the first reporting on security issues by the Supervising

⁴⁸⁰ World Bank Aide-Mémoire for mission of December 11-15, 2017, p. 12.

⁴⁸¹ World Bank Aide-Mémoire for mission of June 16-27, 2017, p. 3.

⁴⁸² Ibid., p. 4.

⁴⁸³ Ibid., p. 10.

⁴⁸⁴ Ibid., p. 8.

⁴⁸⁵ ISR no 17 August 2017, p. 9.

⁴⁸⁶ Ibid., p. 2.

⁴⁸⁷ ISR no 18 November 2017, p. 1.

Engineer appeared only in its report from August 2017, where a subsection on “conflicts and human rights violations, incidents, accidents and security” was added.⁴⁸⁸ Furthermore the Supervising Engineer’s office was composed entirely of engineers and support staff. An environmental specialist came in for a field visit once from their headquarters only after receipt of the Request. Even if the Supervising Engineer was flagging some of the issues, the Panel understands that the Supervising Engineer did not exercise its authority *vis-à-vis* the Contractor by enforcing the suspension of works in situations of non-compliance.⁴⁸⁹

379. *Reports from the Contractor.* The Panel also reviewed monthly reports produced between December 2016 and November 2017 by the Contractor’s Environmental Specialist. These reports included information on accidents and recommendations to the Contractor. The first mention of the use of security forces by the Contractor was in its July 2017 report, which revealed that a Contractor military guard shot a motorbike driver in the leg, as mentioned earlier in the report.⁴⁹⁰ A list of incidents transmitted to the Panel on February 2018, however, mentioned that an incident with the Contractor’s security forces had occurred on May 15, 2017.⁴⁹¹ From April to July, the Contractor’s reports also repeated on a monthly basis that no cases of sexual harassment, sexual violence, or child labor have been reported.⁴⁹² The format of the report was repetitive from one month to the next, contained no analysis of issues, and was not conducive to raising alerts about problems. The Bank’s Aide-Mémoire from August 2017 recognized that the Contractor’s Environmental Specialist had insufficiently performed its role as a problem detector, in particular by not taking advantage of its opportunity to “supervise from the inside.” The Bank’s mission also asked BEGES to guide the Environmental Specialist so that content of the monthly reports is better suited to monitoring the Project’s social and environmental aspects.⁴⁹³ In addition, even when issues were raised there seemed to be no follow-up by the Environmental Specialist to correct deficiencies identified.

380. *Reports from BEGES.* The Panel analyzed BEGES’s quarterly reports on Pro-Routes. The reports related to all sections under the project and provide little information about RN2, including about the frequency of BEGES visits to the road. According to the Bank’s August 2017 Aide-Mémoire it seems there were two BEGES missions to RN2 between March 2017 and August 2017; however, these missions did not raise any non-compliances related to the quarries.⁴⁹⁴ The report from the first quarter of 2017 only provided information about activities related to implementation of the IPP and the status of preparation of the ESMP for RN2, noting delays in the Contractor’s submission of documents.⁴⁹⁵ The report from the second quarter of 2017 provided no specific information about RN2. The report from the third quarter of 2017, after receipt of the Request, contained significant information about RN2 and was based on a 10-day visit to the Project area.⁴⁹⁶

⁴⁸⁸ Supervising Engineer’s report, August 2017, p. 22.

⁴⁸⁹ World Bank Aide-Mémoire for mission of August 28-31, 2017, p. 4.

⁴⁹⁰ Contractor’s Environmental Specialist’s report, July 2017, p. 19.

⁴⁹¹ List of incidents, Contractor.

⁴⁹² Contractor’s Environmental Specialist’s report, April 2017, p. 25; Contractor’s Environmental Specialist’s report, May 2017, p. 16; Contractor’s Environmental Specialist’s report, June 2017, p. 16; Contractor’s Environmental Specialist’s report, July 2017, p. 17.,

⁴⁹³ World Bank Aide-Mémoire for mission of August 28-31, 2017, p. 4

⁴⁹⁴ *Ibid.*, p. 4.

⁴⁹⁵ BEGES’ first quarter report, April 2017, p. 63.

⁴⁹⁶ BEGES’ third quarter report, October 2017, p. 145.

It described the status of implementation of the safeguard instruments for RN2 and indicated that the ESIA for the Contractor's camp, the ESIA for quarries, and the Contractor's ESMP had been prepared and validated.⁴⁹⁷ The report also stated that an inventory of the impacts of quarry exploitation was carried out and that this and a RAP would be sent to CI.⁴⁹⁸ Generally, the reports did not analyze the various aspects that must be covered; these were presented in the form of tables which did not include relevant information to allow correct assessment of Project implementation on the ground. No major issues or problems with the implementation of the safeguard documents in RN2 were raised; neither was the fact that a Request had been sent to the Panel. As explained above, BEGES was not regularly present in the field and had insufficient human resources and frequent turnover of their management, all of which affected the quality of their reporting.

381. *Reports from ESAP.* The PAD stated ESAP would visit the project's activities once a year and advise on the implementation of the environmental and social management program. The AF2 Project Paper proposed increasing the frequency of ESAP missions to two annually.⁴⁹⁹ However, ESAP's visits did not systematically take place. Only six missions were carried out between 2012 and 2018, and there was a gap of two years when no missions took place.⁵⁰⁰ ESAP only visited RN2 for the first time in December 2017-January 2018 after receipt of the Request, but its report of the visit had not yet been received by the Panel by the time of submission of this Investigation Report. The report from the first ESAP mission in 2012 already provided a negative diagnosis of the environmental and social management institutions in place, noting there was no document that determined clearly the responsibilities of the different actors regarding the process of environmental and social management.⁵⁰¹ It recommended CI and Bank Management ensure that BEGES implement the repeated recommendations of different supervision missions and Aides-Memoires.⁵⁰² Other recommendations included the following: UES-CI should recruit more specialists to reinforce its capacity, World Bank safeguard experts should systematically participate in supervision missions, CI should notify BEGES⁵⁰³ about gaps in its performance – especially regarding monitoring and evaluation, and supervision mission recommendations should be integrated into the UES-CI work plan.⁵⁰⁴ Despite knowledge of problems with the reporting mechanism since 2012, no significant changes were made to the existing setup.

382. *Reporting from CI.* The August Aide-Mémoire stated that CI visited RN2 twice before receipt of the Request, in April and May 2017, but did not identify any non-compliance related to the quarries. While CI validated the reports produced by the other entities, from the documentation made available to the Panel it appears CI did not systematically produce its own consolidated reports. The report developed by CI in preparation for the Mid-Term Review mentioned no major

⁴⁹⁷ Ibid., p. 8.

⁴⁹⁸ Ibid., p. 91.

⁴⁹⁹ Project Paper for AF2, January 27, 2016, p. 59.

⁵⁰⁰ The first mission took place in June 2012, four years after Board approval of the parent project; the second mission was in 2013, and the third and fourth missions were in 2014. In 2015 and 2016 there were no missions due to the resignation of the ESAP Chair. The missions resumed in 2017, when there were two missions. These missions covered RN4, RN2, and RN27.

⁵⁰¹ ESAP, June 2012, p. 23.

⁵⁰² Ibid., p. 43.

⁵⁰³ SOFRECO at the time of this Report.

⁵⁰⁴ ESAP, June 2012, page 4-5.

shortcomings related to RN2 or the non-compliant operations of quarries and borrow pits.⁵⁰⁵ The report noted a concern about the timely completion of the work, but nonetheless stated the work should be achieved within the expected timeframe.⁵⁰⁶ The report rated the performance of the Supervising Engineer as globally satisfactory and stated that the site ESMP was well conducted.⁵⁰⁷ The report also mentioned that BEGES management was replaced in January 2017 due to unsatisfactory performance and that several measures were taken to substantially improve the performance of the environmental and social component.⁵⁰⁸ Given the fact that these measures were put in place, the performance of BEGES was rated generally satisfactory.⁵⁰⁹ In staff interviews the Panel also heard of problems related to CI delays in validating reports from other entities and sharing those with Bank Management.

383. *Congolese Environment Agency.* The Congolese Environment Agency was responsible for quarterly monitoring of the implementation of environmental and social safeguard instruments and, in particular, compliance with the implementation of the ESMP. However, the agency made no supervision visits to RN2 from the beginning of works until September 2017.⁵¹⁰ As a result, the Agency had no active role in monitoring and supervision.

384. *The Environmental and Social Unit of the Road Office.* The Panel understands the role of CESOR to carry out Project supervision on behalf of OdR was never implemented.⁵¹¹

385. *Reporting Setup.* The Panel's interviews and review of documentation illustrate the complex and multi-layered system of reporting and information-sharing among different entities. For example, Supervising Engineer reports were first sent to CI, which would then send them to BEGES, which would then give the clearance for the environmental and social aspects. Meanwhile the Contractor's Environmental Specialist's reports would first be cleared by the Supervising Engineer, which would then send them to CI. BEGES reports went directly to CI. The Panel could not verify whether information from all these reports was consolidated somewhere, but clearly there was copious reporting by different stakeholders without necessarily raising pertinent issues or problems faced during Project implementation. The Panel notes there were also issues with the formats of these reports, which were not uniform, frequently too long, and not conducive to identifying problems or their solutions. The Panel understands there were also issues with the information flow, and many times CI's Environmental Unit would not receive the above-mentioned reports.

386. The Panel notes the lack of systematic follow-up on issues raised in this plethora of supervision and monitoring reports, including Management's follow-up. The Panel understands there were many occasions when Management did not receive relevant reports as evidenced by the Mid-Term Review of June 2017, which specifically mentioned the need to improve the monitoring system, notably the validation and archiving of reports, and to expedite the transmission of BEGES

⁵⁰⁵ CI, Mid-Term Mission for Pro-Routes 1 and the Preparation of Pro-Route 2, p. 14.

⁵⁰⁶ Ibid.

⁵⁰⁷ CI, *Situation du Projet Pro-Routes au 30 Juin 2017*, July 2017, p. 34.

⁵⁰⁸ Ibid., p. 33.

⁵⁰⁹ Ibid., p. 33.

⁵¹⁰ World Bank Aide-Mémoire for mission of August 28-31, 2017, p. 5.

⁵¹¹ Compliance Audit, February 23, 2018, p. 118, para 12.

reports to Management.⁵¹² Despite acknowledgement of the issue in June 2017, the problem of sharing reports continued, as confirmed by staff interviews and by the December 2017 Aide-Mémoire in which Management requested certain missing reports.⁵¹³ As noted by the Compliance Audit, no World Bank document, Aide-Mémoire, or report raised a problem or situation of non-compliance relating to the Project until the supervision mission of August 2017 following receipt of the Request.⁵¹⁴

387. As explained in Chapter 2, the lack of a functional GRM along RN2 also did not allow the Project to identify implementation issues and harm to the community. In addition, Management missed important warning signs, since the Bank's Country office ignored two communications from the Requesters in April and June 2017, respectively, which raised concerns related to GBV and excessive use of force by military personnel engaged by the Contractor. In the absence of Bank field visits, the lack of a functional GRM, and weak or missing supervision reports, Management was unaware of serious Project implementation issues that were taking place.

388. *Supervision Field Visits and Security.* The security situation in the Project area is undoubtedly challenging. Indeed, this had been raised as a risk in both the PAD of the parent project and the AF2 Project Paper. The 2008 PAD stated this risk could not be mitigated at the project level⁵¹⁵ and the AF2 Project Paper stated there was going to be greater dependence on MONUSCO, without providing details on mitigation measures.⁵¹⁶ The Panel analyzed the details of the security situation in the Project area of RN2 for the period from 2015 until the present with a view toward better understanding the implications of the security situation for Bank supervision.

389. The Panel also reviewed the various progress reports prepared by DFID relating to the security situation. Although these reports were prepared during the parent project and AF1 and do not cover RN2, they provide valuable information about concerns related to the security situation and its impact on supervision under Pro-Routes. In its Completion Review, DFID concluded “the main impact of insecurity on the project had been the inability of WB [World Bank] to conduct field supervision missions as frequently as planned,” and that “the WB's systems for clearance of staff travel appear to be more risk averse than those of most other agencies.”⁵¹⁷ The 2013 DFID Annual Review specifically referred to the cancellation by the Bank of joint field visits planned for the last two implementation support missions in March/April and May 2013 due to the Bank's internal security advice, even though DFID's own security had cleared the visit. Monitoring since the last Annual Review, the report continued, had therefore been solely dependent upon CI's own reporting.⁵¹⁸

390. Project preparation and implementation along the RN2 road linking Goma and Bukavu faced security challenges from the beginning. Management's Response noted that “the Project is being implemented in an extremely challenging fragile and conflict-affected development environment. Challenges include entrenched and violent ethnic conflicts; the proliferation and

⁵¹² World Bank Aide-Mémoire for mission of June 16-27, 2017, p. 10.

⁵¹³ See World Bank Aide-Mémoire Mission of 11-15 December 2017.

⁵¹⁴ Compliance Audit, February 23, 2018, p. 20, para 17.

⁵¹⁵ Project Appraisal Document, February 25, 2008 p. 28.

⁵¹⁶ Project Paper for AF2, January 27, 2016 p. 16.

⁵¹⁷ DFID Completion Review, July 2015, p. 12.

⁵¹⁸ DFID Annual Review dated August 2013, p. 6.

presence of foreign and Congolese armed rebel groups, which frequently carry out assaults on the Project area; and widespread GBV. Works on the Project have been suspended several times due to attacks by armed groups along the Project road. The security situation is significantly affecting the Bank's ability to access the Project area for supervision; Bank teams frequently are not able to travel on site."⁵¹⁹ Management also notes that "[s]afeguard documents for the Bukavu-Goma road segment were prepared later than those for other road segments because the security situation did not allow an assessment to be carried out at this Project site."⁵²⁰

391. Regarding recent security incidents, Management noted, "[s]ecurity challenges are illustrated by the most recent raids of armed rebel groups in the Project area on September 27 and October 1 [2017], which led to the temporary suspension of works. The attacks occurred on several villages located along the road (Including the villages of Uvira, Baraka, Mako Bola, Mboko, Swima, Kalundu and Munene) with multiple gunfire exchanges and damages to the communities. Works had to be suspended on October 11-12 again due to a separate rebel attack on the village of Shasha. Because of the deteriorated security conditions, Bank teams have not been authorized to travel to the field in South Kivu since the September 27 events. The third Bank mission (October 11-13) had to stay in Goma and in Sake where the Contractor's base is located (North Kivu)."⁵²¹ The Panel notes that except for Shasha all towns mentioned in these attacks are not on RN2 between Goma and Bukavu: Uvira, Makobola, Swima, and Baraka are all south of Bukavu, the southernmost point of the Project (123 km, 138 km, 160 km, and 212 km, respectively). Mboko, Munene, and Kalundu are further to the west. However, the Panel notes that another incident in Kalungu on October 3 and 4, 2017 leading to a work stoppage on RN2 was reported by the Supervising Engineer.⁵²²

392. The Panel heard from Bank staff that the security situation has fluctuated over time, which in itself poses a challenge as this requires flexibility in mission planning. The Panel was told during staff interviews that the Project team tried to visit RN2 twice in 2017 prior to the Request, but had to cancel the visits due to the security situation, and they were unable to find another time when the whole team was available to travel to the field. However, the Panel learned from Bank corporate security that no requests from Bank staff to travel along RN2 were received for AF2 between December 2016 and the receipt of the Request in August 2017.⁵²³ In addition the Panel notes that seven Bank missions to supervise RN2 were undertaken since August 2017, following the receipt of the Request. Although some missions had a partial or total restriction for travelling along the road, it was always possible to go to either Sake, where the road ends, Goma or Bukavu, and in some instances visit partial segments of the road from there.

393. The Panel mission teams visiting the Project area in November 2017 for the eligibility phase and in January 2018 for the investigation phase of the Panel process experienced no insecurity during their site visits.⁵²⁴ During the eligibility visit, the Panel traveled the road from

⁵¹⁹ Management Response, para 16.

⁵²⁰ Ibid., para footnote 1.

⁵²¹ Management Response, para 16.

⁵²² Meeting debrief dated 10/12 (CIRA report, October, p. 54). This incident involved armed groups who sacked local communities.

⁵²³ Communication from January 30, 2018.

⁵²⁴ The Panel strictly follows Bank security procedures and instructions. For its missions it obtains security clearance from the Bank as required.

Sake to Minova in a convoy of two cars, as advised by MONUSCO. During the investigation visit the teams traveled numerous times south of Goma for up to 50 or 60 km, and from Bukavu northwards for similar distances. In addition, two Panel teams traveled the entire Bukavu-Goma stretch. At that time a convoy was not necessary. During its security briefings with MONUSCO the Panel teams were advised against traveling at night and were required to inform MONUSCO of their whereabouts. MONUSCO staff explained that while there were active armed groups in the general region, the situation along the road itself was calm. In informal discussions with local translators and UN drivers Panel team members heard that over the last two years travel between Goma and Bukavu was relatively safe as long as the road was passable.

394. The Panel reviewed historic security information provided by MONUSCO in the form of Excel spreadsheets, maps, and newsletters. MONUSCO security maps of the region rate threat levels using a color code: Red (movement authorized with military escort), Yellow (movement authorized within a convoy), and Green (Movement authorized without military escort or convoy). The June 2015 and May 2016 maps showed the Minova-Kalehe segment (about halfway to Bukavu) in yellow and the Kalehe-Bukavu segment in green.⁵²⁵ The November 2017 and January 2018 maps showed the entire Bukavu-Goma segment as green.⁵²⁶ Indeed, MONUSCO stated that when classification of the RN2 during the last three years was yellow and not green this was linked mostly to the condition of the road rather than security.⁵²⁷

395. The Panel also gathered security information from the Bank's corporate security. The information provided included the following mission suspensions since early 2015:

- January 20-27, 2015, countrywide;
- September 20-26, 2016, countrywide;
- December 10, 2016-January 10, 2017, countrywide;
- May 12-July 6, 2017, to Bas Oele due to Ebola, but not to Goma or Bukavu, and
- September 29-October 27, 2017, to Bukavu but not Goma.

396. No suspensions were reported from January 27 to September 29, 2017, that would apply to RN2. Shortly before issuing this Report the Panel received comprehensive security information from Management covering the period from January 2017 to March 2018.⁵²⁸ The information stated that RN2 was not accessible to Bank teams from January 2017 to May 2017, as well as October and December 2017 and March 2018.⁵²⁹ It is not clear to the Panel why the information differs considerably even though it was provided by the same source. The Panel also notes that even when the Bank teams were not allowed to travel the whole RN2 in most cases it was possible to travel either to Goma or Bukavu and from there to access a portion of the road, as was done by Bank teams after the receipt of the Request.⁵³⁰

⁵²⁵ MONUSCO Road Security Assessment Maps, June 29, 2015 and May 25, 2016.

⁵²⁶ MONUSCO Road Security Assessment Maps, November 13, 2017 and January 26, 2018.

⁵²⁷ E-mail to the Panel dated February 2018.

⁵²⁸ Retrospective of DRC Security Incidents – and RN2 Accessibility according to WB Security Assessment – 2017-2018.

⁵²⁹ The documents shows that in November 2017, RN2 was partially accessible.

⁵³⁰ Management's document indicates that the Panel's planned mission in October 2017 was moved to November 2017 due to security restrictions in October. However, the Panel's change of travel dates was due to delays in obtaining visas for team members.

397. The Panel underscores the need for great caution when it comes to staff security. Furthermore, the Panel is not questioning the Bank's security protocol as it is not its mandate. The Panel believes with accurate information, flexibility on dates, and due caution – including, if necessary, arranging a MONUSCO military escort – Bank staff missions could have been fielded to support Project supervision. To emphasize this conclusion the Panel notes that after receipt of the Request, Management could conduct seven field missions within an eight-month period (see below). The Panel was also able to visit the area twice (in November 2017 for the eligibility phase and in January 2018 for the investigation phase). In other words, nine field missions took place after receipt of the Request, compared with none before.

398. This is of special significance because presence in the field of Bank staff for discussions with Project implementers and communities provides invaluable information. Such inputs could have helped mitigate risks and avoid harm at an earlier stage, before the Request was made and the complaint was registered by the Panel. The Panel also notes that if the security situation prevented travel by road, alternative measures to ensure adequate field monitoring of the Project should have been put in place.

Supervision after Receipt of the Request for Inspection

399. After receipt of the Request and in the period August 2017-March 2018 Management undertook seven missions to the Project area. As mentioned earlier, these constituted the first visits to supervise RN2. The missions included Senior Management from headquarters, safeguard staff, and social development experts. Since November they have included gender expertise. The missions also comprised representation from the supervising bodies of the Project – notably CI, BEGES, and the Supervising Engineer.

400. The August mission focused on addressing non-compliance specifically relating to the quarries and the use of security forces, as well as improving the GRM and performance by the different entities of their supervisory functions. A 12-point action plan was agreed with CI to bring the Project into compliance with Bank policies.⁵³¹ No specific actions related to GBV were envisioned at that point. During the September mission the action plan was re-examined and updated in light of newly uncovered issues. The action plan was expanded to 32 actions.⁵³² This action plan covered the following key areas: regularizing the situation of quarries and borrow pits, securing the Requesters' quarry, activating GRMs, improving reporting, compliance review of Pro-Routes works, formalizing the agreement for the use of military personnel, updating safeguard documents, conducting a compliance audit, and supplementary investigations on sexual violence and labor conditions. Most actions were planned to be completed by September or October. No strategy to address the GBV issue had yet been developed, but the action plan called for all new GBV cases to be reported directly to Bank Management and for the hiring of a specialized consultant.⁵³³ All subsequent missions provided regular updates on implementation of the plan, the main activities of which were to be undertaken by CI, BEGES, the Supervising Engineer, and the Contractor.

⁵³¹ World Bank Aide-Mémoire for mission of August 28-31, pp. 9-10.

⁵³² World Bank Aide-Mémoire for mission of September 19-25, 2017, pp. 14-17.

⁵³³ Ibid., pp. 9, 16.

401. The October mission's Aide-Mémoire stated there had been progress in a number of areas, but several actions remained to be implemented. On November 26, 2017, Management suspended all civil works under the Project.⁵³⁴ The update to the Management Response stated that "given the seriousness of the alleged harm and the shortcomings in the Borrowers supervision and reporting mechanisms, Management had suspended disbursements against all civil works components under the Second Additional Financing (AF2) of Pro-Routes, including the Goma-Bukavu contract." The update further explained "[t]o help the Borrower address the deficiencies in safeguards supervision, the components of the Project which are not related to civil works – social and environmental management, monitoring and evaluation as well as institutional support – will continue to be funded."⁵³⁵ The update concluded, "Management will continue to work with the Borrower and the Panel to follow up on the concerns and allegations raised in the Request and to help ensure that the Project does not cause or contribute to harm. Management will also urge the Borrower to take appropriate action about potentially ongoing abuses."⁵³⁶

402. The conditions for lifting the suspension were outlined as follows: (i) confirmation by the Compliance Audit that all persons negatively affected by the operation of the Requesters' quarry have been compensated in an adequate manner including the payment of a supplementary amount linked to the closing of the quarry; (ii) estimation and effective payment of compensation to all persons affected by the rupture of water services in the IDP camp; (iii) confirmation by the Compliance Audit that all RAPs have been updated and published reflecting all impacts on livelihoods; (iv) provisions of proof that all workers and all military personnel have signed the Code of Conduct; (v) provision of proof that all communities living in the vicinity of the Contractor's temporary or permanent camps have been informed of the terms of the Code of Conduct; (vi) confirmation that all workers and military personnel have been trained on the prevention of sexual harassment and other forms of SGBV; (vii) confirmation that safeguard supervision has been reinforced by additional expertise in SGBV; (viii) confirmation by the Compliance Audit that adequate mechanisms for submission of reports are now in place for the GRM, Supervising Engineer, BEGES, CI and Bank Management, and (ix) recruitment by CI of an NGO with significant experience in issues of SGBV to act as a third-party monitor of SGBV problems.⁵³⁷

403. During the November mission Management assessed the implementation of the action plan, which was further expanded to 43 actions.⁵³⁸ Management requested a strengthening of the supervision, reporting, and complaints mechanism, including staff changes in the Supervising Engineer and a revision of the BEGES TORs to include a deputy head and SGBV expert based in Goma.⁵³⁹ The mission composition also included gender expertise for the first time and laid out measures to reduce SGBV risks based on partnerships with local NGOs and service providers working in this area.⁵⁴⁰

⁵³⁴ IDA/SecM2017-0185

⁵³⁵ Management Response Update, November 27, 2017, p. 2.

⁵³⁶ *Ibid.*, p. 3.

⁵³⁷ World Bank Aide-Mémoire for mission of November 14-21, 2017, pp. 9-10.

⁵³⁸ *Ibid.*, pp. 14-23.

⁵³⁹ *Ibid.*, pp. 8, 16-17.

⁵⁴⁰ *Ibid.*, pp. 8-9.

404. The December supervision focused on further elaborating the Bank's approach to SGBV.⁵⁴¹ It also reviewed new complaints that had been reported, notably the cutting of water supply by Project works related to the IDP camp, where Management asked for an investigation.⁵⁴² Other issues raised included the sand quarry run by a women's cooperative that had been taken over by the Contractor and other allegations from quarry owners who claimed that due to the intimidation that occurred during negotiations they were forced to accept lower rates in exchange for the exploitation of their quarries by the Contractor.⁵⁴³

405. During its January 2018 investigation mission the Panel received from CI an update to the action plan, which included 44 actions.⁵⁴⁴ The update indicated that most actions had been implemented apart from: works to protect the Requesters' quarry after closure, completion of the screening and training of military personnel engaged in other Pro-Routes roads, finalization of safeguard updates, updated reporting of new allegations of violence, verification of allegations regarding intimidation of quarry operators during negotiations with the Contractor, complete verification of salaries paid to certain workers using invalid exchange rates, and complete establishment of a separate GRM for SGBV.

406. The February 2018 Note to the Compliance Audit stated that CI proposed a mechanism to prepare and submit reports on environmental and social aspects, reinforcing the coordination between BEGES, the Supervising Engineer, the PIU and CI. The note found this system adequate and compliant with the requirements for follow-up and monitoring of the Project.⁵⁴⁵ However, the Panel did not have access to further details on this mechanism and does not find that the updated ESIA reflects improvement regarding the institutional arrangement of the Project.

407. Management briefed the Panel in March 2018 on the implementation of the action plan. According to Management two additional missions took place in February and March 2018. Management explained there has been good progress on the implementation of the action plan, particularly related to the SGBV actions. Specialized NGOs were hired and are already providing services to victims along RN2. Progress has also been made on repairing the water rupture in the IDP camp, compensating the cooperatives working in the sand mines, reviewing the compensation paid to quarry operators, and establishing local GRM Committees.

408. The Panel acknowledges Management's efforts to supervise the Project closely and address the concerns raised by the Request, including the application of remedies to ensure implementation of Bank policy requirements. The Panel notes a much greater Bank presence in the Project area and better Senior Management attention to the issues, following up on the action plan and updating it as new concerns arise. BEGES now has staff based in Goma and has diversified its expertise with the addition of a new GBV expert. The Panel also appreciates Management's efforts at streamlining reporting by the various agencies despite the continued complexity of the monitoring and supervision framework. The Panel trusts these efforts will work towards a closer relationship with the community and accelerated identification and resolution of problems. The Panel,

⁵⁴¹ World Bank Aide-Mémoire for mission of December 11-15, 2017, p. 2-5.

⁵⁴² Ibid, p. 6.

⁵⁴³ Ibid, p. 6-7.

⁵⁴⁴ CI update, January 18, 2018.

⁵⁴⁵ *Note de l'auditeur sur l'application des mesures et actions de mise en conformité environnementale et sociale du Projet Pro-Routes*, February 23, 2018, p. 3.

however, notes that as discussed in different chapters of this Report, several community harms still remain to be addressed.

5.6 Compliance Findings

409. **The Panel finds Management’s failure to monitor the Project and provide adequate implementation support to address weaknesses in the Project’s complex system of monitoring and supervision, to capture implementation problems, or to propose corrective actions in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).**

410. The Panel acknowledges and appreciates Management’s efforts to understand and address the concerns of the Requesters and the community after they raised their issues with the Panel. During its investigation visit the Panel witnessed improvements in the Project. **The Panel finds Management in compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) after receipt of the Request, due to its proactive and systematic supervision with adequate expertise focused on problem solving.**

Chapter 6: Conclusion

411. In addition to the specific findings of harm and non-compliance presented in previous chapters, this investigation also offers broader insights into the risks of harm associated with infrastructure projects in countries affected by fragility, conflict, and violence (FCV). These lessons are especially relevant given the increase in Bank lending to FCV countries currently taking place and foreseen in the years ahead. The Panel draws these conclusions confident they can contribute to institutional learning and continued operational improvement.

412. Reconstruction of basic road infrastructure after conflict is crucial. Such roads connect towns and villages and provide communities with access to markets and basic services. They also typically contribute to improving security in fragile contexts. RN2 in DRC connects two large cities – Goma has more than one million and Bukavu has more than 800,000 people – and the population in the actual Project area is estimated to be close to 1.8 million in communities along the road. Importantly, roads provide the basis for the early resumption of trade as a foundation of economic activity. The Panel observed the poor state of roads throughout the area and experienced firsthand the time it takes to travel even short distances. Roads into Goma or Bukavu, or towns along the road, are shared by thousands of people who struggle to get to marketplaces to sell agricultural and other produce, or to access social services available only in larger towns. This lack of effective road infrastructure adds inefficiencies to the economy and creates a barrier for local communities attempting to meet basic needs.

413. The specific road connecting Goma to Bukavu that the Project is reopening, RN2, stands out as fairly rudimentary. Upgrading this two-lane, dirt road to a basic, all-season-passable standard involves minor realignment but no complex engineering works, and is a matter of simply adding a compacted laterite wearing course layer, small bridges, drainage structures and culverts. The small scale of the Project is reflected in the total construction contract awarded of USD8.5 million for a 146-km stretch, amounting to less than USD60,000 per km. Why did a relatively modest project like this cause the many occurrences of harm, some of them quite serious, uncovered in this Report?

414. There is no single reason for this outcome. The Panel agrees the precarious security situation in the area presents a highly challenging context for the Project, but does not consider it the root cause of the problems encountered. Rather, the Panel's review identified a chain of events, including factors under Bank control, which together caused and contributed to these negative impacts on communities. The first casual factor deals with crucial aspects of Project preparation and implementation, which was compressed in time, and failed to identify key risks in sufficient detail and to develop effective mitigation measures. Shortcomings in Bank supervision during implementation was an amplifying factor which, instead of resolving problems in a timely manner, led to their escalation. This included poor communication with communities and the absence, at a crucial time, of a GRM. Added to this was the failure of the Bank's Country Office to respond to two written complaints sent to them a few months after works started on RN2. Ultimately Management's reliance on other entities for supervision, without Bank field visits, denied Management the information required to identify the problems and address them.

The Trade-offs Involved in Rapid Project Implementation

415. International support in conflict and post-conflict areas is typically both complex and urgent. There is a premium on approving and implementing projects quickly to realize benefits for the affected population during and following conflict. With the good intention of proceeding swiftly, RN2 was included in the ongoing Pro-Routes project under AF2. The Panel recognizes that inclusion of an additional activity under an existing project can have certain advantages in terms of both speed and costs of preparation. There is typically relevant experience at hand from the parent project, and the key actors, such as the implementing agency, are typically the same, which should also help ensure smooth and speedy implementation.

416. RN2 Project preparation and implementation was done rapidly as the parent project was approaching its 10-year stipulated lifespan. This decision, however, may have resulted in compromises between speed and quality. Key Project documents were incomplete in their analysis of risks and identification of effective mitigation. Safeguard documents, such as the 2017 ARAP, turned out to be deficient because they lacked adequate baseline data and were prepared late. The ESIA finalized right before the start of road works did not assess certain risks; other documents to be prepared by the Contractor were also late and of poor quality. Nonetheless, construction started and moved ahead without the benefit of timely and detailed plans, and this contributed to the harm observed. Paradoxically the completion of this much-needed road did not happen more rapidly but, on the contrary, with the partial suspension of the Project in November 2017, will in fact take longer than intended.

Institutional Capacity Constraints

417. Institutional capacity is often a major obstacle to effective project implementation in FCV countries. Management was aware of this risk in its assessment of the Project and identified certain mitigation measures, especially in the area of social and environmental safeguards. Still, shortcomings in effectively addressing capacity constraints and insufficient attention to capacity building are clear in hindsight. The system of relying on many actors was overly complex and unwieldy. There were major gaps, especially in environmental and social monitoring. In the case of GBV, the Project lacked the requisite expertise and only included HIV/AIDS expertise. There were many reports produced, but these were not always of good quality and the major social and environmental problems were not identified in them; when issues were identified, unfortunately they rarely resulted in redress.

Community Engagement, Grievance Redress, and Security

418. Information about the Project and consultations were virtually non-existent in the communities along the road before the Panel's registration of the complaint. The GRM was only implemented after the complaint was sent to the Panel, and only a few months before the originally planned closing date of the Project. The Panel heard repeatedly that communities lacked the ability to raise concerns due to language barriers. When harm materialized – such as when water pipes broke in 15 locations, including at an IDP camp – communities were unable to voice their concerns and obtain remedy, at least until the fall of 2017. In most cases these communities, which have already suffered through decades of violence and displacement, felt powerless and without

recourse. Although community engagement may be more challenging in a FCV environment it is no less important than in other development contexts.

419. Regarding security, the heightened risk of harm restricted the availability of contractors and their potential to perform effectively, and influenced Management's ability to supervise project implementation. In the Project these risks were not assessed in great depth and mitigation measures were scant. Clearly, for projects in such contexts there is a need for careful review of how they can be effectively implemented under those constraints. In this context violence against local people by the military personnel engaged by the Contractor was at the core of harm to the livelihoods of quarry operators and workers, as well as other community members. The case highlights the need for clear guidance regarding the use of security forces in cases that warrant it. This will create an opportunity to develop realistic operational guidance, as has been done by IFC, to define the boundaries and approaches when security forces are needed for effective project implementation.

Gender-Based Violence

420. Warning signals were present from the beginning, since eastern DRC is an area well known for the prevalence of GBV and other forms of violence against women and local populations more broadly. While there was reference to increased risk due to influx of labor, as it is common in road construction projects, overall these risks were far from sufficiently acknowledged or addressed in Project documents. The Management Response explains that lessons from the Uganda Transport Sector Development Project-Additional Financing case were not incorporated in the design of AF2, as they came only after the Project was approved. Managing GBV risks appears to be an area of continuous learning and action for the Bank, in line with the recommendations by the Bank's GBV Task Force of July 2017.

Supervision and Follow-up to Complaints

421. This case also highlights the crucial importance of effective supervision in all Bank projects, including visits by Bank staff for discussions with project implementers, local authorities, and communities. In Pro-Routes Management relied on monitoring performed by weak institutions, giving Bank Management and other actors the false sense that everything was going according to plan. For a critical period during Project implementation, including its Mid-Term Review, Bank staff did not visit RN2. Furthermore, the absence of the GRM denied Management direct inputs from the communities about the harm being experienced. The outcome of this set of circumstances was that the Project was rated as satisfactory even though there were significant problems. In its analysis the Panel asks if supervision missions by Bank staff could have occurred, based on careful analysis of security risks and with due precautions.

422. The period after the Panel received the Request, particularly since August 2017 when the first of seven missions was fielded by Bank Management, has witnessed decisive follow-up, and a reversal of the trends that in aggregate brought about the harm. This includes active, field-based supervision, engagement of GBV expertise with the support of local NGOs, establishment of the GRM, more active monitoring of, and reporting on, environmental and social issues by the Project, changes in the Project security arrangements, and settling key labor issues. The Panel also notes a renewed instruction to staff on how to deal with complaints, and the related role of the Inspection

Panel, in order to avoid repeating the problem of the present case in which the first two complaints addressed to the Country Office went unanswered.

423. Looking ahead there remains a need to redress the harm experienced by community members along RN2, and to learn valuable lessons for future transport and other projects, particularly in FCV countries. The Panel hopes this investigation can provide useful insights in this regard.

Annex 1: Table of Findings

| Issue | Panel Findings and Key Observations |
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| <p>Project Preparation</p> | <p>DRC’s fragile and post-conflict context poses major project preparation and implementation challenges. Institutional capacity constraints in DRC are well known to Management. Furthermore, the Project expanded road works into areas that presented more challenging security conditions than earlier phases. Yet the Project was prepared following institutional arrangements and risk assessments similar to those used for the parent project and the first Additional Financing, and without taking into account their shortcomings and the changing environment.</p> <p>The Panel finds that the institutional assessment in the context of Project preparation improperly considered capacity constraints and weaknesses experienced in previous phases of the operation. The Panel also finds that the Project’s overall analysis of risks and their impacts, particularly regarding the security risks, was inadequate. Therefore, the mitigation measures fell short of adequately protecting affected communities from harm. The Panel finds Management’s design and preparation of the Project in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).</p> |
| <p>Consultations and Disclosure of Information</p> | <p>The Panel notes that due to serious shortcomings in consultations and disclosure of information, the local population could not participate and voice their views on Project design and implementation. The Panel observes that affected communities were left without information about their rights and entitlements under the Bank’s policies. The Panel finds Management in non-compliance with the consultation and disclosure of information requirements of the Bank Policies on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12).</p> |
| <p>Grievance Redress Mechanism (GRM)</p> | <p>The Panel notes that the Project lacked a functioning GRM for the local communities to raise their concerns during implementation of the Project. The Panel finds Management’s failure to ensure the timely establishment of an accessible, transparent, and effective Project GRM in non-compliance with the Bank Policy on Involuntary Resettlement (OP/BP 4.12). The Panel understands that following receipt of the Request Management made efforts to ensure the establishment of a GRM for the Project.</p> |
| <p>Quarry Exploitation</p> | <p>The Panel notes that the exploitation of many quarries used for the Project took place in the presence of military forces and without required documents and adequate processes for commercial negotiation. The Panel finds the exploitation of quarries without the required authorizations, prior commercial agreements and related payments, and quarry management and restoration plans is in violation of the Project’s Environmental and</p> |

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| | <p>Social Impact Assessment (ESIA) and Environmental and Social Management Plan (ESMP) in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).</p> <p>The Panel further finds that the exploitation of quarries in the specific context of this Project constitutes involuntary resettlement in the form of economic displacement in accordance with Bank Policy on Involuntary Resettlement (OP/BP 4.12), as there was an involuntary taking of land resulting in the loss of assets and income sources of the quarry operators and workers. The Panel notes the importance of providing compensation to quarry operators and workers for their loss of incomes and livelihoods in accordance with OP/BP 4.12.</p> |
| <p>Impacts on Agriculture</p> | <p>The Panel finds that Management did not ensure an adequate and timely baseline survey of agricultural assets of impacted community members, which were destroyed during quarry exploitation before compensation was paid. Thus, the Panel finds Management in non-compliance with Bank Policy on Involuntary Resettlement (OP/BP 4.12).</p> <p>The Panel notes and welcomes the extensive efforts by Management to correct these deficiencies since receipt of the Request, including updating the Abbreviated Resettlement Action Plan (ARAP).</p> |
| <p>Community Health and Safety</p> | <p>The Panel finds Management failed to identify risks and mitigation measures associated with excessive use of force by military personnel engaged by the Contractor in an adequate and timely manner in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01) and on Investment Project Financing (OP/BP 10.00).</p> <p>The Panel also finds Management in non-compliance with the Bank Policies on Environmental Assessment (OP/BP 4.01), the Environmental Health and Safety (EHS) Guidelines, and Investment Project Financing (OP/BP 10.00) for not adequately identifying and mitigating impacts related to water pipe rupture, storm water and lack of road safety measures. These shortcomings were exacerbated by weak supervision, which did not identify harm to communities, in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00).</p> |
| <p>Working Conditions and Occupational Health and Safety</p> | <p>The Panel notes the occurrence of serious infractions related to payments to Project workers and poor working conditions affecting their health and safety. The Panel finds Management’s failure to adequately monitor or provide implementation support to safeguard workers’ health and safety in non-compliance with Bank policies on Environmental Assessment (OP/BP 4.01), Investment Project Financing (OP/BP 10.00), and the Bank’s EHS Guidelines. The Panel did not find instances of child labor in the Project.</p> |

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| | <p>Management acknowledged issues related to workers’ health and safety following receipt of the Request. The Panel welcomes the improvements since then regarding issuance of worker contracts, ID checks, retroactive payment for exchange rate losses, working conditions, and strengthened supervision of labor issues.</p> |
| <p>Gender-Based Violence (GBV)</p> | <p>The Panel finds Management in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01) and Investment Project Financing (OP/BP 10.00) for not properly assessing the gender-based violence risks considering the endemic GBV rates and the high vulnerability of women and girls in the Project area, and for the lack of appropriate mitigation measures to address the high risks of GBV that led to serious harm to women and girls in the community.</p> <p>The Panel further finds Management in non-compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) for failing to supervise the implementation of measures to mitigate the risks of gender-based violence, or to identify and propose measures to redress harm caused by the Project.</p> <p>The Panel acknowledges and welcomes the substantial efforts undertaken by Management after the receipt of the Request to seriously address the GBV issues related to the Project.</p> |
| <p>Supervision</p> | <p>The Panel finds Management’s failure to monitor the Project and provide adequate implementation support to address weaknesses in the Project’s complex system of monitoring and supervision, to capture implementation problems, or to propose corrective actions in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00) and Environmental Assessment (OP/BP 4.01).</p> <p>The Panel acknowledges and appreciates Management’s efforts to understand and address the concerns of the Requesters and the community after they raised their issues with the Panel. During its investigation visit the Panel witnessed improvements in the Project. The Panel finds Management in compliance with Bank Policy on Investment Project Financing (OP/BP 10.00) after receipt of the Request, due to its proactive and systematic supervision with adequate expertise focused on problem solving.</p> |

Annex 2: Inspection Panel Members and Expert Consultants Biographies

Panel members

Gonzalo Castro de la Mata was appointed to the Inspection Panel of the World Bank on December 16, 2013, and became its Chairman on November 1, 2014. He is an American and Peruvian national who brings the Panel more than 20 years of international development experience. His career includes key roles in the private and public sectors and multiple areas of development work, demonstrating his broad interests, authority, experience, and flexibility. He has been involved in highly visible and complex international projects, including as the chair of an Independent Panel for the Export-Import Bank of the US for the Camisea Project in Peru, and as a member of a United Nations Review Panel of the Barro Blanco Dam in Panama.

In 2009 he founded Ecosystem Services LLC, a company specializing in market-based approaches to conservation and renewable energy. Previously he was the Managing Director of Sustainable Forestry Management (SFM) for the Americas, where he was responsible for seminal investments that generated the first carbon credits from native plantations and forest conservation. Before SFM he was the head of the Biodiversity Unit at the Global Environment Facility (GEF), principal environmental specialist at the World Bank, director and vice president of WWF's Latin American and Caribbean Program in Washington, and founder and CEO of Wetlands for the Americas, among other roles. He earned a Ph.D. in Ecology and Population Biology from the University of Pennsylvania and received his M.A. and B.A. from Cayetano Heredia University in Lima, Peru. He has served on numerous, international, private and non-profit boards.

Jan Mattsson was appointed Member of the Inspection Panel in November 2014. A Swedish national, he brings to the Panel more than three decades of experience in the public and private sectors as well as academia. Jan Mattsson's prior career has included operational field work, policy advice, program management, and leadership roles in the United Nations where he established robust systems for results-based management, transparency, and accountability. Throughout his career he has demonstrated the ability to engage and build trust with multiple stakeholders around complex issues, risk management, and innovation. He is passionate about social justice and behavioral ethics.

Jan Mattsson held responsibilities in several UN agencies over the years, including UNDP, UNIDO, UNFPA, WFP and UNODC. In his final UN assignment he was UN Undersecretary-General and Executive Director of UNOPS, an organization specializing in implementation of development, humanitarian, and peace-building operations on behalf of multiple partners. After leaving the UN he founded M-Trust Leadership, an advisory firm promoting socially responsible investments and partnerships among business, government, and civil society in pursuit of sustainable development. He earned his Ph.D. in Engineering from the University of Linköping, Sweden, with a multi-disciplinary thesis on management of technological change.

Imrana Jalal was appointed to the Inspection Panel on January 1, 2018. A Fiji national, Ms. Jalal brings to the Panel more than 30 years of experience across diverse geopolitical and multicultural environments in the private and public sectors. As a principal social development specialist (gender and development) for the Asian Development Bank from 2010-2017, Ms. Jalal gained

intimate knowledge of multilateral development bank operations in various sectors and demonstrated her ability to engage and build rapport and trust with stakeholders around various and complex issues. She was chief technical adviser at the Pacific Regional Rights Resource Team Office from 1995-2010.

A lawyer by profession, Ms. Jalal was a commissioner from 1999-2001 on the initial Fiji Human Rights Commission, the first of its kind in the Pacific Island countries. She is the author of the “Law for Pacific Women: A Legal Rights Handbook,” architect of the Fiji Family Law Act 2003, and was a founding member of the Fiji Women’s Rights Movement. She was elected a Commissioner on the Geneva-based International Commission of Jurists (ICJ) in 2006 and served on the commission’s Executive Board from 2011-2017. The ICJ was established to protect the independence of judges and lawyers.

Ms. Jalal earned a Masters of Arts with a focus on Gender and Development from the University of Sydney, and an LLB and LLM (Hons.) in International Law from the University of Auckland.

Expert Consultants

Zeinab Bashir El Bakri completed her term with the Inspection Panel in December 2017, shortly after beginning work on this investigation. A national of Sudan, she brought to the Panel more than 20 years of development experience. Dr. El Bakri built a broad career at the African Development Bank (AfDB), where her last position was vice president of operations from 2006-2009. In addition, between 1991 and 2005, she served in a number of positions at AfDB spanning multiple regions of Africa, and focusing on portfolios including social development, gender, agriculture and agro-industry, climate change, and governance, where she gained expertise in both policy development and operations.

After leaving AfDB she was appointed director of the Delivery Unit for the Office of His Highness the Prime Minister of Kuwait, responsible for ensuring delivery of reform initiatives. Dr. El Bakri’s time at the African Development Bank was preceded by an academic career at the University of Khartoum, where she was senior lecturer in Anthropology and Sociology and she managed the Women and Development Programme of the Development Studies and Research Center. Her early career included a number of consultancies within the UN System, philanthropy, and international NGOs. Throughout her career Dr. El Bakri has worked on evaluation issues based on meticulous attention to facts. Her work at AfDB included serving on the Board Committee on Development Effectiveness and providing Management responses to Independent Evaluations within her sectors. She was also responsible for establishing AfDB’s Governance, Economic, and Financial Reforms Department. Dr. El Bakri holds a Ph.D. in Sociology and Anthropology from Hull University and received her M.A. and B.A. in Sociology from the American University in Cairo.

Lisa Davis is a clinical professor of law and co-director of the Human Rights and Gender Justice Clinic. She has written and reported extensively on human rights and gender issues, including on women’s rights and LGBTIQ rights, with a focus on peace building and security issues in conflict and disaster settings. She has testified before U.S. Congress, U.K. Parliament, the Inter-American Commission on Human Rights and various international human rights bodies. In 2016, Professor

Davis was elected by her peers to deliver the civil society statement for the U.N. Security Council's open debate on the use of sexual violence in conflict situations.

In 2010, Professor Davis served as lead counsel for the Inter-American Commission petition on behalf of displaced Haitian women and girls that resulted in the commission's first-ever precautionary measures decision recognizing state responsibility to prevent third-party gender-based violence. She was subsequently awarded the 2011 People's Choice Gavel Award by her peers for the decision.

Professor Davis is an alumna of CUNY Law School and joined the faculty in 2010. She currently serves as a board member of the LGBT Social Science and Public Policy Center at Roosevelt House. She is a faculty advisor for the Sorensen Center for International Peace and Justice, faculty advisor to the CUNY Law Review and faculty board member of the CUNY Law Foundation. Prior to joining CUNY Law, she established the advocacy department at MADRE, an international women's human rights organization, where she developed the legal advocacy platform to advance women's human rights in peace-building and security issues.

Michelle Dörlemann is a lawyer possessing the qualification of judgeship within the German jurisdiction and works as interdisciplinary consultant in the fields of sexual and gender-based violence, public health, and human rights. Since 2009, she has accompanied the implementation of various short- and long-term projects, programs and studies within the domains of public health, social development, and SGBV in various provinces of the Democratic Republic of the Congo. Since 2015, Michelle has been based in Bukavu, South Kivu.

Her work experience related to gender and SGBV in the region has ranged from the coordination of a World Bank-funded project on quality assurance of local organizations providing holistic services for SGBV survivors and the preparation phase of a project targeting challenges and shortcomings in the judicial sector, to the development of in-depth project and program evaluations and gender analyses. Michelle is highly experienced in the conceptualization and application of methodological approaches for data-collection processes, such as focus group discussions with women and girls affected or threatened by SGBV, and the strengthening of community-based approaches to prevent and react to SGBV.

Having worked with more than 40 local service providers in different territories in South Kivu, Michelle is very well familiar with the challenges faced by local service providers when it comes to minimal standards of holistic care and the practical application of the DRC's national protocols on holistic services for SGBV survivors.

Christopher McDowell is a social anthropologist and social development consultant with expertise in social impact assessment, involuntary resettlement, and humanitarian evaluations. Dr. McDowell has a Ph.D. from the Ethnologisches Seminar at Zurich University and a Master's Degree in Social Anthropology from the University of Cape Town. He has published widely on development-created population displacement and resettlement, including *Understanding Impoverishment* (Berghahn, 1996), *Risks and Reconstruction* (World Bank, 2000), *Non-Conflict Displacement* (Berghahn, 2010) and *Displaced: The Human Cost of Development and Resettlement* (Palgrave Macmillan, 2013).

Dr. McDowell has acted as an international resettlement specialist for the Asian Development Bank in India, China, and Cambodia, and for the Inspection Panel in Ghana, Nepal and Uganda. He has managed aid programs in Africa and advised UNHCR (of Syrian refugee resettlement), the Norwegian Government and the Internal Displacement Monitoring Centre (on programmatic responses to non-conflict displacement), and UNOCHA and AusAID (on the humanitarian response to the East Timor crisis). He is currently a reader in Political Anthropology and Associate Dean for Global Engagement at City, University of London.

Jean-Roger Mercier, educated at the Ecole Polytechnique (Paris-France) and later at ENGREF (Agricultural Engineering School – Paris – France) and Université Paul Sabatier (PhD in solar energy engineering), has a long track record in the preparation, management, and review of Environmental and Social Impact Assessment, as well as in capacity building in Africa for ESIA preparation, review and management. He managed his first Environmental Impact Assessment in the late 1970s, joined the World Bank in 1994 as the environmental assessment coordinator for the Africa Region, and in 2000 moved to a policy level inside the Bank as the environmental assessment lead specialist. Highlights of his career in safeguards include:

- The drafting of a milestone publication with Robert Goodland titled, “Environmental Assessment at the World Bank: From Approval to Results” (1999);
- The organization of the 2003 Annual Conference of the International Association for Impact Assessment on IA capacity building in Marrakesh (Morocco);
- The organization of a two-week training course on World Bank’s safeguard policies (in French for the Université du Québec à Montréal (UQAM) (2004);
- The design and management of World Bank’s internal safeguard policy training (2002-2006);
- Chairing the Internal Reference Group at the Agence Française de développement for the review of its environmental and social safeguards;
- Authoring the Guidebook on Managing Environmental and Social Assessments of projects, plans, programs and development policies in the Mediterranean (Plan bleu, 2016) – published in French, English and Arabic.

He is presently working as senior consultant on project-level and strategic environmental assessment for multilateral as well as bilateral, international development organizations, governments and international NGOs.

Kai Schmidt-Soltau started his career in 1986 with an assessment of local livelihoods in the Lake Kivu Region. Since then he has (i) developed and implemented social safeguard policies, (ii) managed operational risks of private and public investments in over 70 countries, and (iii) ensured that clients deliver on international principles of social and environmental sustainability. Roles and responsibilities have involved (i) leading the environmental and social works from policy development to project closure of large-scale private and public investments, (ii) assuring compliance of the Asian Development Bank’s entire portfolio with its social safeguard policies, and (iii) producing safeguard documents for multilateral financial institutions, bilateral donors and governments, including 30-plus safeguard documents for the World Bank, the International Finance Corporation and other multilateral financial institutions. Over the years, he had completed more than 20 assignments in the DRC, assisted the Compliance Advisor Ombudsman and other compliance mechanisms, and is presently supporting the Uganda National Roads Authority in the

update of its safeguard system in reaction to the findings of a 2016 Inspection Panel Investigation. He also serves on advisory panels in Afghanistan and Tunisia, and runs the consultancy firm Social Science Solutions GmbH.

Dr. Schmidt-Soltau holds a PhD in sociology (Münster/Germany 1996), has lectured in Germany, Cameroon and South Africa, and contributed to the advancement of science through five monographs, eight co-authored books, and more than 50 articles in leading development journals.

Juan David Quintero is a civil and environmental engineer with over 40 years of experience in risk assessment, mitigation and compensation of environmental and social impacts associated with development projects. He worked as a senior environmental specialist at the World Bank from 1993 to 2010 in charge of ensuring compliance with World Bank environmental and social safeguard policies in infrastructure projects. Mr. Quintero is expert in environmental business development, bidding and contract documents preparation, client relations and management of construction of complex infrastructure projects. He is a specialist in the application of construction environmental management plans, protection, mitigation and offsetting impacts on biodiversity, and regional, cumulative and strategic environmental assessments of development programs. Mr. Quintero is currently a member of Panel of Experts for several hydroelectric projects around the world. He was a member of Board of Director for the International Association for Impact assessment (IAIA) from 2013 to 2015 and is a certified assessor for the sustainability assessment protocol for hydropower development of the International Hydropower Association. In 2016, he received the Lifetime Achievement Award from the IAIA for *“significant contribution to impact assessment leading to mainstreaming biodiversity conservation in infrastructure projects around the world.”*

Dominique Vidale-Plaza is a consultant with seven years of experience working on gender, sexual and gender-based violence and women and child protection. She has been based in eastern Congo since 2011, and has worked there with local and international NGOs and the UN. She is currently based in Goma, North Kivu, working independently.

Her work has touched on a range of SGBV-related sectors, such as primary care for survivors, improving service provision in remote communities, advocacy on security-sector reform linked to conflict-related sexual violence, protection from sexual exploitation and abuse, SGBV national and UN coordination mechanisms, psychosocial assistance for children affected by conflict and gender-sensitive Disarmament Demobilization and Reintegration programming. She has experience in collaborating with multiple stakeholders, including implementers, technical and financial partners, government agencies and the UN as well as humanitarian actors and mechanisms.

Dominique has extensive knowledge of SGBV trends and dynamics in the Kivus, as well as experience in navigating the complex structures for coordination, prevention and response to the phenomenon in the region.

Annex 3: Project Map

