



IRM COMPLIANCE REVIEW REPORT

MULTINATIONAL ROAD DEVELOPMENT AND TRANSPORT FACILITATION PROGRAMME WITHIN THE MANO RIVER UNION (GUINEA SECTION)

Request No: RQ2016/3

Country: Republic of Guinea

February 2019

Report Prepared by:

The Compliance Review Panel comprising the Experts of the Independent Review Mechanism

ACKNOWLEDGMENT

The Director of the Compliance Review and Mediation Unit (BCRM) and the Experts of the Independent Review Mechanism (IRM) would like to thank the Requestors, the Project Implementing Agency, the Management and staff of the African Development Bank Group (AfDB), and the Manager of the Country Office of the AfDB in the Republic of Guinea for their cooperation and clarifications during the preparation of this Compliance Review Report.

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ACRONYMS ABBREVIATIONS

ADF	African Development Fund
AfDB	African Development Bank Group
APD	Avant Projet Détaillé (Detailed Preliminary Project)
ARU	Agroforestry Resources Unlimited
BCRM	Compliance Review and Mediation Unit
BGEEE	Bureau Guinéen d'Étude et d'Évaluation Environnementale (Guinean Bureau of Studies and Environmental Evaluation)
BHP	Broken Hill Propriety Company Ltd
BNETD	Bureau National d'Études Techniques et de Développement (National Office for Technical and Development Studies)
CEGENS	Centre de Gestion de l'Environnement des Monts Nimba-Simandou (Environmental Management Center of the Nimba and Simandou Mountains)
CHICO	China Henan International Cooperation Group Co., Ltd.
DNI	Direction Nationale des Infrastructures (National Directorate of Infrastructure)
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
FRAP	Full Resettlement Action Plan
GEF	Global Environment Facility
IRM	Independent Review Mechanism
IUCN	International Union for the Conservation of Nature
JCP	Joint Control Point
MRU	Mano River Union
NGO	Non-Governmental Organization
PAPs	Project-Affected Persons
RBMN	Réserve de la Biosphère des Monts Nimba (Nimba Mountains Biosphere Reserve)

SMFG	Société des Mines de Fer de Guinée (Iron Mine Company of Guinea)
SSMN	Scientific Station of Mount Nimba
TOR	Terms of Reference
TSF	Transport Support Fund
WAE	West Africa Exploration
WHS	World Heritage Site

EXECUTIVE SUMMARY

This Compliance Review Report is for consideration by the Boards of Directors of the Bank Group. The objective of this Report is to assess whether there has been non-compliance with the applicable policies and procedures of the African Development Bank Group (AfDB), which in turn has caused or will cause harm to the people affected by the Guinea Road Section of the Multinational Road Development and Transport Facilitation Program within the Mano River Union (MRU). The Guinea Road Section Project is part of the Regional Program whose overall objective is to support economic recovery in the post-conflict region of the MRU by improving its road infrastructure. The specific objectives of the MRU Program are: (i) to improve transport conditions on the various project roads and thus reduce transport costs; (ii) to remove obstacles to the free movement of people and goods between the three countries covered by the Program (see below); and (iii) to improve the living conditions of the population in the areas covered by this Program. The MRU Regional Program will upgrade 276.35 km of roads to bitumen standard in eastern Guinea, west and southwest Côte d'Ivoire, and eastern Liberia, of which the length of the Guinean portion of the road is 39.7 km. Guinean roads are scheduled to have a 10 meter wide platform, a paved dual lane 2x3.5 metre road surface and a 1.5 meter wide road shoulder on either side.

The Program Loan Facilities Agreement was approved by the Boards of Directors of AfDB in December 2014 at a time when the Ebola epidemic was rampant in Guinea particularly in Lola, which is the main city of the project area. The share of the loan of the Guinean Project is USD 46.4 million. The loan became effective in June 2015, with a closing date of June 2019. However, due to the Ebola outbreak, the implementation of the Guinea Road Section Project started in 2016. The road construction started on 25 October 2017 by the contractor, China Henan International Cooperation Group Co., Ltd (CHICO). It is scheduled to be completed by 24 June 2019.

The MRU Program involving three countries (Côte d'Ivoire, Guinea and Liberia) is classified as a Category 1 high-risk for which an Environmental and Social Impact Assessment (ESIA) was prepared. The draft ESIA Summary Report and a Full Resettlement Action Plan (FRAP) were issued in August 2014.¹ These documents were distributed to the Board of Directors on 2 September 2014.

On September 2016, two Guinean nationals from the non-governmental organization (NGO) called Agroforestry Resources Unlimited (ARU), filed a complaint with the Compliance Review and Mediation Unit (BCRM) that the Guinean Road Section Project “does not comply with the Bank’s operational safeguards, and if implemented as planned, will result in significant and irreparable environmental and social damage.” The Director of BCRM registered the Complaint on 28 November 2016. The Management Response to the complaint laid out an Action Plan to address these shortcomings and provided that most of the significant mitigation measures should be completed by the end of March 2017². Since the BCRM and the IRM experts had not received any proof about the actions undertaken by the Management under this Action Plan, the eligibility assessment mission composed of the Director of the BCRM and one of the IRM Experts travelled to Conakry from 19 to 21 March 2017. The Mission did not visit the road site. However, it met with all the partners involved in the project, including the coordinator, reviewed project documents and conducted interviews of AfDB staff concerned with the project. The mission issued the IRM Eligibility Report in December 2017. This Report found a “prima facie evidence of harm because of project’s non-compliance with

¹ Republic of Côte d'Ivoire: Extension of the Port of San Pedro and Improvement of Land Connections to Neighboring Countries, Guinean-Lola Border Project, Provisional Report, BNETD, August 2014.

² See Section VI, Management Response to the complaint against the Road Development and Transport Facilitation Programme Within The Mano River Union - Guinean Section, 9 January 2017

the Environment Policy (2004) and the Involuntary Resettlement Policy (2003) of the Bank Group. The non-compliance may cause a threat of harm". The harm is expected to materialize with the road construction". The IRM recommended a compliance review of the Guinea Road Section. The Board approved this request on 10 January 2018, together with the Terms of Reference (TOR) for the Compliance Review.

As a result, the Compliance Review Panel (hereafter referred to as the "Review Panel") conducted a Compliance Review Mission to Guinea from 17 to 23 June 2018. The mission met with the Manager of the AfDB country office in Guinea and senior national and local officials, and visited the road project and the Mount Nimba areas. The mission also met with the Requestors and participated in two town meetings in N'Zoo and Lola, which were attended by a total of 420 people. The Review Panel debriefed the AfDB staff responsible for the Project at Headquarters on 25 June 2018.

Non-Compliance with AfDB Policies and Procedures

A. Status of compliance with the Environment and Social Assessment Procedures for African Development Bank's Public Sector Operations (2001) and the AfDB Policy on the Environment (2004).

Based on the findings by the Review Panel, the following conclusions can be made:

- (i) The Bank Management has taken several important actions to address the allegations made by the Requestors through the update of the ESIA and the Environmental and Social Management Plan (ESMP) of the Project. The effort includes an Action Plan in anticipation of the major findings of the Compliance Review Report. The Action Plan was provided to the BCRM in August 2018.³ These were significant steps in the right direction. However, as the updated documents indicate, additional actions are still required to ensure that the Bank complies with the policies and procedures applicable to this Project. Such actions include:
 - The preparation of a road map for the Project, with the budget revised to include works and services to be paid for due to the increased costs of the ESMP and FRAP implementation, by November 2018 ;
 - The implementation of recommendations of Bank's supervision missions ;
 - The strengthening of project monitoring and follow up and
 - The revision the Bank Management's actions contained in the August 2018 update on the implementation of the preliminary Action Plan.
- (ii) With reference to the assessment of the IRM Eligibility Report, and based on the ESIA analysis and the site visit, the retracing of the road away from the boundaries of the Nimba Mountains creates a buffer zone. The buffer zone is a good mitigation measure, which will limit the otherwise negative environmental impacts during the construction and operation of the road. Moreover, additional resources were provided as part of the ESMP to protect the fauna and flora of Mount Nimba Biosphere Reserve;

³ Mise en œuvre du Plan D'action Préliminaire concernant la plainte contre le programme Multinational d'aménagement des routes et de Facilitation des transports au sein de l'Union du Fleuve Manon section Guinéenne (Update on the Implementation of the Preliminary Action Plan Concerning the Complaint Against the Multinational Road Development and Facilitation Program Within the Mano River Union – Guinea Section), August 2018.

- (iii) The Review Panel confirmed what is indicated in the IRM Eligibility Report that, at the time of the MRU Program approval for the three countries, the Board of Directors was not fully informed that the ESIA and the FRAP of the Guinea Road Section Project were incomplete;
- (iv) The Review Panel recognizes that the Bank Management has caused the revision of the ESIA, the ESMP and the consultation with the people affected by the Project (PAPs). In fact, the last version of the ESIA (12) and the ESMP were re-published on the Bank's website on 5 December 2018 and were shared with the Project supervising engineer and the contractor; and
- (v) Furthermore, the commitment set forth in the Program Appraisal Report in section 5.2D (i) related to the implementation of the ESMP by the contractors was not yet implemented. This is an indication that the Bank Management has not yet complied fully with the AfDB's Policy on the Environment (2004) and the Environmental and Social Review Procedures for Public Sector Operations (2001).

Based on the foregoing points, the Review Panel recommends the following:

- (i) A non-technical executive summary of the ESIA of August 2018 should be prepared and disclosed on the website of the Bank, and if possible, on the websites of the Ministry of the Environment, Water and Forestry and the Ministry of Public Works;
- (ii) The Bank Management should request that this non-technical executive summary be prepared in a user-friendly way to enable key stakeholders to easily follow, implement and monitor the ESMP. The length of this summary should be around 50 to 60 pages covering all relevant aspects of the ESIA of 626 pages and ESMP of 26 pages;
- (iii) The Bank Management in collaboration with the Ministry of Public Works, the contractor and the Guinean Bureau of Studies and Environmental Evaluation (BGEEE)⁴ should prepare an environment and social action plan (ESAP) no later than two months after the Board's approval of the Compliance Review Report, highlighting the following: (i) the actions in the ESMP required to be implemented every six months; (ii) the responsibilities of each of the entities with regards to follow up and control; and (iii) the revised project budget to pay for the additional resources set forth in the ESMP after reconciling the figures quoted in the ESMP and in the August 2018 update on the implementation of the preliminary action plan;
- (iv) The Ministry of Public Works should submit a progress report every six months on the status of implementation of the ESMP. In case of delays or deviations, the Bank should take the necessary actions described in the Loan Facilities Agreement to compel the Ministry of Public Works to comply; and,
- (v) The Bank should conduct an independent environmental audit in June 2019 to ensure that the ecosystems and the environment in general are not harmed by the Project.

B. Status of Compliance with the AfDB Involuntary Resettlement Policy (2003) The Review Panel also reviewed the status of the resettlement of 1001 PAPs that are eligible for compensation. These comprise 426 physically displaced persons and 575 economically displaced persons. The contractor – CHICO, stated that the road earthwork was completed on 20 km out of 39.7 km of the road, the

⁴ Guinean Bureau of Studies and Environmental Evaluation

remaining earthwork was awaiting the demolition of the houses in the right of way. The Review Panel noted that earthwork was ongoing despite the request by the Ministry of Public Works, upon insistence from the Bank supervision mission, to stop further work until the PAPs were compensated; otherwise, the Bank may threaten to suspend the loan, which did not happen. The contractor continuation with work before payment of compensation to these PAPs is an instance of non-compliance with the Involuntary Resettlement Policy (2003) of the Bank Group, which requires that compensation should be paid before the start of project implementation in a given area. Furthermore, it is only 95 out of 166 farmers who received compensation from 6 to 9 July 2018 based on the Guinean compensation scale. The Bank should also ensure that such compensation is consistent with the Policy on Involuntary Resettlement.

At the time of writing this Compliance Review Report, only 27% of compensation had been paid to the PAPs. No information was provided concerning the exact amount to be paid to the remaining 906 PAPs, nor was there a definite date set to make the payments. Further delays in making the payment can increase the frustration of the PAPs, especially after they were briefed on the progress achieved at the town meetings during the visit by the IRM Review Panel. Therefore, the potential threat of harm and social dispute is real if these PAPs do not receive the compensation in accordance with the Bank Group's Involuntary Resettlement Policy (2003). The reputation of the Bank will be at stake in case the Project continues to deviate further from the requirements of this Policy. The involvement of the Bank Management should go further than facilitating the process of disbursement (as stated in the update of the preliminary Action Plan of August 2018), and should also include monitoring of compensations to be paid to all the PAPs on the basis of a schedule published with implementation time-lines.

Despite the progress made by the Bank Management for the Government of Guinea to comply with the Bank Group's Involuntary Resettlement Policy (2003), the Review Panel is of view that the status of project's compliance remain the same. Therefore, the Review Panel reiterates the recommendations of the IRM Eligibility Report.

Accordingly, the Review Panel recommends the following:

- (i) The FRAP should be fully disclosed on the Bank website and, if possible, in the Ministry of Environment, Water and Forestry and the Ministry of Public Works;
- (ii) The Project budget should be revised within three months from the date of Board's approval of the findings and recommendations in this Compliance Review Report. This will ensure that the costs of the ESMP and the revised FRAP can be fully disbursed in accordance with the revised ESAP as indicated in the Management update on the implementation of the preliminary Action Plan for the complaint;
- (iii) Specific supervision of the compensation process should be initiated. The Bank's supervision mission are normally scheduled every six months. However, given the urgency of the Borrower to fulfill the loan condition on compensation coupled with the importance of this issue to the livelihoods of the PAPs, the social and environmental specialists of the Bank should exceptionally undertake missions every two months until the Bank is comfortable that all compensations have been paid to the PAPs in accordance with the FRAP, the Bank Policy and the Loan agreement of November 2018. These missions should start once the Boards approve the Compliance Review Report and should continue until the Bank is satisfied that PAPs' compensation outcomes are consistent with the FRAP; and

- (iv) The Bank should scale up, as a priority, the compensation of those PAPs who will lose their houses and commercial facilities. If the contractor, CHICO, continues with works or proceeds with the asphaltting of the road, the Bank should take the necessary actions including loan suspension since it has already threatened to do so.

In conclusion, since the Boards authorized the compliance review of Guinea Road Section Project based on the IRM Eligibility Report, the Bank Management has taken several actions to remedy some of the adverse effects pointed out in the complaint made by the Requestors.

The Director of BCRM received a formal letter from ARU on 6 March 2018 confirming that the Requestors had been consulted in the discussions relating to the selection of the mitigation measures and their satisfaction with these measures. The measures have been adopted and the road will be moved away from the core zone of the Mount Nimba Biosphere Reserve. Moreover, the Requestors received the final copy of the ESIA in October 2018. Finally, the Requestors reconfirmed their satisfaction with the ESIA during the visit by the Review Panel.

In view of these positive developments, the Review Panel has determined that the harm to the environment and the damage to the ecosystem feared by the Requestors will be contained as long as the revised ESMP is audited by independent consultants, is properly implemented by the project implementing agency and the contractor, and supervised by the Bank.

There is still a high potential of serious social harm if compensation to the remaining 906 PAPs is not provided soon. The physical progress of the Project is increasingly visible to the PAPs with the completion of the earthwork for 50% of the road. Furthermore, in many of the consultations with the PAPs, the Ministry of Public Works as well as the local authorities have raised the expectations of the PAPs and made promises in public that compensation is on its way. If such assurances are not transformed into real financial disbursements, the Bank risks compromising its reputation for not only causing the non-compliance with its own Involuntary Resettlement Policy(2003), but also for contributing to the loss of income and the quality of life of the poorer segment of the Guinean rural society.

Finally, the Review Panel makes the following recommendations to the Boards of Directors:

- (i) To approve the findings and recommendations contained in this Compliance Review Report; and
- (ii) To authorize the IRM to conduct annual monitoring of the implementation of the Action Plan prepared by Management and approved by the Boards in this session, to ensure that the Project comply with the applicable Bank Group policies and procedures. These policies are namely; the Environmental and Social Assessment Procedures for Public Sector Operations (2001), the Policy on the Environment (2004) and the Involuntary Resettlement Policy (2003).

1. INTRODUCTION

Scope of the Compliance Review Report

1. This Compliance Review Report presents the findings of the compliance review of the Guinea Road Section Project. The objective of this Report is to assess whether there has been non-compliance with the applicable policies and procedures of the African Development Bank Group (AfDB) which in turn has caused or will cause harm to the people affected by the Guinea Road Section of the Multinational Road Development and Transport Facilitation Programme within the Mano River Union (The Guinea Road Section Project.) The Report is prepared in response to the Complaint received by the Compliance Review and Mediation Unit (BCRM) on 15 September 2016 (Annex 1). This Request was registered by the Director of BCRM on 28 November 2016.⁵ The objectives and the scope of compliance review are laid out in the Operating Rules and Procedures of the IRM (IRM Rules, (2015). According to the IRM Rules, compliance review should be carried out by a Panel of the IRM Experts (the Review Panel). The compliance review assesses whether non-compliance with the applicable Bank Group policies and procedures has caused harm or is likely to cause harm to the complainants.

2. A compliance review report covers the findings of the Review Panel, which unless otherwise provided in the Terms of References (TOR) of the compliance review shall be limited to determining whether or not any action by the Bank Group, or failure to act, in respect of a Bank Group financed project has involved one or more material violations of its policies⁶). If the compliance review finds non-compliance and related harm, the compliance review report presents relevant recommendations on changes to systems and procedures within the Bank Group and remedial changes in the scope and implementation of the Bank Group financed project. The report also recommends steps to be taken by the IRM to monitor the implementation of the recommended changes.⁷

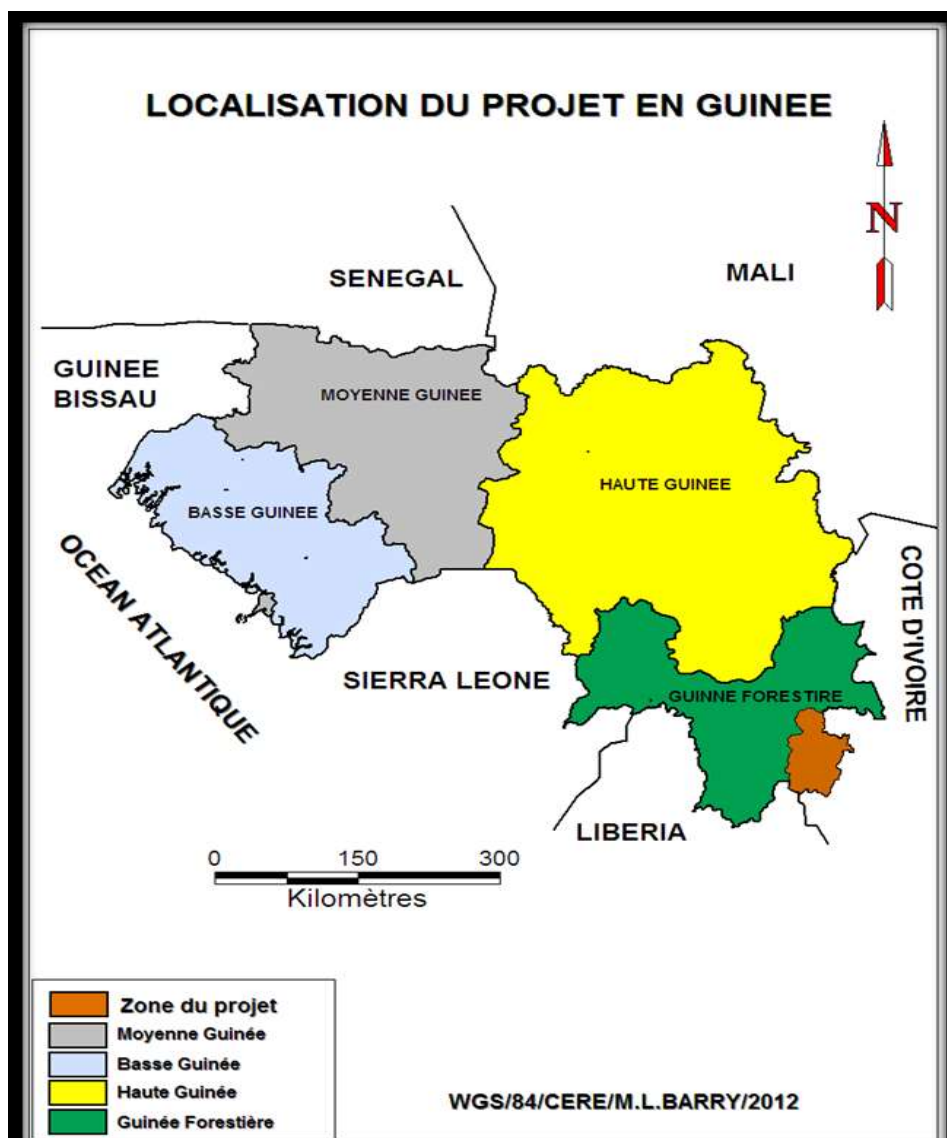
2. THE PROJECT

3. The Multinational Road Development and Transport Facilitation Program within the Mano River Union (MRU Program) is a Bank financed regional operation, which covers Côte d'Ivoire, Guinea and Liberia. This Program was approved by the Boards of Directors of the AfDB on 18 December 2014. Its overall objective is to support economic recovery in the post-conflict region of the MRU by improving its road infrastructure. Its specific objectives are: (i) to improve transport conditions on the various project roads and thus reduce transport costs; (ii) to remove obstacles to the free movement of people and goods between the three countries; and (iii) to improve the living conditions of the population in the project area. The MRU Program will upgrade 276.35 km of roads to bitumen standard in eastern Guinea, west and southwest Côte d'Ivoire and eastern Liberia, of which the length of the Guinean portion of the road is 39.7 km with 12 meters on both sides of the road axis.

⁵ The Notice of Registration of the Request is available on the IRM Webpage:
https://www.afdb.org/fileadmin/uploads/afdb/Documents/ComplianceReview/Notice_of_Registration_Mano_River_Project_Guinea.pdf

⁶ Paragraph 59 (b) (ii) of the IRM Rules accessible at www.afdb.org/irm.

⁷ Paragraph 59 (b) (iii) a-c.



4. In accordance with section 6.2 of the MRU Program Appraisal Report, and as an integral part of the financial endowment of the program involving the three countries, Guinea should receive an African Development Fund (ADF) loan of 13.28 million Units of Accounts (UA) (USD 20.52 million) and a Transport Support Fund (TSF) loan of 8.04 million UA (USD 12.4 million). In 2014, the total loan allocation to Guinea was 21.322 million UA (USD 32.94 million) with an additional loan of 8.04 million UA (12.4 US\$ million) being approved in 2015, a total of UA 30.047 million (USD 46.4 million). The Government contribution is 3.28 million UA (USD 5.07 million). The loans were approved while the Ebola epidemic was rampant in Guinea particularly in Lola, which is the main city of the project area where the first case was diagnosed in October 2014.⁸ As a result of the Ebola outbreak, the government imposed restrictions on travel and public meetings, which were only lifted in May 2016. The loan became effective in June 2015. The anticipated closing date is June 2019.

5. Guinea Road Section Project started in 2016. The Bank gave no-objection to the Project's international tendering for the construction, the monitoring of contracts, along with bid evaluations and contract signatures for the Lola-Côte d'Ivoire section. This is despite the fact that the Borrower did not comply with the following requirements of the Bank's procedures:

⁸ WHO :Ebola Responses Roadmap Situation Report 8 October 2014", 8 October 2014

- (i) The loan agreement's Conditions Precedent set forth in the Appraisal Report concerning compensations for persons affected by the project (PAPs) prior to the commencement of the work⁹;
- (ii) The Borrower's commitment required by the Bank for the implementation of Project Environmental and Social Management Plan (ESMP) by the contractors¹⁰ and
- (iii) The Borrower commitment to refraining from commencing the works without providing compensation.¹¹

6. As of the date of the compliance review mission to Guinea (17-23 June 2018) the construction contract was already signed by the Borrower and the contractor China Henan International Cooperation Group Co., Ltd (CHICO) on 13 January 2017 in the amount of GNF 207.62 billion (USD 22.8 million) without tax. The Project started on 25 October 2017 with an effective date of 6 November 2017, and is expected to be completed by 24 June 2019. The construction of the road involves development at distinct soil layers: the sub-grade soil (Laterix form layer) with a thickness of 30 cm; granular soil (foundation layer) with a thickness of 20 cm of selected Laterix; stone layer (crushed base coat) with a 15-20 cm thickness; and the bitumen surface (tread layer) with a thickness of 6 cm. The compliance review mission was informed by the Ministry of Public Works that the Avant Projet Détaillé (Detailed Preliminary Project, APD) should be amended because the stone layer has a thickness of 12 cm, whereas the thickness should be at least 15 cm.

7. Further clarifications on the progress made under the CHICO contract were provided in an update of the Environmental and Social Action Plan (ESAP), dated August 2018, in which the following was completed as of 31 July 2018: (i) 74% of site installation; (ii) 65.85% of the clearing of rights-of-way; (iii) 23.44% of drainage; and, in accordance with the contract, and (iv) 20 km of the 40.8 km of earthwork. The overall actual progress of the work is 40.74% for a consumed time of 45.83% as of 31 July 2018 from 25 October 2017 (date of the modified work schedule). The Review Panel noted that the works have a slight delay compared to the time consumed.

8. The Guinea Road Section Project is classified as a Category 1 high-risk project for which an Environmental and Social Impact Assessment (ESIA) was prepared. The draft ESIA Summary Report and Full Resettlement Action Plan (FRAP) were issued in August 2014¹². These documents were distributed to the Boards of Directors on 2 September 2014.¹³

9. According to the ESIA Summary, the construction of the Guinea Road Section Project will involve the following:

- (i) Paving of the Lola-Ivorian border road (39.7 km) including reservations for optical fiber; raising public awareness for road safety, HIV/AIDs and environmental protection, and works control/supervision;
- (ii) Development of 5 km of roads in Lola, the rehabilitation of a market and bus terminal in Lola, the rehabilitation of social infrastructure (school, health centers, etc.), and the development of 20 km of prefectural and community roads connecting to the Lola-Côte d'Ivoire border road; Construction and equipment of the Joint Control Point (JCP), including a weighing/toll station; supervision of construction of the JCP; sensitization of road users; and measures to instate frontier public officials on transport facilitation; and

⁹ Project Appraisal Report, Section 5.2 C (ii).

¹⁰ Ibid., Section 5.2D (i).

¹¹ Ibid., Section 5.2 D (ii).

¹² République de Côte d'Ivoire, Extension du port de San Pedro et Amélioration des Liaisons Terrestres aux Pays Limitrophes, Sous-Projet Frontière de Guinée – LOLA, Rapport Provisoire, Aout 2014, BNETD, Bureau National d'Etudes Techniques et de Développement

¹³ African Development Bank, ADB/BD/2014/169, 2 September 2014, Guinea-Road Development and Transport Facilitation Programme within the Mano River, Environmental and Social Impact Assessment and Resettlement Action Plan.

- (iii) Monitoring and evaluation of socio-economic impact of the Project, financial and accounts audits, operating costs of the delegated contracting authority.

3. REGULATORY FRAMEWORK OF THE COMPLIANCE REVIEW

10. The Compliance Review process is governed by Section 7 of the IRM Rules. Paragraph 59 of the IRM Rules states that the Review Panel shall:

- (i) *Prepare a draft compliance review report containing the Panel's findings and recommendation and circulate it to the Bank Management for review and comments on factual matters only. The Bank Management shall submit its comments to CRMU/IRM within twenty-one (21) business days from the date of receipt of the draft report from CRMU/IRM; and*
- (ii) *Upon receipt of comments from Bank Management, the Panel shall finalize its report, which shall:*
- *Include a summary discussion of the relevant facts, the respective positions of interested party in relation to the subject matter of the Request, areas of disagreement, if any, between the IRM Experts and Management and the steps taken to conduct the compliance review ;*
 - *Set out the findings of the Panel, which, unless otherwise provided in the Terms of Reference, shall be limited to determining whether or not any action by the Bank Group, or failure to act, in respect of a Bank Group-financed project has involved one or more material violations of policies as stipulated in paragraph 1”;*
 - *If it concludes that any Bank Group action, or failure to act, in respect of any Bank Group-financed project has involved one or more material violations, recommend:*
 - ✓ *Any remedial changes to systems or procedures within the Bank Group to avoid a recurrence of such or similar violations;*
 - ✓ *Any remedial changes in the scope or implementation of the Bank Group-financed project, subject to consideration of any restrictions or arrangements already committed to by the respective Bank Group institution or any other relevant party in existing project-related agreements; and/or*
 - ✓ *Any steps to be taken to monitor the implementation of the changes referred to in (i) and (ii) above.*

4. THE REQUEST

11. The Request was submitted to BCRM on 15 September 2016 by two Guinean nationals from the non-governmental organization (NGO) called Agroforestry Resources Unlimited (ARU). The NGO is registered and operating in the Republic of Guinea. The complaint was submitted on behalf of the NGO, Agroforestry Resources Unlimited. The complaint stated that the Guinean portion of the Project “*does not comply with the Bank’s operational safeguards, and if implemented as planned, will result in significant and irreparable environmental and social damage.*” The Request noted further that the Project is not in compliance with Guinean laws. The NGO argued that it has been active for many years at the Guinean Nimba Mountains, where the road will be rehabilitated and that the programs supported by the NGO in this area would be negatively impacted. The Request stated that residents along the road would suffer [through] damage to the ecosystem services on which they depend on for their livelihoods.

12. After assessing and determining that the complaint falls within the mandate of the IRM and that the Requestors had obtained proper authority to represent the ARU concerning this complaint,¹⁴ the Director

¹⁴ According to Section 3, Paragraph 6 of the IRM Rules, complaints may be filed by “*an organization, association, society or other groupings of individuals*” in the country where the Bank-group financed project is located and who believe that as

of BCRM registered the Request on 28 November 2016 for compliance review (the Notice of Registration, which includes the Request is attached as Annex 1 of the Report).

13. The Requestors made several allegations that can be summarized as follows:

- (i) The Project will cause irreparable harm on the people and the environment. For instance, it will damage the ecosystem services that are the source of their livelihoods;
- (ii) The Project violates both national and international laws. The road works and clearances are to occur inside the boundary of the Nimba Mountains Strict Nature Reserve, a World Heritage Site (WHS) and a core area of the Nimba Mountains Biosphere Reserve, in violation with national laws and the Convention for the Protection of Cultural and Natural World Heritage to which Guinea is a party;
- (iii) The Environmental and Social Impact Assessments (ESIA) of the Project issued in February 2013 are inadequate because no consideration was given to the protection status of the Nimba Mountains;
- (iv) The public consultations were not conducted as required by Guinean laws;
- (v) The ESIA does not cover all the potential negative impacts and hence, the potential mitigation measures are inadequate; and
- (vi) The ESIA mentions a Global Environment Facility (GEF) project that is not accessible on the GEF's website.

5. MANAGEMENT RESPONSE

14. In accordance with Paragraph 36 of the IRM Rules, Management Response to the Request was submitted to BCRM on 9 January 2017 within twenty one (21) working days after the receipt of the Notice of Registration (Annex 2). The Management Response recognized that the ESIA is inadequate and attributed that to the Ebola crisis, which prevented the consultancy firm BNETD from completing it. The Management Response laid out an Action Plan to address the ESIA shortcomings, and reassured that most of the significant mitigation measures would be completed by the end of March 2017. However, Management later on provided BCRM with an update on implementation of this Action Plan in August 2018. (Annex 3).

6. ELIGIBILITY ASSESSMENT

15. Paragraph 51 of the IRM Rules requires the IRM Experts and the Director of BCRM to prepare an eligibility report to determine whether there is *prima-facie* evidence that the Requestors have been harmed or threatened with harm by a Bank Group-financed project, and that such harm is caused by the failure of the Bank Group's staff and Management to comply with any of the AfDB's relevant policies and procedures.

16. The Eligibility Report was prepared in light of the information collected during the eligibility mission that was conducted by the Director of BCRM and one of the IRM Experts to Guinea from 19 to 21 March 2017, in addition to the information gathered from review of project documents and the interviews conducted with AfDB staff responsible for the project.

17. The Eligibility Report was issued in December 2017. It established that "there is *prima facie* evidence of non-compliance with both AfDB's Policies on the Environment (2004) and the Involuntary

a result of the Bank Group's violation, their rights or interests have been, or are likely to be, adversely affected in a direct and material way.

Resettlement (2003). Such non-compliance may cause a threat of harm”.¹⁵ The Report made it clear that harm had not yet materialized at that time of IRM eligibility mission because the construction of the road had not yet started. It noted that the Requestors are threatened with harm, which is possibly caused by the failure of the Bank Group’s staff and Management to comply with the aforementioned policies of the AfDB.

18. The Eligibility Report referred to the fact that the compliance review assesses the request/complaint more comprehensively and might draw conclusions that differ from those concluded in the Eligibility Report. Thus, any positions taken in the Eligibility Report do not prejudge assessments, which will be carried out during the compliance review. Moreover, the report mentioned that the eligibility does not assess all instances of non-compliance but it does so selectively in order to establish whether there is sufficient *prima-facie* evidence of harm to recommend a compliance review. During the compliance review, the IRM Experts will assess the project’s compliance with the applicable Bank Group policies and procedures and any related harm which could possibly be caused by the project. Finally, the Review Panel might as well cover other areas of project’s non-compliance with policies and procedures, which were not captured by the eligibility report. The Boards of Directors approved the IRM recommendation to conduct a compliance review of the Guinea Road Section Project together with the Terms of Reference of the Compliance Review on 10 January 2018.

19. An IRM Mission traveled to Guinea from 17 to 23 June 2018 in order to gather relevant information for the compliance review of the Project in accordance with the IRM Rules.¹⁶

20. Subsequent to the field mission and 17 months after it committed itself to implement the preliminary Action Plan by March 2017, the Bank Management submitted, in August 2018, a Report titled: Update on the Implementation of the Preliminary Action Plan Concerning the Complaint Against the Guinea Road Section of the Multinational Road Development and Transport Facilitation Programme within the Mano River Union (included as Annex 3 of this Report). This Report states that the “Environmental and Social Action Plan (ESAP) should be submitted after approval of the compliance review report by the Boards. However, Bank Management provided an update on the implementation of the action plan by anticipating the findings of the Compliance Review Report. The Update Report states that “At the end of the IRM compliance review report, another Environmental and Social Action Plan (ESAP) will be developed for project compliance” In view of this statement, the Review Panel decided to use the information provided in this update by the Management as input to this Compliance Review Report.

7. THE COMPLIANCE REVIEW

21. The compliance review has assessed whether or not by any actions or failure to act, the Bank Management and staff have materially violated any Bank Group policies and procedures applicable to the Guinea Road Section Project. It is important to emphasize that the task of the compliance review is to assess the actions or failure to act of only Management and staff in the application of the relevant AfDB policies and procedures. The Review Panel evaluated compliance with the following policies and procedures that are applicable to the Project:

- (i) The Environmental and Social Assessment Procedures for African Development Bank’s Public Sector Operations (2001);
- (ii) The AfDB Policy on the Environment (2004); and
- (iii) The AfDB Involuntary Resettlement Policy (2003).

¹⁵ Eligibility Report for Compliance Review, Request No: RQ2016/3: Multinational Road Development and Transport Facilitation Programme Within the Mano River Union Guinea Section) December 2017 – (ADB/BD/WP/2017/262/ADF/BD/WP/2017/182), December 2017, p. 18.

¹⁶ IRM Rules, para 53.

22. This Project, being a Baseline Road Project, was to benefit from a component financed by the Global Environment Facility (GEF). The GEF financing was to address some of the environmental challenges associated with the Project, including the support for transboundary forest management, taking into account the implications of the Program on the local fauna and the flora. Unfortunately, this opportunity was lost when the GEF Council reallocated the resources to another project because of lack of implementation on the part of the Bank.

7.1. Compliance with the Environmental and Social Assessment Procedures for African Development Bank's Public Sector Operations (2001) and the AfDB Policy on the Environment (2004)

7.1.1 The Facts

23. The Appraisal Report of the Multinational Road Development and Transport Facilitation Programme within the Mano River Union mentioned that the programme would cover the road development in all three countries (Côte d'Ivoire, Guinea and Liberia)¹⁷. The Programme is classified in Category 1. The detailed ESIA's and the FRAPs were prepared between 2011 and 2013, and most of them were updated in 2014. For practical reasons, it was decided to prepare separate summaries of the ESIA reports and FRAPs for each country of the programme. The summary ESIA's were posted on the Bank's website on 12 and 22 August 2014 for Côte d'Ivoire/Guinea and for Liberia, respectively.

24. The update of the implementation of ESAP provided a chronology of submissions of several versions of the ESIA, which was also clarified in the update of the implementation of the Action Plan, which was provided by Management in August 2018. The chronology is as follows:

- (i) Version 1 of the ESIA dated August 2014 was a draft report of 153 pages prepared by an Ivorian consulting firm, the Bureau National d'Études Techniques et de Développement (National Office for Technical and Development Studies) (BNETD). The firm could not visit the site because of the Ebola crisis. This version was submitted as part of the Board's approval;
- (ii) Version 2 of the ESIA dated October 2014 was submitted by BNETD following a requirement by the Bank to include (i) protection measures for sacred and cultural sites; (ii) taking into account some of Bank observations on the FRAP; (iii) stakeholder consultations; (iv) definition and management of long-term impacts on biodiversity and transboundary forests; and (v) measures to prevent the spread of the Ebola virus;
- (iii) A mission of the Bank consisting of the task manager and the environment specialist visited the country in December 2016 to verify the issues raised in the complaint against the Project. It was clear from the discussions with the Guinean side that there had been no progress in the implementation of the ESAP. In particular, the reports had not been validated through public consultations at the national level, and questions remained on the acquisition of land by the Government under the principle of imminent domain, that is, "use for public interest" (Déclaration d'Utilité Publique). The problem stemmed from the fact that the Ministry of Public Works Direction Nationale des Infrastructures (DNI) received the ESIA and the FRAP from BNETD in December 2014. The Ministry transferred the ESIA to the Bureau Guinéen d'Étude et d'Évaluation Environnementale (Guinean Bureau of Studies and Environmental Evaluation, BGEEE)¹⁸ in 2016, which was two years later. The delay was caused by the spread of the Ebola epidemic between

¹⁷ Appraisal Report, Paragraph 3.2, p.10.

¹⁸ The BGEEE is a public enterprise with administrative character reporting to the Secretary General of the Ministry of Environment, Water, and Forestry, and in charge of reviewing the ESIA reports by an inter-ministerial committee (*Comité Technique d'Appréciation Environnementale*) composed of 24 members, including one NGO, against a fee of 0.5% of the cost of the ESIA to be paid by the operator.

2014 and March 2016. It was during this mission that the Bank received the environmental compliance certificate issued on 20 December 2016 by the Ministry of Environment, Water and Forestry in accordance with national regulations;

- (iv) It is worth noting that the ESIA has been updated several times since the registration of the complaint by the IRM. Firstly, upon reviewing Version 2 of the ESIA and the FRAP, the Bank supervision mission noted some inconsistencies in the document which they attributed to the fact that no site visits had taken place. They requested a complementary study on the characterization of flora and fauna. In January 2017, the Bank, together DNI, developed the Terms of Reference (ToR) for the update of the ESIA, the ESMP and the FRAP reports which were validated by the BGEEE in February 2017. The BGEEE also recommended national experts that could be considered by BNETD for further studies;
- (v) Version 3 of the ESIA was prepared by BNETD in response to the request by the Bank to update the section of the document on the characterization of fauna and flora, and to include noise and air quality measurements. BNETD mobilized a multidisciplinary team of Guinean and Ivorian experts between March 2017 and July 2017 and completed the ESIA and the ESMP Reports covering these three issues;
- (vi) Version 4 of the ESIA was developed as a result of the decision of the Ministère des Travaux Publics (Ministry of Public Works) in March 2018 to reduce the width of the road reserve from 40 meters to 24 meters, i.e. 12 meters on both sides of the road axis; and to modify the right of way of part of the road through a deviation of 4.5 km from the original layout. This deviation was the closest to the boundaries of the core area of Mount Nimba (this issue was also one of the major concerns raised by the Requestors). Consequently, the road will now divert approximately 250 m away from the boundaries of the core area of Mount Nimba. The new layout of the road will avoid the need for the resettlement of people in Foromota village as well as the destruction of the remnant buildings of the Scientific Station of Mount Nimba (SSMN). However, the implementation of this variant will require additional actions, including: (i) the assessment of the flora and fauna to establish the baseline condition and adequate proposal for mitigation measures before the start of work; (ii) the renovation and protection of the remnant buildings of the SSMN; and (iii) the restoration of vegetation after the work;
- (vii) Version 5 dated June 2018, was prepared in response to these changes including the ESIA, the ESMP and the FRAP. It was submitted to BGEEE by BNETD, that is, after the completion of SSMN and the assessment of the fauna and flora as a result of the road deviation. This Version 5 includes technical clauses of the environmental and social measures that have been submitted to the Ministry of Public Work for the contractor to take into account; and
- (viii) Versions 6-11 of the ESIA and the ESMP were produced by BNETD following successive comments from the Bank, which were submitted to BGEEE on 19 June 2018. Upon additional review by the Bank, the BNETD submitted Version 12 of the ESIA and ESMP to the Bank in August 2018. The Bank Management shared a copy of this version with the IRM.

7.1.2 The Findings

25. The Review Panel reviewed Version 12 of the ESIA (626 pages) as well as Version 4 of the ESMP (26 pages) extracted from Version 12 of the ESIA. The IRM examined these documents based on the Environmental and Social Assessment Procedures for the AfDB's Public Sector Operations (2001) and Policy on the Environment (2004) as stated in the IRM Eligibility Report. Several versions of ESIA were updated between 2014 and 2018. The Bank reviewed the latest version of the ESIA 44 months after the approval of the Project by the Boards in December 2014 and 10 months after the start of the civil works on 25 October 2017, which proceeded without any ESMP requirements. In addition, the IRM established the following:

A. Concerning the Form of the ESIAs

- (i) Version 12 of the ESIA followed the requirements of the Environmental and Social Assessment Procedures for AfDB's Public Sector Operations (2001) and contains extensive information on base line data, analysis of the alternatives, and all environmental impacts. It lays out mitigating measures that the Eligibility Report noted were inadequate, namely; the direct, indirect and cumulative impacts of the Project on the fauna and flora, the overall biodiversity of Mount Nimba, as well as the impacts of the Project on air, water, noise, soil degradation, climate and gender;
- (ii) The latest ESIA Report has also documented the different consultations that took place in 2016-2017. These meetings have resulted in increasing awareness about the Project among the PAPs. In addition, the PAPs have accepted the Project with the understanding that they will receive appropriate compensations (see Section 8). During its field mission, the Review Panel met with 70 people from the village of N'Zoo and 350 people from the village of Lola, all of whom were well informed about the Project and its benefits; and
- (iii) Given the details of the minutes of meetings, the numerous tables, and the many repetitions, these very thick reports are not user friendly and could not be of practical help to the Borrower who has the responsibility of monitoring the implementation of a very lengthy ESMP. Based on its interactions during this field mission, the Review Panel concluded that neither BENDT (Consultant) nor the Bank Management has assessed the absorptive capacity of the Ministry of Public Works and the Ministry of Environment, Water and Forestry to enable them to implement the final version of the ESMP. Instead, the ESIA Report would most likely be useful for academics and research scientists because it contains detailed information on the fauna and flora of this region.

B. Concerning the substance of the ESIA

26. Based on the detailed analysis of the impacts during the planning, construction and implementation of the Project, the ESIA shows the following:

- (i) The new layout of the road took into account the technical, economic, environmental and social constraints imposed by the project area. The adjustments made concerned only 24% of the existing layout, thus making it possible to move further away from Mount Nimba reserve especially in the sections that were close to the limits of the core area. Such rectification has allowed a clear demarcation of the road against the North-East limit of the reserve and may reduce the risk of long-term threats associated with human activities such as poaching, logging and the creation of new farms.¹⁹ Furthermore, shrinking the project footprint to a total of 24 m will contribute to the preservation of biodiversity and ecosystems in the relevant section of road. It will constitute a firewall to minimize the risk of bush fire in this section. It will also avoid the risk of vehicle collision with chimpanzees and Diana monkeys and allow a spatial development of commercial activities along the road);²⁰
- (ii) Overall, protection and mitigation measures can be used to ensure the integrity of the Réserve de la Biosphère des Monts Nimba (RBMN) (Nimba Mountains Biosphere Reserve) by: (a) considering a global approach to conservation including a specific chimpanzee conservation strategy in the updated Project's ESMP; and (b) community-based conservation actions be included into the ESMP as proposed in the UNESCO report²¹ as well as in the provisional version of the Management Plan for the Mount Nimba Reserve. This inclusion can contribute to the improvement of living conditions of neighboring populations and thus, reduce the anthropic pressure as these are already provided in the ESMP²²;

¹⁹ ESIA Version 12 p 355,

²⁰ ESIA Version 12, p. 355

²¹ <https://whc.unesco.org/en/soc/227>

²² ESIA, p. 530.

- (iii) The major activity that will directly affect the Mount Nimba Reserve is the mining exploration in the core area of the Reserve²³ (ESIA, page 216) and authorized by the Government, and probable mining activities in the future. Three mining companies have been established in Lola since 2008. These are: (i) Iron Mine Company of Guinea (SMFG) engaged since 2009; (ii), West Africa Exploration (WAE), a British Company active since 2010; and (iii) SAMA – Resources Guinea Inc., a mining company for Nickel and Graphite since 2010)²⁴. The Review Panel did not see any evidence of these mining companies having submitted an ESIA;
- (iv) The risk of air and noise pollution is considered as weak intensity and the scope is local and punctual because it is located at the project site, occurring only at the level of the zones concerned by the Project activities.²⁵ The risk of soil pollution is of low intensity because most spills can only be accidental. Its range is judged punctual considering the possible areas where the products can pour out and in small quantities. Pollution and congestion of rivers is considered a direct negative impact of low intensity due to the short duration of the dry season in the project area and in that, its scope is local.²⁶ Groundwater pollution is an indirect negative impact. Its intensity is also considered low because large spills can only be accidental. Its range is considered local and is explained by the fact that the quantities of pollutants dumped are low. It is non-cumulative²⁷;
- (v) With regard to sacred and cultural sites, ten sites are affected by the footprint of the road to be brought to bitumen standard. Customary and/or religious leaders have indicated compensatory sacrifices or offerings necessary for their displacement and destruction during the works.²⁸ Eight sites were listed by the communities of which five are considered serious constraints to the Project²⁹. All sites will be moved and/or destroyed. The traditional community requirements will be respected by providing compensations for the sacrifices and offerings as agreed upon with the leaders of the communities and stated in Table 69 of the ESIA³⁰;
- (vi) Finally, the wildlife habitats located in the right-of-way of the road may be affected, up to a width of 24 m. It is expected that such specific degradation of habitat of small fauna will be impacted for a short duration and limited to the period of work in the different sections. Its influence is weak, and its impact will be minor.³¹ The interruption of animal routes is considered short term, limited to the time of work on each section under construction. Its intensity is low considering that the road as an infrastructure has existed for a long time, and that there is only a small difference in the level between the road and the rest of the ground, i.e., the gradient of the area being flat. Furthermore, regarding the impact of large wildlife and primates (such as chimpanzees and other monkey species), its negative impact is short-term, and limited to the time of the works. Its intensity is average because of the already recognized practice of poaching in the project area. Its scope is regional, extending beyond the project area through the sale of game meat. However, it is reversible if effective arrangements are made for compliance with wildlife regulations³²;
- (vii) It should be noted that the potential positive impacts that the asphaltting project of the road could generate at the socio-economic level, are higher than the potential negative environmental and social effects. The negative impacts are temporary, limited to the time duration of the works and controllable due to the mitigation and compensation measures defined in the ESMP and

²³ ESIA, p. 216.

²⁴ Ibid, p. 342.

²⁵ Ibid, pp 397- 398.

²⁶ Ibid, p. 403.

²⁷ Ibid, p. 403.

²⁸ Ibid. p. 333.

²⁹ Ibid. p. 334

³⁰ Ibid., pp. 335-339.

³¹ Ibid. p.405.

³² Ibid. p.406.

- (viii) During the field mission, the Review Panel visited the buffer zone, which is between the two rivers of Cavali and Goueh. A portion of 26 km of the 39 km falls within the buffer zone. The mission drove along the road that separates the core area from the buffer zone. The core area is fenced by an array of bamboo but includes the iron mining belonging to SMFG. This company is associated with Broken Hill Propriety Company Ltd (BHP)³³. The core area is supervised by two structures: The Centre de Gestion de L'Environnement des Mont Nimba and Simandou (CEGENS) from la Conservation Forestière that is composed of 100 foresters. There are 18 monitoring towers. The role of the two structures is to patrol the central area, prevent poaching and increase awareness of the preservation of the core area.

C. Concerning the ESMP

27. The ESMP was very detailed and provided the mitigating, monitoring and institutional measures during the construction, implementation and maintenance of the road. The ESMP also lists additional measures which were included in page 12 of the update of implementation of the preliminary Action Plan prepared by the Bank Management in August 2018 (Annex 3); namely:

- (i) Strengthening the CEGENS of the Ministry of Environment, Water and Forestry through the finalization and validation of the management plan for the Mount Nimba; the provision of logistical support (motorcycles and GPS to forest rangers, support for firefighting, and compensatory reforestation of at least 15 ha at the Mount Nimba Reserve; and improving the signalage of the boundaries of the reserve along the road;
- (ii) Providing support to the SSMN for the renovation of its laboratory space in order to improve the technical and workplace of the extensive and precious inventory on the rich biodiversity and the environment of the Mount Nimba;
- (iii) Developing mitigation measures for the deviation of 4.5 km from the original tracing, which was closest to the boundaries of the core area of Mount Nimba. The measures should include the restoration and compensation of the bamboo areas which separate the core area from the buffer zone as well as the old quarries;
- (iv) Monitoring the ecology of species for nature conservation and sensitive habitats;
- (v) Strengthening awareness-raising measures for environmental protection, STIs/ HIV/AIDS, etc; and
- (vi) Updating the list of people physically and economically affected by the Project as well as related property on both the initial route and the diversion.

28. All these additional measures are intended to address the issues raised by ARU in the complaint against the Project. The Director of BCRM received a formal letter from ARU on 6 March 2018 confirming that the Requestors had been consulted in the discussions that led to the selection of the above-mentioned mitigation measures and it is fully satisfied with the measures taken to change the layout of the road and move it away from the core zone of the Mount Nimba Reserve. The IRM field mission met with the two representatives of ARU who reiterated their satisfaction at the process. ARU wrote again to the Director of the BCRM that they were awaiting a final copy of the ESIA. The Bank shared a copy of this ESIA with ARU in October 2018.

29. The Review Panel did not see any evidence that the previous ESMP of 2014 was included as part of the tender documents as confirmed by the DNI during the IRM field mission in June 2018. Furthermore, the revised ESMP (which was completed in July 2018) was shared with the contractor

³³ BHP was formerly known as Billiton, an Anglo-Australian dual listed public company with multinational mining, metals and petroleum operations, and headquartered in Melbourne, Victoria, Australia.

CHICO in October 2018. After the IRM mission, more specifically in July 2018, CHICO appointed two experts, Mr. ZÉZÉ I DOPAVOGUI as environmental specialist and Mr. FELIX DOPAVOGUI as community development specialist in view of their qualifications, to carry out their assignments as designated by the consultancy call for interest announced by CHICO in March 2018.

30. As a result of the revision of the ESIA and the ESMP, the cost of implementing the ESMP increased from the original amount of GNF11.6 billion (USD1.13 million) to GNF14.0 billion (USD 1.54 million) as provided in Update of implementation of the Preliminary Action Plan prepared by Bank Management in August 2018. The latest figure of USD 1.54 million is different from the figure estimated in the ESMP, of USD 2.67 million³⁴. A reconciliation between these two figures should be made.

7.1.3 Conclusions

31. Based on the above findings, the following conclusions can be made:

- (i) The Bank Management and staff has taken several important actions to address the allegations made by the Requestors through the update of the ESIA and the ESMP as well as proposing additional mitigation measures in their response to the Complaint, in anticipation of the compliance review. These are significant steps in the right direction. However, there are still more actions that are required, such as:
 - The preparation of a road map for the Project
 - The revision of the budget for works and services to cater for the increased cost of implementing the ESMP and the FRAP by November 2018
 - Implementation of recommendations by the Bank's supervision missions
 - Strengthening of the monitoring and follow up actions and
 - The release of a document summarizing the revised actions taken by the Bank Management as pledged in the update on the Implementation of the Preliminary Action Plan (Annex 3).
- (ii) With reference to the assessment of the IRM Eligibility Report, and based on the ESIA analysis and the site visit by the Review Panel in June 2018, the retracing of the road away from the boundaries of the Mount Nimba creates a buffer zone that is a good mitigation measure which will limit the otherwise negative environmental impacts during the operation of the road. Moreover, additional resources were provided as part of the ESMP to protect the fauna and flora of the Mount Nimba Biosphere Reserve;
- (iii) The Review Panel confirmed however, what the IRM Eligibility Report indicated, that at the time of the Programme's approval for the three countries, the Board of Directors was not fully informed that the ESIA and the FRAP of the Guinea Road Section were incomplete;
- (iv) The Review Panel recognizes that the Bank Management has caused the revision of the ESIA, the ESMP and the consultation with the PAPs. In fact, the last version of ESIA (version 12) and the ESMP was subsequently published on the Bank's website on 5 December, 2018 and was shared with the Project's supervising engineer and the contractor; and
- (v) Furthermore, the commitment set forth in the Programme Appraisal Report in Section 5.2D (i) related to the implementation of the ESMP by the contractors was not yet acted upon. This is an indication that the Bank Management has not complied fully with the AfDB's Policy on the

³⁴Table 23 of the ESMP, p.109.

Environment (2004) and the Environmental and Social Assessment Procedures for AfDB's Public Sector Operations (2001).

7.1.4 Recommendations:

32. Based on the foregoing observations, the Review Panel recommends the following:

- (i) A non-technical executive summary of the ESIA of August 2018 should be prepared and disclosed on the websites of the Bank, and if possible, on the websites of the Ministry of Environment, Water and Forestry and the Ministry of Public Works;
- (ii) The Bank Management should request that this non-technical executive summary of the ESIA be prepared in a user friendly way so that the key stakeholders can easily follow, implement and monitor. The length of this summary should not exceed 50 to 60 pages covering the relevant aspects of the ESIA, (which is currently 626 pages) and ESMP of 26 pages;
- (iii) The Bank Management in collaboration with the Ministry of Public Works, the contractor and the BGEEE, should prepare an ESAP no later than two months after Board's approval of this Compliance Review Report highlighting the following: (i) The actions in the ESMP required to be implemented every six months; (ii) The responsibility of each of the entities with regard to the monitoring, follow up and control; and (iii) The revised project budget to pay for the additional resources set forth in the ESMP after reconciling the figures quoted in the ESMP and the ones quoted in the August 2018 Management Update on Implementation of the Preliminary Action Plan;
- (iv) The Ministry of Public Works should submit a progress report every six months on the status of implementation of the ESMP. In case of delays or deviations, the Bank should take the necessary actions described in the Loan Facilities Agreement to compel the Ministry of Public Works to comply; and
- (v) The Bank should conduct an independent environmental audit in June 2019 to ensure that the ecosystems and the environment in general are not harmed by the Project.

7.2 Compliance with the AfDB Involuntary Resettlement Policy (2003)

7.2.1 The Facts

33. The IRM Eligibility Report determined that the Project was not in compliance with the AfDB's Involuntary Resettlement Policy, as the resettlement process was not finalized prior to the commencement of work as required by the Policy. A draft FRAP was prepared by BNETD in December 2016 on the basis of a socio-economic study conducted in February 2014, when the width of the road was 40 meters. The socio-economic study indicated that a total of two hundred and fifty-six (256) heads of all categories of PAPs combined and one hundred and fifteen (115) buildings are affected by the Project. More specifically, seventeen (17) households comprising of 100 persons, Ninety-three (93) business managers, one (1) public equipment, Ninety-one (91) employees and fifty-six (56) non-resident building owners are involved. No agricultural land was impacted in the direct footprint of the Project, however, crop destruction may occur during the construction phase. The estimated budget for compensation and management was GNF 3.94 billion (USD 432,600).

34. Subsequent to the FRAP preparation, the Ministry of Public Works signed a contract with CHICO on 13 January 2017. The Project started on 25 October 2017 with an effective date of 6 November 2017 when the works started with the clearance of the right of way. It was only after four months that a Bank supervision mission found out in March 2018 that "some agricultural land has been cleared for the right

of way without the farmers receiving compensation”³⁵. As a result, the Bank Management reminded the Guinean Government that the Project was not in compliance with the Bank's rules and procedures and the financing agreement because no evidence of payment of compensation had been provided to the Bank to that date. The Ministry of Public Works informed CHICO in April 2018 of the necessity of stopping any works in the areas that were not expropriated or were subject to compensation. Furthermore, on 11 June 2018, the Bank Management notified the Guinean side of its intention to suspend disbursements to the Project so that corrective measures can be implemented as quickly as possible. However, such threat of suspension did not materialize as the contractor continued the earthwork before the farmers received any compensation though the lists of the people to be compensated were already published by the Ministry of Public Works in the municipalities.

35. The Bank Management has also drawn the attention of the Guinean side to the fact that the finalization of the resettlement plan is a prerequisite for the full release of the right-of-way. To speed up the process, the following recommendations were made by the Bank for updating and finalizing the FRAP:

- (i) Agreeing on and notifying the PAPs of the definite date for the determination of their eligibility;
- (ii) Displaying the list of PAPs in each locality in consultations with the local authorities and opening a notebook in each locality to receive observations, corrections and complaints;
- (iii) Setting up complaint management committees in each locality and at the Lola Prefecture; and
- (iv) Building an updated database of PAPs based on the information collected.

36. Version 12 of the ESIA dated August 2018, indicated that the number of PAPs were estimated at 1,001 (instead of 256 in the socio-economic survey of 2014). This was based on two socio-economic surveys conducted from 21 June to 6 July 2017, and from 3 to 23 April 2018, as well as after taking into consideration the modification of the retracing of the road and the reduction of the project footprint (from 40 m to 24 m). The 1001 PAPs eligible for compensation are composed of 426 physically displaced persons and 575 economically displaced persons. These PAPs collectively own 435 buildings (including public infrastructure), 115 fields totaling to 32.5 ha belonging to farmers, 328 plots and 613 businesses and services. The amount of compensation was estimated at GNF 23 017 103 221 (USD 2.53 million) compared to GNF 3.94 billion (USD 432,600) in the 2014 survey. These figures are different from the ones quoted in the update of implementation of the preliminary Action Plan of August 2018, which quoted GNF 20,511,852,006 (USD 2.255 million). Given the substantial increase in the budget for implementation of the ESMP and FRAP, the Government of Guinea will submit a proposal to the Bank by end of September 2018 for revising the budget of works and assets in order to fully finance these costs.

37. This update also indicated that from 6 to 9 July 2018, the Ministry of Public Works proceeded with the compensation of PAPs whose farms are affected. Of the 116 farmers concerned, 95 were compensated for a total amount of GNF 1.464 billion (USD 161,000). The remaining 21 people will be taken into account in the second phase of compensation for which negotiations were completed by the end of August 2018.³⁶ The updated FRAP indicated that the farmers who were affected by the road retracing were compensated in the first installment and that the Bank will facilitate the mobilization and disbursement of resources needed to compensate the remaining PAPs by the end of November 2018.

38. The ESIA stressed, that owners of 11 plantation, commercial and artisanal businesses identified in the project area will suffer the reduction or loss of their turnover and the direct income generated, as a result of the temporary relocation or even the definitive cessation of their activities.³⁷

³⁵ Implementation of the Preliminary Action Plan concerning the Complaint against the Multinational Road Development and Transport Facilitation Program within the Guinean Mano River Union,” p. 6

³⁶ Implementation of the Preliminary Action Plan, p.11)

³⁷ESIA, Version 12, p. 412.

7.2.2. Findings

39. During the field mission by the Review Panel from 17 to 23 June 2018, CHICO stated that the road earthwork was completed on 20 km out of the 39.7 km of the road and the remaining earthwork was awaiting the destruction of the houses on the right of way. The earthwork was ongoing despite the request by the Ministry of Public Works, upon insistence from the Bank's supervision mission, to stop further works until the farmers were compensated. This is an instance of non-compliance with the AfDB's Involuntary Resettlement Policy. Furthermore, the farmers subsequently received compensation based on the Guinean compensation scale. In the debriefing meeting that the Review Panel had with the Bank Management on 25 June 2018, it was understood that the compensation amount to be paid should not be considered as final until the Bank approves the FRAP and the adjustment will be made in case the farmers are not compensated in accordance with the Bank's Policy .

40. At the time of writing this report, *only 27% of compensation had been paid to the PAPs*. No information was provided concerning the exact amount to be paid to the remaining 906 PAPs nor was there a date set to make such payment. *Further delay in making this payment will increase the frustration of the PAPs, especially after they were briefed on the progress achieved at the town meeting they attended when the Review Panel was visiting*. Therefore, the potential threat of harm and social dispute is real if the remaining PAPs do not receive compensation in accordance with the Bank's Involuntary Resettlement Policy (2003). The reputation of the Bank will be at stake in case the Project continues to deviate further from the requirements of this Policy. *The involvement of the Bank Management should go further than facilitating the process of disbursement (as stated in the update of the preliminary Action Plan of August 2018), and should include monitoring the compensations to be paid to all the PAPs on the basis of a schedule published with implementation time-lines*.

7.2.3 Conclusions

41. Despite progress made by the Bank Management to persuade the Government of Guinea to comply with the Bank's Involuntary Resettlement Policy (2003), the Review Panel confirmed the findings of the IRM Eligibility Report that the Bank Management has not yet complied with this Policy.

7.2.4 Recommendations

42. The Review Panel recommends the following:

- (i) The FRAP should be fully disclosed if possible, on the websites of the Ministry of Environment, Water and Forestry and the Ministry of Public Work;
- (ii) The Project budget should be revised within three months following the Boards' approval of the findings and recommendations in this Report. This would ensure that the costs of the ESMP and the revised FRAP can be fully disbursed in accordance with a revised environment and social action plan (ESAP) as indicated in the August 2018 Update on implementation of the Preliminary Action Plan prepared by Management in August 2018;
- (iii) The Bank should initiate specific supervision of the compensation process. The Bank's supervision mission are normally scheduled every six months. However, given the urgency of the Borrower to fulfill the loan condition on compensation and the importance of this issue to the livelihoods of the PAPs, the social and environmental specialists of the Bank should exceptionally undertake missions every two months until the Bank is comfortable that all compensations have been paid to the PAPs in accordance with the AfDB Involuntary Resettlement Policy (2003), the Loan Agreement of November 2018, and the FRAP. These missions should start once the Boards approve the Compliance Review Report and should continue until the Bank is satisfied that PAPs' compensation outcomes are consistent with the FRAP; and

- (iv) The Bank should scale up on a priority basis, the compensation of those PAPs that will lose their houses and commercial facilities. If the contractor CHICO continues with works in the vicinity of these facilities or proceeds with the asphaltting of the road, the Bank should take the necessary action to implement its threat of loan suspension.

7.3 The Global Environment Facility

7.3.1 The facts

43. The Requestors ARU noted that the ESIA summary mentioned a Global Environment Facility (GEF) project that was not accessible on the GEF website and that this GEF program was supposed to support transboundary forest management, taking into account all potential implications of the Multinational Road Programme within the Mano River on the fauna and the flora.

44. In the Management Response to the Request, the Bank Management indicated that because GEF funding was approved more than 6 years without any implementation and due to capacity constraints, among other things, it was difficult to continue to work on the GEF component at the AfDB. As a result, the GEF Council authorized the AfDB, under the new October 2014 cancellation policy, to transfer GEF resources to the International Union for the Conservation of Nature (IUCN). The activities to be financed by the GEF relate to a regional transport program that will take place in Côte d'Ivoire, Guinea, Liberia and Sierra Leone.

45. The IRM Eligibility Report concluded that a complementary GEF program should have been provided to support the capacity building for the national and local authorities to re-enforce the environmental protection of the Mount Nimba areas.

7.3.2 The Findings

46. The IUCN representative in Conakry informed the Review Panel that the GEF project to be implemented by IUCN is no longer aimed at mitigating the transboundary impacts of the road project on Mount Nimba.³⁸ Instead, the ESIA of August 2018 outlines the ESMP budget of USD 266 000, which includes:

- (i) Support for RBMN planning and preservation activities and ecological monitoring of the project area in the amount of GNF 1 919 439 000 (USD 213 271); and
- (ii) Support to the CEGENS as part of the activities to mitigate the direct, indirect and cumulative effects of the Project in the amount of GNF 474 200 000 (USD 52,689).

7.3.3 Conclusions

47. The inclusion of resources to the RBMN and CEGENS would partially compensate for the GEF resources. The Action Plan to be prepared by the Bank in response to the IRM Compliance Review Report should include the institutional arrangements for such support.

7.3.4 Recommendations

48. The Review Panel recommends that:

The Bank Management should officially inform ARU that the Bank is no longer implementing the GEF project. Instead, the Bank has provided additional resources for the protection of the fauna and the flora of the Mount Nimba.

³⁸ ESIA, Version 12, p. 543, Table 112.

8. GENERAL CONCLUSIONS

49. Since the approval of the IRM Eligibility Report, the Bank Management has taken several actions that would remedy the issues that were raised by the Requestors in the Complaint. The Compliance Review Panel has determined that, if the mitigation measures proposed are implemented, the Project is unlikely to cause irreparable harm to the environment. In particular, the Project is not likely to damage the ecosystem as long as the revised ESMP is properly implemented and supervised by the Bank.

50. There is a high potential of serious social harm if compensation to the remaining 906 PAPs is not provided as soon as possible (i.e., within the next few months). The Project is becoming very visible to the PAPs with the completion of the earthwork for 50% of the road section. In addition, the Ministry of Public Works and the local authorities have already raised the expectations of the PAPs by announcing in public the promises to that compensation is on its way. If such promises do not materialize, the Bank risks to jeopardize its reputation for not only causing the non-compliance with its own Involuntary Resettlement Policy (2003) but also for contributing to the loss of income and living standards of the PAPs who already represent the poorer segment of the Guinean rural society.

9. RECOMMENDATIONS

51. According to Paragraph 59 b (iii a-c) of the IRM Rules, a compliance review report should lay out three sets of policy recommendations:

- (i) How to bring the project into compliance if the Review Panel finds instances of non-compliance with AfDB policies and procedures;
- (ii) Any remedial changes to systems or procedures within the AfDB to avoid a recurrence of such or similar violations; and
- (iii) Any steps to be taken to monitor the implementation of the remedial actions to bring the project back into compliance.

9.1 Recommendations to bring the Guinea Road Section Project into compliance with the AfDB policies and procedures and to remedy material adverse impacts

52. With regard to recommendations on how to bring the Project into compliance with the relevant AfDB policies and procedures and to remedy adverse material impacts, it should be noted that the recommendations presented below will be further detailed through an Action Plan to be prepared by the Bank Management.³⁹ Such an Action Plan will be submitted by the Bank Management to the Boards of Directors, the BCRM, and the Requestors within 90 business days after the submission of the IRM Compliance Review Report to the President and the Board of Directors of the Bank. Thereafter, the IRM Report, the Management Response, and the Action Plan will be jointly presented to the Board of Directors for discussion and consideration in the same session.⁴⁰

9.1.1 Compliance with the Environmental and Social Assessment Procedures for African Development Bank's Public Sector Operations (2001) and the AfDB Policy on the Environment (2004)

53. The Bank Management should:

- (i) Coordinate the preparation of a non-technical executive summary of the ESIA of August 2018, which should be disclosed on the websites of the Bank, and if possible, on the websites of the Ministry of the Environment, Water and Forestry and the Ministry of Public Works;

³⁹ See IRM Rules, para. 64 (a).

⁴⁰ See IRM Rules, para. 64 (b).

- (ii) Request that this non-technical executive summary of the ESIA be prepared in a user friendly way so that key stakeholders can easily follow, implement and monitor the ESMP. The length of this summary should not exceed 50 to 60 pages and should cover all relevant aspects of the ESIA, which is currently 626 pages and the ESMP of 26 pages;
- (iii) In collaboration with the Ministry of Public Works, the contractor and the BGEEE, prepare an ESAP no later than two months after Boards' approval of this Compliance Review Report highlighting the following: (i) The actions in the ESMP required to be implemented every six months; (ii) The responsibility of each of the entities with regard to the monitoring, follow up and control; and (iii) The revised project budget to pay for the additional resources set forth in the ESMP after reconciling the figures quoted in the ESMP and the ones quoted in the August 2018 Update on Implementation of the Preliminary Action Plan;
- (iv) The Bank should conduct an independent environmental audit in June 2019 to ensure that the ecosystems and the environment in general are not harmed by the Project; and
- (v) In addition, the Ministry of Public Works should submit a progress report every six months on the status of implementation of the ESMP. In case of delays or deviations, the Bank should take the necessary actions described in the Loan Facilities Agreement to compel the Ministry of Public Works to comply.

9.1.2 Compliance with AfDB Involuntary Resettlement Policy (2003)

54. The Review Panel recommends the following:

- (i) The FRAP should be fully disclosed if possible, on the websites of the Ministry of Environment, Water and Forestry and the Ministry of Public Work;
- (ii) The Project budget should be revised within three months following the Boards' approval of the findings and recommendations in this Report. This would ensure that the costs of the ESMP and the revised FRAP can be fully disbursed in accordance with a revised environment and social action plan (ESAP) as indicated in the August 2018 Update on Implementation of the Preliminary Action Plan prepared by Management in August 2018;
- (iii) The Bank should initiate specific supervision of the compensation process. The Bank's supervision mission are normally scheduled every six months. However, given the urgency of the Borrower to fulfill the loan condition on compensation and the importance of this issue to the livelihoods of the PAPs, the social and environmental specialists of the Bank should exceptionally undertake missions every two months until the Bank is comfortable that all compensations have been paid to the PAPs in accordance with the AfDB Involuntary Resettlement Policy (2003), the Loan Agreement of November 2018, and the FRAP. These missions should start once the Boards approve the Compliance Review Report and should continue until the Bank is satisfied that PAPs' compensation outcomes are consistent with the FRAP; and
- (iv) The Bank should scale up, on a priority basis, the compensation of those PAPs that will lose their houses and commercial facilities. If the contractor CHICO continues with works in the vicinity of these facilities or proceeds with the asphaltting of the road, the Bank should take the necessary action to implement its threat of loan suspension.

9.2 Recommendations on changes in the Bank's systems to avoid a recurrence of violations

55. The Review Panel is cognizant of the fact that the outbreak of the Ebola epidemic in Guinea during preparation of this Project, particularly in Lola where the Project is largely situated may have contributed to the non-compliance status of the Project as indicated in the findings of this Report.

56. The Review Panel therefore recommends the following:

- (i) The Bank should scale up its technical assistance to the Borrower to encourage compliance with the applicable AfDB policies and Procedures; and
- (ii) The Bank should follow up closely to ensure timely compensation of the remaining PAPs by the Borrower.

9.3. The Review Panel recommends to the Boards of Directors the following:

- (i) To approve the findings and recommendations contained in this Compliance Review Report; and
- (ii) To authorize the IRM to conduct annual monitoring of implementation of the Action Plan to be prepared by Management and approved by the Boards, which is meant to bring the Project into compliance with the applicable Bank Group policies and procedures. These policies are namely; the Environmental and Social Assessment Review Procedures for African Development Bank's Public Sector Operations (2001), the AfDB Policy on the Environment (2004) and the AfDB Involuntary Resettlement Policy (2003).

ANNEX 1: NOTICE OF REGISTRATION OF THE REQUEST INCLUDING THE REQUEST ITSELF

Date: 28 November 2016

Notice of Registration

Request No.:RQ2016/3

Country: Guinea

MULTINATIONAL - ROAD DEVELOPMENT AND TRANSPORT FACILITATION PROGRAMME WITHIN THE MANO RIVER UNION (GUINEA SECTION)

1. On 15 September 2016, the Compliance Review and Mediation Unit (CRMU) received a Complaint/Request relating to the Multinational - Road Development and Transport Facilitation Programme within the Mano River Union (the Project). The Request specifically relates to the part of Guinean section of the Road.
2. The Request (included in Annex 1 of this Notice of Registration) was submitted by two nationals of Guinea who work with the Agroforestry Resources Unlimited (ARU) organization focusing on environment and governance. The Requestors claimed to be affected by the project.
3. The Requestors have made several allegations that could be summarized as follows:
 - a. The Project will cause irreparable harm on the people and the environment. For instances, it will damage the ecosystem services that are the source of livelihoods.
 - b. The Project violates both national and international laws. The roadworks and clearance are to occur inside the boundary of the Nimba Mountains Strict Nature Reserve, a World Heritage Site (WHS) and a core area of the Nimba Mountains Biosphere Reserve (NMBR), in violation with national laws and the Convention for the Protection of Cultural and Natural World Heritage to which Guinea is a party.
 - c. The Environmental and Social Impact Assessments of the Project issued in February 2013 (ESIA) is inadequate because no consideration was given to the protection status of the Nimba Mountains.
 - d. The public consultation was not conducted as required by the Guinean laws.
 - e. The ESIA does not cover all the potential negative impacts and hence, the potential mitigation measures are inadequate.
 - f. The ESIA mentions a Global Environment Facility (GEF) project that is not accessible on the GEF's website.
 - g. The project violates the Integrated Safeguards System of the Bank of December 2013, most notably, Operational Safeguards 1 and 3 on 'Environmental and Social Assessment' and 'Biodiversity, Renewable Resources and Ecosystem Services'.

4. The Requestors claimed to have written a letter raising the same concerns to the Bank in June 2016, but they did not receive any response from Bank Management.
5. The Project covers Côte d'Ivoire, Guinea and Liberia. It was approved by the Boards of Directors on 18 December, 2014. Its overall objective is to support economic recovery in the post-conflict region of the Mano River Union by improving its road infrastructure and promoting intra-community trade. Specifically, the project seeks to improve transport conditions and reduce transport costs, facilitate the free movement of persons and goods between the three countries and improve the living conditions of communities living in the project area.⁴¹
6. The approved loan to Guinea was in the amount of \$11,774,000 to pave the 39.75km dirt road from Lola City to the border of Cote d'Ivoire at Gouéla Pos. Roadworks are expected to be completed over 20 months and is to start at the end of the rainy season in 2016, approximately in October.
7. According to the summary of the Environment and Social Impact Assessment (ESIA) distributed to the Boards on 2 September 2014, several national ministries will be responsible for implementation of the project's Environmental and Social Management Plan (ESMP). The Bank applicable safeguards to the project include but not limited to : (i) the Environment Policy (2004); (ii) the Bank's Policy on Involuntary Resettlement (2003); (iii) the Bank's Gender Policy (2001); (iv) the Engagement Framework with Civil Society (2012); (v) the Policy on Disclosure and Access to Information (2012); (vi) the Bank's Policy on Integrated Water Resources Management (2000); (vii) the Bank's Poverty Reduction Policy (2001); and the Bank's Environmental and Social Assessment Procedures for Public Sector Operations (2001).⁴²
8. The project is classified as Category 1 due to its significant potential negative impacts on both the environment and people during construction and operations including⁴³: air and chemical pollution of soil and water; dangers to Wildlife and Flora. Its negative impacts linked to the resettlement of two hundred (200) people for right-of-way clearance include: (i) partial or total loss of one hundred twenty one (121) houses; (ii) disturbance of one hundred eighty four (184) commercial activities; (iii) loss of a public facility and; (iv) damage to crops during the construction works, (v) disruption of movement of the local inhabitants during construction phase. Moreover, the project will expose the workers and locals to epidemics such as HIV/AIDS, EBOLA, malaria and respiratory diseases. In addition, the temporary presence of foreign workers could trigger cultural conflicts with the local communities. Furthermore, construction will encroach on sacred and cultural sites. The ESIA included a set of mitigation measures to contain these negative impacts.⁴⁴ The measures intend to protect water resources and soils, air quality, wildlife and flora as well as sacred and/or cultural sites of importance to the people. Specific measures must be put in place for the proper monitoring of the resettlement action plan and the functioning of grievance redress mechanisms.

⁴¹ The Project Appraisal Report, page 3.

⁴² ESIA Summary GUINEA-Road Development and Transport Facilitation Programme within the Mano River, Distributed to the Boards on 2 September 2014, page 4.

⁴³ Ibid., pages 7-9.

⁴⁴ ESIA Summary, pages 10-14.

9. After conducting a preliminary assessment of this Request, I have concluded that the Request falls within the mandate of the IRM and meets the requirements of paragraph 7 of the Operating Rules and Procedures of the Independent Review Mechanism (IRM). I have also noted the allegations by the Requestors that “the project does not comply with the Bank's operational safeguards, and if implemented as planned, will result in significant and irreparable environmental and related social damage”.
10. In keeping with Paragraphs 23 of the IRM Rules and Procedures, I have registered on **25 November, 2016** the Request relating to the Multinational - Road Development and Transport Facilitation Programme within the Mano River Union (Guinea section) in the IRM Register of Request. This Notice of Registration has been sent to the Requestors, the Boards of Directors and the President of the Bank Group. The Register of Request is accessible on the Bank website: www.afdb.org/irm.
11. In line with Paragraph 36 of the IRM Rules, the Management must submit to CRMU its Response to the Request or evidence indicating how the Bank has complied, or intends to comply with the Bank's safeguard policies and procedures applicable to this project within twenty one (21) working days from the receipt of this Notice of Registration, which shall be **by no later than 27 December, 2016**. In considering the Requestors' preference as stipulated in Paragraph 22 of the IRM Rules, I will determine the best course of action on whether or not the Request is to be handled through compliance review.
12. For any future correspondences relating to this complaint, the Requestors, the Bank's Management or any other interested parties shall refer to the request number **RQ2016/3** as posted on the IRM Register of Requests.
13. The Requestors have been notified that all communications in connection with the Request will be sent to the mailing address indicated in the Request letter unless they provide a different contact information to CRMU.

Sekou Toure
Director
Compliance Review and Mediation Unit

Cc:

1. The Requestors
2. The President, African Development Bank Group
3. The Boards of Directors, African Development Bank Group



AGROFORESTRY RESOURCES UNLIMITED

(ARU)

Biodiversité - Productivité - Innovation - Coopération

République de Guinée

Etats-Unis d'Amérique

Compliance Review and Mediation Unit

African Development Bank Group

01 P.O. Box 1387

15-September-2016

Ref: Complaint about the project *Road Development and Transport Facilitation Programme within the Mano River Union*- Guinean portion

Dear Sir/Madam,

We, the undersigned environmental organisation, duly registered and operating in the Republic of Guinea, herewith respectfully submit a formal complaint to the Compliance Review and Mediation Unit (CRMU) of the African Development Bank (AfDB).

As Guinean organisations, staffed by Guinean nationals working on environmental management and governance in our nation, and seeking to improve the lives of all its citizens, we deeply appreciate the assistance that the AfDB provides to countries across the continent to improve the lives of its peoples. We are staunch supporters of sustainable development and progress.

However, we believe that the Guinean portion of the project entitled '*Road Development and Transport Facilitation Programme within the Mano River Union*' does not comply with the Bank's operational safeguards, and if implemented as planned, will result in significant and irreparable environmental and related social damage. The project will furthermore be illegal under Guinean and certain international law. As an organisation whose mission and operations are to promote sustainable development, sound environmental management and governance, and that has been involved over the years at the Guinean Nimba Mountains, our work would be greatly compromised and the lives of the communities along portions of the road would likely be negatively impacted through damage to the ecosystem services on which they depend.

In late June 2016, FFI contacted the AfDB with its concerns, namely Ms Sheila Khama, Head of Sustainability, and Mr. Justin Ecaat, Head of ESS, but neither responded. FFI's concerns are all covered in the attached complaint, as well as additional ones of ARU. Pippa Howard of FFI (Pippa.Howard@fauna-flora.org) can provide the communications if requested.



AGROFORESTRY RESOURCES UNLIMITED

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Etats-Unis d'Amérique

The project is scheduled to begin implementation in the fourth quarter of this year, which means that this

complaint needs to be addressed as a matter of urgency if the project is to be executed in compliance with the Bank's policies and standards, and with Guinean law.

We look forward to hearing from you at your earliest convenience.

Yours Sincerely,

Pokpa NORAMOU

Director of Operations for
Natural Resources Management

Abdoul Karim DIALLO

Administrator
Agroforestry Resources Unlimited

Cc: B.Kargougou@afdb.org, B.Fall@afdb.org, S.Toure@afdb.org

COMPLAINT ABOUT THE PROJECT ‘ROAD DEVELOPMENT AND TRANSPORT FACILITATION PROGRAMME WITHIN THE MANO RIVER UNION’ – GUINEAN PORTION

Submitted by Agroforestry Resources Unlimited
15 September, 2016

Summary

On December 18, 2014, the Board of Directors of the African Development Bank (AfDB) Group approved loans to Côte d’Ivoire, Guinea and Liberia, intended to finance a programme for road development and the facilitation of transport within the Mano River Union. Based on information contained in the *Summary*

Environmental and Social Impact Assessment (ESIA), the project, for which a loan to Guinea worth \$11,774,000 is getting underway, is in major violation of the AfDB’s Integrated Safeguards Systems of December 2013, and in particular Operational Safeguards 1 and 3 on ‘Environmental and social assessment’ and ‘Biodiversity, renewable resources and ecosystem services’. These deficiencies are likely to lead to irreparable loss of biodiversity, ecosystem services and damage to the Mount Nimba World Heritage Site and Nimba Mountains Biosphere Reserve, because the current alignment of the project encroaches into these protected areas. This will have a deleterious effect not only on the environment but also on local livelihoods which are heavily dependent on the ecosystem services and cultural values of the strictly protected area that will be impacted.

Analysis of the Summary ESIA reveals that parts of the project, as proposed, are in violation of Guinean law, too, and international convention law to which Guinea is party.

As a Guinean NGO that advocates for environmental protection and the rights and welfare of rural communities living in proximity to Guinea’s rich forests, rivers and savannahs, we seek that the African Development Bank respect its operational safeguards and abide by Guinean law by conducting an informed, legally compliant and transparent environmental and social impact assessment for this project before work begins on the ground.

Introduction

On December 18, 2014, the Board of Directors of the African Development Bank (AfDB) Group approved loans to Côte d’Ivoire, Guinea and Liberia taken from the resources of the Transition Support Facility (TSF) and the African Development Fund (ADF). These loans are intended to finance a programme for road development and the facilitation of transport within the Mano River Union.

In Guinea, a loan to Guinea worth \$11,774,000 was approved by the Board of the AfDB. It will be used to “develop and asphalt” the dirt road from Lola City to the border at Gouéla Post for a length of 39.75km, following the existing alignment of the N2 highway. It will be a two-lane road – one in each direction – capable of accommodating heavy trucks, with asphalt 7.4 metres in width. However, the clearing and embankment will be 13m wide, and the right-of-way for disturbance and other uses related to the road is 20m. Roadworks are scheduled to be completed over 20 months and are to start at the end of the rainy season in 2016, which is approximately in October.

A *Summary Environmental and Social Impact Assessment* (ESIA), dated 12 August 2014, is available on the AfDB's website, as well as an international tender announcement for asphaltting of the road from Lola City to the Ivoirian border at Gouéla Poste, from March 2015. The project is described in other documents of the AfDB, such as the *Combined Mid-Term Review and Regional Portfolio Performance Review of the Regional Integration Strategy Paper for West Africa 2011-15*, and press releases like *AfDB approves loans to improve transport and roads in Mano River countries* of 18 December 2014.

Complaint and Remedial Actions Sought

Based on a review of the Summary ESIA and other documents listed above, our knowledge of Guinea's laws and regulations concerning ESIA, discussions with stakeholders including members of the Ministry of Environment, Water and Forests, and our combined knowledge of the area, we will demonstrate the following deficiencies and problems with the project:

1. The Summary ESIA was prepared by people with little to no understanding of the area and is egregiously deficient in terms of baseline characterization, assessment of potential impacts and mitigation measures.
2. Although the Summary ESIA does not mention it, the existing alignment of the N2 runs for 7km within meters of the border of the Nimba Mountains Strict Nature Reserve, which is also a World Heritage Site (WHS) and a core area of the Nimba Mountains Biosphere Reserve (NMBR). The specifications in the international tender announcement indicate that roadworks and clearance would occur inside the boundary of these strictly protected areas, which is in violation of Guinean law and of the Convention for the Protection of Cultural and Natural World Heritage, of which Guinea is a party.
3. The ESIA on which the Summary ESIA was based was not done in accordance with Guinean law or regulations. The process codified in Guinea's General Guidelines for Conducting Environmental and Social Impact Assessments of February 2013 was not followed, nor did proper public consultations occur as required by Guinean law.
4. The Summary ESIA indicates the project is in stark violation of the AfDB's Integrated Safeguards Systems of December 2013, and in particular Operational Safeguards 1 and 3 on 'Environmental and social assessment' and 'Biodiversity, renewable resources and ecosystem services'.

In response, we seek that:

- A- No work on the ground begins on this project until an environmental and social impact assessment is completed by a qualified, independent professional and the Ministry responsible for Environment issues the consequent certificate of environmental compliance. The ESIA must meet all applicable Guinean standards and procedures, including as regards transparent, inclusive public consultations, as well as be compliant with the AfDB's Operational Safeguards.
- B- The resulting mitigation measures identified by the ESIA must be made conditions of the loan's disbursement and the contractor's (and its sub-contractors') obligations when executing the works.
- C- The Guinean State Party must inform the World Heritage Centre, in accordance with international law, of the project and seek its technical opinion before proceeding with works.

As stakeholders in the process, we will review the ESIA and any revised plans against Guinean law, regulations and standards, and against the AfDB's Operational Safeguards, and report our findings publicly.

Deficiencies

(1) and (2) Inadequate impact assessment and no consideration of the protection statuses of the Nimba Mountains.

While the Summary ESIA might suffice as an initial scoping document that serves as the basis for planning the preparation of a full ESIA, it is insufficient as an ESIA from many perspectives. The Summary ESIA does not consider to any substantive extent that part of the project is planned to occur directly adjacent to the Nimba Mountains Strict Nature Reserve, which is also a World Heritage Site, and most of the project is planned in the Nimba Mountains Biosphere Reserve. These areas were classified because of their extraordinary biological diversity, about which there exists a rich and publicly available literature dating back to the 1950s, much of which has been updated and new discoveries made in recent years by studies led by local mining companies undertaking ESIA's. However, the project's Summary ESIA does not mention any of this, but instead refers to studies done in 1991-94 in the Ziam and Diécké *Forêts Classées*. These studies are both out-of-date and at best only partially relevant to the Nimba Mountains, whose biodiversity is known to exceed that of the *forêts classées*. Baseline characterization in the Summary ESIA does not mention a single species by name.

The Summary ESIA's baseline characterization does not include substantive information on hydrology or hydrogeology, and the rivers that could be impacted and need protection. It does not contain precise information on climate or air quality, but mentions only broad ranges. It contains no information on the ecosystem services provided by reserves or forests outside them, however local villages are heavily dependent on streams for their water, and on plants and animals that live in the forests surrounding the strictly protected area. The Nimba Strict Nature Reserve and WHS are of very high cultural significance, containing numerous sacred sites and sites of cultural heritage, although this was never mentioned.

While the only document available is a Summary ESIA, the full ESIA on which the summary is based does not appear to be well informed either, if it exists.

With inadequate baseline characterisation, consequently the assessment of impacts is entirely deficient. Threats include habitat fragmentation, impacts to threatened species, spontaneous settlement, alien invasive species, impacts to the WHS's outstanding universal value, among others, are not mentioned. Certain potential impacts are correctly identified, like influx and increased illegal incursions, but left essentially unaddressed. There is no assessment of the pre-existing threats to the area's environment, or its current trends and dynamics. There is no assessment of the institutional framework for managing the NMBR. For example, the NMBR's management authority, the Centre de Gestion de l'Environnement des Monts Nimba et Simandou (CEGENS), has no operating budget so the document's assertion in section 5.2 is illogical that upgrading the road will permit better access by the management authority to control law-breakers. CEGENS already has adequate access but no means of transport. Experience from the road between Zougépo and Séringbara, built illegally through the WHS by the UNDP in around 2008, already shows that a road intended for improving law enforcement serves mainly to permit illegal incursions.

As currently planned, the Summary ESIA falsely states that “specific impacts on the Nimba reserve... are indirect as the road does not directly affect the said reserve” (section 5.1.2). The project description states it will clear up to 20m either side of the road, and the road passes directly adjacent (<2m) from the world heritage site’s boundary, in violation of Guinean and international law.

Given that the assessment of impacts is faulty, the mitigation measures identified are completely inadequate. In a situation working directly adjacent to, and possibly within, a natural WHS, it is highly risky and generally unacceptable for a road contractor to be tasked with managing impacts to hundreds of threatened species, controlling alien invasive species in a highly sensitive zone, managing population influx, controlling illegal incursions in a protected area (for agriculture, forestry, non-timber forest products, hunting, etc.), in addition to standard impacts like managing dust, noise and run-off. Yet this is the Summary ESIA’s main answer to the environmental risks posed by the project (see first dot-point in section 5.4).

As an organisation that has worked on conservation in Guinea, we attest that the realities of implementing ‘wildlife and flora measures’ at Nimba as proposed, however good-intentioned, are extremely tricky and require specialized, long-term support. There is mention of a project for “integrated management of transboundary forests” funded by the GEF, but no such project exists either on the GEF’s website or from discussion with the NMBR’s management authority. A project funded by UNDP and GEF closed in mid2014, having achieved almost none of its objectives, and no further GEF funding is planned within the foreseeable future. CEGENS is practically unfunded and unable to maintain an active presence on the ground.

It is standard practice in impact assessment to consider different alternatives, including the no-project option. The Summary ESIA does not consider a no-project option, and alternatives were summarily dismissed with the statement “Since the project involves the rehabilitation of an existing road, the possible variants are quite limited. In most cases, the road will as much as possible follow the existing alignment.” At best, this ‘conclusion’ is uninformed and misleading. The project involves **upgrading**, not rehabilitating, the existing road. An informed ESIA would have revealed a ~7km stretch from east of the village of Gouamo to the town of N’Zoo where upgrading the road would be very risky environmentally and illegal. An alternative alignment should be considered for this stretch, for example.

In conclusion, regarding the lack of any consideration of the environmental sensitivity of the area and its protection statuses and, consequently, the ESIA’s inadequate assessment of impacts, ***we demand that before any works begin on the ground:***

- ***The ESIA be revised to reflect the constraints imposed by the legal statuses of the areas where the road upgrades are planned.***
- ***The ESIA be revised to include detailed and updated baseline characterization, which can be done mainly with existing information.***
- ***With a proper baseline, impacts are then assessed fully.***
- ***Mitigation measures and the means for their implementation (finances, personnel with the right skill set) are then upgraded to the level required for such a sensitive location.***
- ***An objective assessment of alternatives, including the no-project option, be conducted before the project moves forward.***

(3) An ESIA was not completed according to the requirements of Guinean law and regulations.

The Summary ESIA claims that an ESIA had been prepared in accordance with the policies in force in Guinea, however this does not appear to be true. The Director of the *Bureau Guinéen des Etudes et Evaluations Environnementales* (BGEEE), the agency in the Ministry responsible for Environment mandated to oversee ESIAs, stated informally to a partner of ARU in June 2016 that no ESIA had been formally initiated for this project under Guinean law, although it should be. The Director of CEGENS said to this same partner in June 2016 that he understood a scoping process had been done, but an ESIA had not yet been realized.

The list of laws in section 2.1 of the Summary ESIA contains outdated texts, like Decree 199/PGR SOC/89 governing impact assessments, but omits key new texts like Decree A/2013/474/MEEF/CAB adopting a general guide for environmental assessment, and Decree D/2010/185/PRG/SGG updating the acts of classification and management of the areas of the Nimba Mountains Biosphere Reserve. The former of these texts outlines a process whereby an ESIA is formally initiated and a scoping process occurs. After a review of the scoping report, if the project is deemed to potentially have significant impacts, the project proponent proposes terms of reference for the impact assessment which BGEEE reviews and the Minister approves. Then the study is executed, at the end of which there is a public inquiry and, if successful, the Ministry issues a certificate of environmental compliance. Public consultations accompany this process from start to finish, and must be done to a minimum standard whereby any member of the affected public can find information on the project and attend consultations. This process was not followed for the present project, and therefore the project is not permitted and cannot legally begin.

The consultations that occurred appear to have targeted only limited stakeholders in Lola City (on 24 February 2014) as well as consultations related to compensation for losses with villagers along the right-of-way. NGOs operating in the area, mining companies and many other local stakeholders were never informed of the project or of any consultations, although they will be directly impacted. For example, the project directly overlaps West Africa Exploration's mining permit and infrastructure plans, but it has not been able to comment publicly. The communication plan mentioned in section 9 of the Summary ESIA does not appear to have been executed, nor has the public consultation described in section 4.1 of the framework resettlement action plan. The consultations for this project seem to have occurred in the run-up to and during the Ebola virus disease crisis, which was not an appropriate time to conduct such exercises.

In conclusion, regarding how the ESIA appears not to have been conducted in accordance with Guinean laws and regulations, ***we demand that before any works begin on the ground:***

- ***An ESIA should be conducted that adheres to current Guinean legal requirements, including the two legal texts mentioned above, by a qualified, independent professional environmental consultant.***
- ***Consultations in accordance with Guinean legal requirements and the Summary ESIA's commitments need to occur and the results adequately reflected in the project's design.***

(4) The Summary ESIA indicates that the project is in violation of the AfDB's Integrated Safeguards System. The AfDB's Integrated Safeguards Systems (December 2013) states:

The Bank is committed to ensuring that its public and private sector operations comply with the Operational Safeguards (OSs) by assessing environmental, climate change and social risks and impacts as early as possible in the project cycle, and providing effective audit, monitoring and supervision of agreed environmental and social management measures during implementation. If the Bank finds that the environmental or social impacts of any of its investments are not likely to be adequately addressed, the Bank may choose not to proceed with the investment. (p.16)

The objectives of **Operational Safeguard 1** on ‘Environmental and social assessment’ include, among others:

- i. Identify and assess the environmental and social impacts and risks — including those related to gender, climate change and vulnerability — of Bank lending and grant-financed operations in their areas of influence;
- ii. Avoid or, if avoidance is not possible, minimise, mitigate and compensate for adverse impacts on the environment and on affected communities;
- iii. Provide for stakeholders’ participation during the consultation process so that affected communities and stakeholders have timely access to information in suitable forms about Bank operations, and are consulted meaningfully about issues that may affect them;
- iv. Ensure the effective management of environmental and social risks in projects during and after implementation; and
- v. Contribute to strengthening regional member country (RMC) systems for environmental and social risk management by assessing and building their capacity to meet AfDB requirements set out in the Integrated Safeguards System (ISS).

As has been outlined above, the Summary ESIA falls well short of (i) identifying and assessing the environmental and social impacts and risks of the project in question. Neither does it implement the mitigation hierarchy effectively (ii), but simply dismisses avoidance measures by saying that alternatives are “quite limited” and will not be considered.

The consultations that occurred fell well short of meeting standard good practice in impact assessment, and Guinean requirements, and there is no local grievance mechanism available to our knowledge in Guinea. Thus the project is in violation of (iii) providing for stakeholder’s participation so that affected communities and stakeholders have timely access to information in suitable forms and are consulted meaningfully about issues that may affect them.

In light of the inadequacy of the ESIA, the project’s provisions to manage its environmental and social risks are entirely deficient with regard to objective (iv). With regard to objective (v), the project appears to contain no measures to strengthen CEGENS’ or any other agency’s capacity to manage the increased risks associated with this project, but refers to a non-existent GEF-funded project and to an environmental manager from the contractor.

Because the AfDB has categorised this as ‘Category 1 – Bank operations likely to cause significant environmental and social impacts’, we do not accept that the project may proceed with what appears a deficient (if not absent), full ESIA.

Operational safeguard 3 on ‘Biodiversity, renewable resources and ecosystem services’ refers to upholding the World Heritage Convention, but the Bank is funding a project that is planned to have both direct and indirect impacts on a world heritage site, although the Summary ESIA fails to recognise this.

Article 172 of the Operational Guidelines of 2013 of the World Heritage Convention seeks that State Parties to the Convention:

...inform the [World Heritage] Committee, through the Secretariat, of their intention to undertake or to authorize in an area protected under the Convention major restorations or new constructions which may affect the Outstanding Universal Value of the property. Notice should be given as soon as possible (for instance, before drafting basic documents for specific projects) and before making any decisions that would be difficult to reverse, so that the Committee may assist in seeking appropriate solutions to ensure that the Outstanding Universal Value of the property is fully preserved.

The World Heritage Secretariat and Committee were not informed of this project until it was brought to their attention in June of this year, although they should have been as long ago as 2014.

Operational safeguard 3 is supposed to apply to operations “in areas providing ecosystem services upon which potentially affected stakeholders are dependent for survival, sustenance, livelihood or primary income”, however the Summary ESIA provides no indication that any of these have been assessed, or that there will be any material impacts to them, or that any avoidance or mitigation measures are required.

The project has a high likelihood of impacting local ecosystem services, fragmenting natural habitat and connectivity (between the Nimba Mountains and the Déré Forest for example), promoting alien invasive species like *Chromolaena odorata* (which is locally widespread outside the strictly protected zone) inside the strict nature reserve/WHS, promoting increase illegal incursions into the WHS for hunting, logging and collection of plants and animals, but no assessment of the threats – existing or with the project – was done and no credible measures are proposed to counter these threats.

Based upon the literature in the public domain, as well as the studies conducted recently by mining companies and other researchers that have not yet been published, the portions of the road near the boundary of the WHS easily meet the safeguard’s criteria for critical habitat because of the presence of species that are critically endangered, endemic and/or range-restricted species and sub-species, for example the critically endangered Lamotte’s round-leaf bat (*Hipposideros lamottei*), the Nimba otter shrew (*Micropotamogale lamottei*) and the endangered fish *Barbus huquenyi*. As a biological refuge during past glaciation period, the Nimba Mountains contain regionally significant, threatened and unique ecosystems including in the lowlands along where the N2 passes. The Nimba World Heritage Site is classified as world heritage under criteria (ix) for exceptional biodiversity and (x) for its on-going, key evolutionary processes, which the safeguard explains triggers critical habitat requirements.

The Summary ESIA gives no indication that the Bank’s critical habitat requirements are triggered – which we insist are triggered, nor that the mitigation hierarchy has been followed, nor that “either net benefit or no net loss of biodiversity” will be achieved. These have not even been considered.

None of the six conditions on page 41 of the Integrated Safeguards System for the Bank to agree to finance a project in critical habitat are met. None of the five requirements for assessment and/or planning by the borrower/client with respect to critical habitat on pages 41-42 of the same publication are met either.

No review of important ecosystem services and potential impacts on them was conducted, as required by the safeguard.

In summary, in light of the significant list of violations of the project with the Bank's operational safeguards, which is not exhaustive here, we insist that a full ESIA of the scale and detail appropriate for a Category 1 project, and in full compliance with the Bank's safeguards, be completed prior to works starting on this project.

Agroforestry Resources Unlimited, founded in 2013, registration number 2537, is a Guinean environmental organisation that emerged out of the *Programme pour la Gouvernance Environnementale en Guinée*. Its objectives are to promote sound natural resources management, Better Management Practices (BMPs) for sound forestry, agriculture, and watershed management, as well as the application of local, national, and international environment-related laws. Its activities have included a climate change adaptation program with support from the Global Environment Facility, the Forum on Environmental Governance, and the establishment and operation of the Agroforestry Demonstration Farm. ARU is actively concerned with good environmental governance and the proper application of Guinean environmental laws at all times, by all organisations operating in the country. It seeks to build a constituency and advocates.

ANNEX 2: MANAGEMENT RESPONSE TO THE REQUEST

AFRICAN DEVELOPMENT BANK GROUP



**MANAGEMENT RESPONSE TO THE REQUEST AGAINST
THE MULTINATIONAL ROAD DEVELOPMENT AND TRANSPORT
FACILITATION PROGRAMME WITHIN THE MANO RIVER UNION -
GUINEA SECTION**

9 January 2017

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ACRONYMS AND ABBREVIATIONS

AGEROUTE	Road Management Agency
BNETD	National Office for Technical Studies and Development
CEGENS	Mount Nimba/Simandou Environmental Management Centre
CRMU	Compliance Review and Mediation Unit
DNI	National Infrastructure Directorate
ESAP	Environmental and Social Action Plan
ESAP	Environmental and Social Assessment Procedures
ESIA	Environmental and Social Impact Assessment
GEF	Global Environment Facility
IRM	Independent Review Mechanism
ISS	Integrated Safeguards System
IUCN	International Union for Conservation of Nature
KP	Kilometric Point
MIE	Ministry of Economic Infrastructure
MRU	Mano River Union
NGO	Non-Governmental Organisation
RAP	Resettlement Action Plan

I. INTRODUCTION

1.1. This memo was prepared in response to the notice of registration for Request No. RQ2016 / 3 of the Compliance Review and Mediation Unit (CRMU) dated 28 November 2016 (the request). The application was submitted to CRMU on 15 September 2016 by two Guinean nationals - Mr Pokpa Noramou, Director of Operations and Mr Abdoul Karim Diallo, an administrator with the non-governmental organisation (NGO) Agroforestry Resources Unlimited, involved in environment and governance areas.

1.2. The applicants claimed that they were affected by the project (point 2 of the notice of registration). In accordance with paragraph 23 of the Rules of the Independent Review Mechanism (IRM), *CRMU filed the complaint against the multinational Road Development and Transport Facilitation Programme within the Mano River Union - Guinea Section* (point 10 of the Request). *In accordance with paragraph 36 of IRM Rules, Bank Management is required to submit a response to CRMU indicating how the Bank has complied or intends to comply with its safeguard policies and procedures applicable to this project.*

1.3. The complaint as submitted by the complainants is summarised in four allegations. The CRMU registration notice can be summarised as 7 allegation points. This Management Note responds to each of these allegations as made by the complainants and presented by CRMU.

II. PROJECT BACKGROUND

2.1 Programme Description

2.1.1. On 18 December 2014, the Bank approved the Road and Transport Facilitation Programme within the Mano River Union (MRU). The Governments of Côte d'Ivoire, Guinea, Liberia and Sierra Leone submitted a request to the Bank for financing to develop and asphalt the Danané-Lola road (87.35 km), the Bloléquin-Toulépleu-Liberian border road (65 km), the Tablo-Prolo road (28 km), the Karloken-Fish Town (80 km) and the Harper-Cavally junction (16 km). These constitute 276.35 km of currently dirt roads, barely 6 m wide, impassable in all seasons, with makeshift wooden crossing structures, for the most part. Regional isolation, the high number of roadside checks and unsuitable border crossings are factors of fragility, which compound the successive crises that have affected the region over the last 20 years. However, traffic is set to grow on these roads given the economic potential of the area and the efforts to lift these countries out of the recurrent crises that have long characterised them. In order to cope with current and future traffic, it is imperative to improve the road service level, enhance their capacity to withstand traffic in all seasons and reduce border controls; this will require asphaltting and developing the roads and establishing border crossings for joint controls.

2.1.2. The programme will benefit transport users, transporters, agricultural producers and the 2.8 million people in its impact area, especially disadvantaged groups (women and children), which make up the majority of the population. The programme will be implemented from June 2015 to June 2019 for a total cost estimated at UA 221.97 million net of tax and customs duties.

2.1.3. The overall objective of the programme is to boost post-conflict economic recovery of the MRU area by improving road infrastructure and promoting intra-community trade. Specifically, the programme seeks to: (i) improve transport conditions on the roads concerned in order to reduce transport costs, (ii) facilitate the free movement of persons and goods between the three countries, namely Côte d'Ivoire, Guinea and Liberia and improve the living conditions of programme area communities.

2.1.4. The Guinean component of the programme includes, among other things, paving of the Lola-Ivorian border road (39.75 km).

2.2 Implementation Status of the Guinean Section of the Programme

2.2.1 The programme was approved by the Bank's Board of Directors on 18 December 2014. The initial agreements were ratified on 21 October 2016 and the process of fulfilling the conditions precedent to effectiveness and first disbursement is under way on the Guinean side.

2.2.2 Concerning procurement, the Bank gave its notice of no objection on the bids evaluation report for the Lola-Côte d'Ivoire border road on 8 July 2016 and the works contract is being signed by the Guinean party. Concerning the choice of the works control and monitoring office, the Bank gave its no-objection on the technical bids evaluation bid for the control and monitoring of the construction of the Lola-Côte d'Ivoire border road on 14 September 2016 and the negotiation and contract signing processes are also underway on the Guinean side.

III. ENVIRONMENTAL AND SOCIAL ASSESSMENT

3.1. The programme has been classified as Category 1 in accordance with the Bank's Environmental and Social Assessment Procedures (ESAP) for 2001. Following a joint agreement between the Government of Côte d'Ivoire and the Government of Guinea, the Road Management Agency (AGEROUTE) in its capacity as Contracting Authority acting on behalf of the Ministry of Economic Infrastructure (MIE) entrusted the National Bureau of Technical and Development Studies (BNETD) with performing detailed technical studies (technical, geo-technical, hydrological, economic, environmental, social surveys and cost estimates) between 2013 and April 2014, regarding the development and paving of the Danane-Lola road (including the Lola - Côte d'Ivoire border road which is the subject of this complaint).

3.2. An Environmental and Social Impact Assessment (ESIA) Report and a Resettlement Action Plan (RAP) were prepared in April 2014 for the Lola-Côte d'Ivoire border section. The Bank reviewed these reports in accordance with its rules and procedures, including the 2004 Environmental Policy and the 2003 Involuntary Resettlement Policy. The Bank provided comments and recommendations on the ESIA and RAP reports. On the basis of these comments and recommendations, new versions of ESIA and RAP were prepared and submitted to the Bank in August 2014 (Annex 1).

3.3. The planned route of the road took account of the technical, economic, environmental and social challenges of the project area. The planned route alignment corresponds to 76% of the existing road. Adjustments were made for only 24% of this route, thus avoiding the area surrounding the Nimba Mountains, correcting tight curves and minimizing housing expropriations. Details by section of the route alignment are included in Annex 2.

3.4. The project's potential direct biophysical impacts include impacts on air quality, physical and chemical pollution of water and soil, and fauna and flora. Human impacts include property destruction during clearance of the right-of-way, disruption of population mobility and noise pollution, impact on human health including HIV/AIDS and Ebola, the risk of conflict, the risk of destruction of sacred and/or cultural sites of local significance. The operation phase will primarily impact fauna (accidents and poaching), flora (illegal logging, anthropogenic pressure, etc.). Potential impacts on biodiversity and

degradation of sensitive ecosystems, such as the Nimba Mountains Reserve were analysed (6.5.1.7 of the ESIA).

3.5. Detailed mitigation actions have been proposed and, in terms of the physical component, protection of air quality, soil protection and restoration of borrow pits and quarry sites, and protection of water resources. As concerns fauna and flora, measures have been taken with respect to the worksite, the population and at the institutional level. Protection measures for the Mount Nimba Strict Nature Reserve have also been proposed. They include: (i) monitoring and controlling the integrity of core areas; (ii) maintaining and marking the eastern boundary; (iii) implementing an ecological monitoring programme; (iv) rehabilitating the Yéalé Forestry Station, (v) supporting the forest rangers; (vi) etc.

3.6. A participatory approach has been adopted for impact assessments. Public consultations were held in the project area in February 2014 (see Chapter 11 and the ESIA Report Annex).

3.7. During the works phase, environmental monitoring will be carried out by the Environmental Expert of the Control Mission, who reports monthly to the National Infrastructure Directorate (DNI). Internal monitoring will be provided by the DNI environmentalist assigned to this project. External monitoring will be conducted during and after the works by the Guinean Bureau of Studies and Environmental Evaluation (BGEEE), based on a memorandum of understanding between the Contracting Authority and the BGEEE. This MoU, which will define the conditions and frequency of BGEEE intervention in the project, is being finalised and signed.

3.8. However, the Bank noted, during review of the new versions of the ESIA and the RAP, that the latter had inadequacies with respect to applicable requirements. These include: (i) protection measures for sacred and cultural sites; (ii) consideration of certain observations on the RAP (updating the RAP and declaration of public interest); (iii) stakeholder consultation; (iv) definition and management of long-term impacts on biodiversity and transboundary forests; and (v) Ebola virus disease prevention measures.

3.9. Given the particular context in Guinea, which was a focus of the Ebola virus disease at the time, the Bank exceptionally accepted the publication of ESIA and RAP summaries on its website and their distribution to the Board of Directors, subject to the implementation of an Environmental and Social Action Plan (ESAP) which was attached to the published summary. In essence, this ESAP required the consideration of the inadequacies noted in paragraph 3.8.

3.10. Unfortunately, implementation of this plan was delayed considerably between 2014 and 2016, given that the Ebola virus disease could only be brought under control in March 2016.

3.11. Details of Management's responses to the allegations are discussed in the following sections.

IV. MANAGEMENT RESPONSE TO ISSUES RAISED BY THE COMPLAINANTS

4.1. Further to the notice of registration of CRMU Request No. RQ2016/3 dated 28 November 2016 against the Road Development and Transport Facilitation Programme within the MRU - Guinea Section, ORQR as leader of the Management Response, organised an internal review of the request, in collaboration with OITC-1 and ONEC-3, respectively responsible for environmental and social implementation and support. Together, ORQR, ONEC and OITC make up the Management Response Team, in this case. The team agreed on the responses to the allegations and on a plan of action.

Responses to allegations as formulated by CRMU in the notice of registration

Point (a): The project will cause irreparable damage to communities and the environment. For example, it will harm the ecosystem services on which communities depend for their livelihood

4.2. Management agrees that the project will cause damage to communities and the environment, as identified in the ESIA and RAP. However, it firmly rejects the allegation that the project will cause irreparable damage to communities and the environment. The following points attest to this fact.

4.3. Management notes that all damage to local communities and the environment was identified and analysed in ESIA and in the RAP, in accordance with the Bank's existing environmental and social safeguard policies. These are the 2004 Environmental Policy and the 2003 Involuntary Resettlement Policy. Appropriate mitigation and/or compensation measures were identified and have been agreed upon with the villages concerned.

4.4. Management would like to point out that in addition to the impacts on the physical and human environment, and in accordance with the ESAP, sacred and cultural sites were identified on a participatory basis with the communities concerned. A total of eight (8) villages reported ten (10) sacred sites of which five (5) were directly affected by the project. These are places of worship, sacred forests, trees, waterholes and rivers and stone caves etc. These sites were presented in detail in sections 4.2 of the resettlement plan and 6.5.2.15 of the ESIA. They have also been located on the route in a map an excerpt of which is attached as Annex 3. Arrangements and measures to be taken before the start of works were indicated by the elders of the villages concerned and the cost of implementation of these measures was taken into account in the execution of the resettlement plan (section 4.2 of Resettlement Plan).

4.5. All irreversible damage to communities and the environment, including the impact on ecosystem services on which local communities depend for their livelihood, are taken into account in ESIA and RAP, in line with policies applicable at the time of project approval by the Bank's Board of Directors. The ESIA and RAP are being updated and finalized.

Point-b: The project violates both domestic and international laws. For example, road works and earthworks are planned within the boundaries of the Mount Nimba Strict Nature Reserve which happens to be a World Heritage Site and a core area of the Mount Nimba Biosphere Reserve. In other words, the project contravenes the Convention Concerning the Protection of the World Cultural and Natural Heritage of which Guinea is a signatory country.

4.6. Management refutes the allegation that the project will be implemented within the boundaries of the Mount Nimba Strict Nature Reserve, a World Heritage Site and a core area of the Mount Nimba Biosphere Reserve. It wishes to emphasise that the project in its current form does not at any point encroach on the boundaries of the core areas on the World Heritage List. The route alignment is much further away from the boundaries of these core areas of the Nimba Mountains. Annex 2 presents a description of the route alignment taking into account the technical, environmental and social constraints, and further clarifies this assertion. Management's position is justified for the three following reasons:

4.7. First of all, at no point does the route alignment from KP 13 + 800 to KP 16 + 900 go through the core area of the Nimba Mountains. An excerpt of the mapped alignment is attached to this document in Annex 4. This fact was confirmed by a government team that visited the project site on 19 December 2016. The team included, among others, the Director General of the Mount Nimba/Simandou Environmental Management Centre (CEGENS), the Representative of the Guinean Bureau of Studies

and Environmental Evaluation (BGEEE), the Representative of the Ministry of Public Works and the Bank's Project Officer.

4.8. Secondly, a report (Annex 5) to this end was prepared and signed by all members of the mission.

4.9. Thirdly, the environmental compliance certificate (Annex 6) issued on 20 December 2016 by the Ministry in charge of the environment confirms that the project complies with national and international environmental regulations.

Point c- There are inadequacies in the 2013 Environmental and Social Impact Assessment as it did not take into account the protection status of the Nimba Mountains.

4.10. Management rejects this assertion. It is well aware of the biological and ecological characteristics of the Nimba Mountains, the specificity and sensitivity of the natural habitats they are home to and their overall importance. It is based on this knowledge that technical, environmental and social studies were performed in strict compliance with national and international laws and regulations, taking into account the strict protection of the core areas of the Nimba Mountains, in which all human activities are prohibited.

4.11. As indicated in (b) above, the project in its current form respects the integrity of the core areas of the Nimba Mountains. Management reaffirms that at no time does the planned route alignment encroach on the boundaries of the core areas of the Nimba Mountains. There is therefore no contradiction between the works planned under the project and national and international regulations in this respect, including the protection status of the Nimba Mountains.

4.12. On 20 December 2016, the Ministry of the Environment awarded the project an environmental compliance certificate. Moreover, the mission of the government team that visited the project site and which included the Director General of the Mount Nimba/Simandou Environmental Management Centre (CEGENS), confirms that the project together with the technical surveys and environmental and social safeguard policies of which it was the subject fully comply with the preservation of the integrity and the protection status of the Nimba Mountains.

4.13. However, Management noted that environmental and social safeguard documents needed to be updated. The description of the baseline data on the biophysical characteristics of the route alignment, specifically from KP 13 + 800 to KP 16 + 900; (ii) KP 17 + 600 and KP 18 + 720), was incomplete (i.e. forested and grassy areas dotted with fields and water bodies). A revised version of the safeguard documents should be available by end-March 2017 in accordance with the action plan presented at the end of this note. A wide disclosure of the updated versions is also planned.

Point-d: Public consultations were not conducted as required by Guinean law

4.14. Management fully agrees that at the time the summaries were published, public hearings, as required by Guinean law, had not yet been conducted due to a case of force majeure preventing any gathering of persons, particularly in the project area, in the context of public consultations. This has been clearly indicated in Section 9 of the ESIA summary published on the Bank's website and distributed to the Board of Directors. The ESIA summary noted the following: "A public inquiry will be held in 2014 before the project is submitted to the AfDB Board of Directors for approval. Conduct of the survey will

be a Bank requirement, to be implemented as part of the action plan. This survey involves making available to the public for consultation and comments the Environmental Impact Assessment under the supervision of a Survey Commissioner appointed by municipal order and tasked with gathering comments from the public. The public survey is initiated by the BGEEE and its opening is performed within the framework of a public meeting ".

4.15. Accordingly, the project appraisal report also published on the Bank's website states in Section 2.8, "Given the travel restrictions in force since July 2014 because of the Ebola outbreak in the region at the time of Programme appraisal, the additional participatory sessions initially planned were not held." Unfortunately, as stated throughout this document, the context in the country and particularly in the project area was not conducive to public surveys because of public health risks. It was not until March 2016 that public surveys could be considered.

4.16. At present, this inadequacy has been rectified. The BGEEE organised public hearings with inhabitants of the project area in accordance with national regulations. Stakeholders were consulted on 17 and 18 December 2016 and given the opportunity to express their views and concerns about the road project, its impacts and mitigation actions proposed in the ESIA and RAP. The Bank's project team was able to participate in those consultations. These consultations were held throughout the villages along the road, namely N'Zoo Guela, Doroumo, Zogaman, Gbie, Zoo, Keolenta, Fromota, Gouamo, Gbakore, Youkouma, Kemeta, Woyakore, Gogota 1 and 2 and the town of Lola. More than three hundred (300) people participated in the consultations, including traditional and administrative authorities (founders, elders, etc.), youth, women, the elderly and certain NGOs operating in the area.

4.17. Exchanges focused on: (i) the project and its impacts, the proposed mitigation actions, etc. ; (ii) expropriation issues, the status of the resettlement plan, the approach to compensation by section depending on work progress, etc. ; (iii) sacred/cultural sites. The participants unanimously confirmed: (i) their full knowledge of the project and its impacts; (ii) having been consulted during the surveys; (iii) their broad support and commitment to the project. Annex 7 contains the records prepared by the BGEEE.

4.18. Furthermore, the preparation and implementation of the communication and stakeholder consultation plan to support the implementation of the project, as required by the ESAP, will consolidate this participatory approach. This plan will include the implementation of the ESMP with particular emphasis on issues related to biodiversity management, protection of the site's environment, conflict management etc. The finalized plan proposed by Management is included in the ESAP, in Section 6 of this document. The updated ESIA and RAP will be widely disseminated prior to the start of works.

Point-e: The ESIA does not cover all potential impacts, therefore the potential mitigation actions envisaged are clearly inadequate

4.19. Management considers that at the time the summaries were published, the analysis of certain impacts and the appropriate mitigation measures was not complete. This was the subject of the ESAP, appended to the ESIA summary and which was to be implemented prior to presentation of the project to the Bank's Board of Directors. These are: (i) sacred and cultural sites; (ii) updating and finalizing the Resettlement Action Plan; (iii) long-term impacts and mitigation actions on flora, fauna and biodiversity; (iv) the Plan for Ebola Prevention and Control during works.

4.20. As noted previously, ESAP implementation was significantly delayed due to circumstances beyond the control of the project team and the Government of Guinea. The ESIA and RAP cover all other

major potential (direct, indirect and cumulative) impacts of the project for the work and operational phases. Major impacts for which the identification and definition of mitigation actions appeared to be inadequate at the time the summaries were published were identified and included in the ESAP.

4.21. The project team has prioritized the implementation of the ESAP. Updated versions of the ESIA and RAP reports will include in more detail all the points contained in the ESAP.

Point-f: The project contravenes the AfDB's Integrated Safeguards System (December 2013), particularly Operational Safeguards 1 "Environmental and Social Assessment" and 3 "Biodiversity, Renewable Resources and Ecosystem Services"

4.22. Management categorically refutes this contention. It asserts that neither the project nor the ESIA is in violation of the Integrated Safeguards System (ISS) and Operational Safeguards 1 and 3 (SO1 and SO3) because the Bank's ISS does not apply to the project.

4.23. It notes that, at the time of the project's appraisal phase, the applicable environmental and social safeguard policies and procedures were, inter alia, the February 2004 Environmental Policy and the 2003 Involuntary Resettlement Policy (see Annex 8). The ISS was approved in December 2013 and came into force in July 2014, when the project appraisal was already ongoing. Therefore, the ESAPs, including Operational Safeguards 1 and 3 referred to by the complainants, were not approved until February 2015, after the ESIA and RAP summaries had already been published.

4.24. For this reason, the summary of the ESIA published on the Bank's website, in section 2.3, lists the policies and procedures applicable to the programme, including the 2004 Environmental Policy, which does not include Operational Safeguards 1 and 3 referred to by the complainants. The main ESIA report also provides the same information in Section 3.2.4. Clearly, the complainants appear to have been misinformed about the Bank's policies. In procedural terms, project implementation does not change with the adoption of new policies once the preparation is underway.

4.25. However, Management is aware of the ecological and cultural values of the project area, which is rightly designated as a World Heritage Site. Management will make every effort to ensure that more stringent standards are put in place so that the integrity of natural and cultural resources within and around the project development site is not altered.

4.26. These provisions include applying the provisions of Operational Safeguard 3 (Biodiversity, Renewable Resources and Ecosystem Services), which was not yet in force at the time of project appraisal. This entails: (i) identifying and implementing opportunities for the conservation and sustainable use of biological diversity and natural habitats; and (ii) observing, implementing and responding to the conservation and sustainable management needs of prioritised ecosystem services. Management has already agreed with the Guinean party that the updated ESIA and RAP will take into account the stricter requirements as well as Operational Safeguard 3 on biodiversity and ecosystem services.

Point-g: The ESIA refers to a Global Environmental Facility (GEF) project that is not accessible on their website.

4.27. Management agrees, but wishes to specify the following:

4.28. Transboundary Ecosystems and Resources Management in International Waters project funded by the GEF was initially approved as a basic agricultural project. Due to major unforeseen circumstances, the agricultural project was cancelled. Therefore, at the suggestion of the GEF project and coordination team, a decision was taken to transfer it to a transport project, namely the transport facilitation programme within the MRU.

4.29. The project team initiated the necessary actions, including the process of recruiting a consultant to define the GEF programme for the transport project. At the time the ESIA summary was published, discussions on the definition of the GEF component and specific activities it would be funding were still ongoing. For this reason, Management urged the project team to finalise the GEF component of the project and ensured that this recommendation was among the ESAP's priority actions attached to the ESIA

4.30. It is important to note that in Bank and GEF procedures it is permissible for either of the two financing operations to be approved separately by the Board of Directors. It was in this regard that the transport project team continued the process of defining the GEF component.

4.31. Unfortunately, the GEF project's scope as a component of a transport project changed significantly. Given that GEF funding had been approved more than 6 years prior without any implementation and due to capacity constraints, among other things, it was therefore difficult to continue appraisal on the GEF component at the AfDB. Mindful of the potential loss of resources that have remained dormant at the AfDB for over 6 years, the GEF Council authorised the AfDB, under the new October 2014 cancellation policy, to open discussions with other agencies to implement GEF funding. To this effect, the International Union for Conservation of Nature (IUCN) was identified as a recipient of GEF funding (see attached request in Annex 9). On 8 July 2015, the CEO of the GEF approved the request to transfer the USD 6 million project to IUCN. Activities slated to be financed by the GEF fund will take place in Côte d'Ivoire, Guinea, Liberia and Sierra Leone (see attached letter in Annex 10). This is why the complainants cannot see the AfDB's GEF funding on the GEF website.

V. CONCLUSION

5.1. Management agrees that the project will cause damage to communities and the environment, as identified in the ESIA and RAP. However, it firmly rejects the allegation that the project will cause irreparable damage to communities and the environment. The following points illustrate this.

a) Management notes that all damage to local communities and the environment was identified and analysed in ESIA and under the RAP, in accordance with the Bank's existing environmental and social safeguard policies. These are the 2004 Environmental Policy and the 2003 Involuntary Resettlement Policy.

b) Management specifies that in addition to the impacts on the physical and human environment, and in accordance with the ESAP, sacred and cultural sites were identified with the communities concerned on a participatory basis; and

c) The overall damage to communities and the environment, including the impact on the ecosystem services on which local communities depend for their livelihood, are addressed in ESIA and RAP.

5.2. Management confirms that that the project will be executed outside the boundaries of the Mount Nimba Strict Nature Reserve, a World Heritage Site and a core area of the Mount Nimba Biosphere Reserve. It wishes to emphasise that the project in its current form does not at any point encroach upon the boundaries of the core areas on the World Heritage List. The route alignment is much further away from the boundaries of these core areas of the Nimba Mountains. Management's position is justified for the three following reasons:

- a) First of all, at no point does the route alignment from KP 13 + 800 to KP 16 + 900 go through the core area of the Nimba Mountains. An excerpt of the mapped alignment is appended to this document in Annex 4. This was confirmed by a government team that visited the project site on 19 December 2016. The team included, among others, the Director General of the Mount Nimba/Simandou Environmental Management Centre (CEGENS), the Representative of the Guinean Bureau of Studies and Environmental Evaluation (BGEEE), the Representative of the Ministry of Public Works and the Bank's Project Officer.
- b) Secondly, a report (Annex 5) to this end was prepared and signed by all members of the mission; and
- c) Thirdly, the environmental compliance certificate (Annex 6) issued on 20 December 2016 by the Ministry in charge of the environment confirms that the project complies with national and international environmental regulations.

5.3. Management refutes the assertion that there are inadequacies in the 2013 Environmental and Social Impact Assessment in that it did not account for the protection status of the Nimba Mountains. It is well aware of the biological and ecological characteristics of the Nimba Mountains, the specificity and sensitivity of the natural habitats and their overall importance. Management's position is justified by the following:

- a) The project in its current form respects the integrity of the central areas of the Nimba Mountains. At no time shall the planned route alignment, including the right-of-way for the works, encroach on the boundaries of the core areas of the Nimba Mountains;
- b) The government team that visited the project site and which included the Director General of the Mount Nimba/Simandou Environmental Management Centre (CEGENS), confirms that the project, related technical surveys and environmental and social safeguard policies comply fully with the preservation of the integrity and the protection status of the Nimba Mountains.
- c) The Ministry of the Environment awarded the project the certificate of environmental compliance.

5.4. However, Management had noted that ESIA needed to be updated well before the complaint. A revised version is expected by the end of March 2017.

5.5. Management fully understands that at the time the summaries were published, public hearings, as required by Guinean law, had not yet been performed due to a case of *force majeure* preventing any gathering of persons in the context of public consultations, particularly in the project area. At present, this issue has been corrected. The BGEEE organised public hearings with inhabitants of the project area in accordance with national regulations. Stakeholders were consulted on 17 and 18 December 2016 and given the opportunity to express their views and concerns about the road project, its impacts and mitigation measures proposed in the ESIA and RAP.

5.6. Management contends that at the time the summaries were published, the analysis of certain impacts and the appropriate mitigation actions was not complete. This was the subject of the ESAP, which was attached to the ESIA summary and was to be implemented prior to presentation of the project to the Bank's Board of Directors. These are: (i) sacred and cultural sites; (ii) updating and finalising the Resettlement Action Plan; (iii) long-term impacts and mitigation actions on flora, fauna and biodiversity; (iv) the Plan for Ebola Prevention and Control during works. As noted previously, ESAP implementation was significantly delayed due to circumstances beyond the control of the project team and the Government of Guinea. The project team has prioritised the implementation of the updated ESAP. The updated ESIA and RAP reports will incorporate all the points contained in the ESAP.

5.7. Management categorically refutes the assertion that the project conflicts with the AfDB's Integrated Safeguards System (of December 2013), and particularly with Operational Safeguards 1 "Environmental and Social Assessment" and Operational Safeguarding 3 "Biodiversity, renewable resources and ecosystem services". It asserts that neither the project nor the ESIA is in violation of the ISS as the Bank's ISS do not apply to the project. It notes that, at the time of the project's appraisal phase, the applicable environmental and social safeguard policies and procedures were, *inter alia*, the February 2004 Environmental Policy and the 2003 Involuntary Resettlement Policy.

5.8. However, Management is aware of the ecological and cultural value of the project area, in particular the core area of Mont Nimba, rightly listed as a World Heritage Site. Management will make every effort to ensure that more stringent standards are put in place so that the integrity of natural and cultural resources within and around the project development site is not altered. These provisions include applying the provisions of Operational Safeguard 3 (Biodiversity, Renewable Resources and Ecosystem Services), which was not yet in force at the time of project appraisal. This entails: (i) identifying and implementing opportunities for the conservation and sustainable use of biological diversity and natural habitats; and (ii) observing, implementing and responding to the conservation and sustainable management needs of prioritized ecosystem services. Management has already agreed with the Guinean party that updating ESIA and RAP will take into account the requirements of Operational Safeguard 3 on biodiversity and ecosystem services.

5.9. Management agrees that the ESIA refers to a Global Environment Facility (GEF) project that is not accessible on the GEF site but wishes to inform the complainants that because GEF funding was approved more than 6 years prior without any implementation and due to capacity constraints, among other things, it was difficult to continue work on the GEF component at the AfDB. Mindful of the potential loss of resources that have remained dormant at AfDB for over 6 years, the GEF Council has authorised the AfDB, under the new October 2014 cancellation policy, to transfer GEF resources to the Union International Commission for the Conservation of Nature (IUCN). The activities to be financed by the GEF fund will take place in Côte d'Ivoire, Guinea, Liberia and Sierra Leone (see Annexes 9 and 10). This is why the complainants cannot see the AfDB's GEF funding on the GEF website.

VI. PLAN OF ACTION

Updated Environmental and Social Action Plan (ESAP) for the Road Development and Transport Facilitation Programme within the Mano River Union (MRU) - Guinea section					
	Action	Objectives	Responsibility	Completion Indicators	Timeline
1	Suspension of any physical activity until complaint proceedings have been completed	Process all outstanding issues in the complaint on a precautionary basis	Ministry of Public Works (MTP)	Submitting to the AfDB a copy of the letter forwarded to the contractor	Immediate
2	Update the ESIA and Resettlement Action Plan	<ul style="list-style-type: none"> Consider all of the Bank's observations on the ESIA and RAP 	MTP / BNETD / BGEEE	Submit updated reports to the AfDB	End-March 2017
3	Disclose updated ESIA and Resettlement Action Plan	<ul style="list-style-type: none"> Facilitate access to updated versions by stakeholders including complainants 	MTP / BNETD / BGEEE	<ul style="list-style-type: none"> Provide proof of access to complainants Submit updated reports to the AfDB 	End-March 2017
4	Develop and implement the consultation and communication plan for the project	Facilitate adherence, participation and ownership by all key stakeholders throughout the project	MTP / BNETD	Submit plan to the AfDB	End-March 2017
5	Submit proof of compensation to affected persons	<ul style="list-style-type: none"> Establish expropriation commissions; Proceed with payment of compensation and where required, resettlement assistance; Prepare project implementation report 	MTP/NGO	Submit proof and implementation report to the AfDB	Prior to works on the section concerned
6	Finalise agreements with the BGEEE	<ul style="list-style-type: none"> Define participation framework of the BGEEE to monitor the implementation of the ESMP 	MTP / BGEEE	Submit agreements to the AfDB	Prior to works
7	Add additional activities and specific plans, as and when needed to the contractor's contract, the supervisory office and procurement for specific support to CEGENS / OGUIDAP, etc.	<ul style="list-style-type: none"> Take into account the mitigation actions resulting from the update; Ensure that they are executed by the party concerned 	MTP / BGEEE / AfDB	Submit amended versions as needed to AfDB	Prior to works
8	Implement action plan and ESMP	<ul style="list-style-type: none"> Ensure implementation of action plan measures Strengthen monitoring for ESMP implementation 	MTP / AfDB	Implementation and monitoring report	Project duration

**ANNEX 3: UPDATE ON THE IMPLEMENTATION OF THE PRELIMINARY ACTION PLAN
CONCERNING THE COMPLAINT AGAINST THE MULTINATIONAL PROGRAM FOR
ROAD DEVELOPMENT AND TRANSPORT FACILITATION WITHIN THE MANO RIVER
UNION- GUINEA SECTION**

AFRICAN DEVELOPMENT BANK GROUP



**UPDATE ON IMPLEMENTATION OF THE PRELIMINARY ACTION PLAN
CONCERNING THE COMPLAINT AGAINST THE MULTINATIONAL ROAD
DEVELOPMENT AND FACILITATION PROGRAMME WITHIN THE MANO RIVER UNION
(GUINEA SECTION)**

August 2018

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LIST OF ABBREVIATIONS

AGEROUTE:	Roads Management Agency
CRMU:	Compliance Review and Mediation Unit
BNETD:.....	Bureau National d'Etudes Techniques et de Développement
.....	(National Bureau for Technical Studies and Development)
CEGENS:	Nimba and Simandou Mountains Environmental Management Centre
DNI:	National Directorate of Infrastructure
DNRN	National Directorate of National Roads
ESAP:	Environmental and Social Action Plan
ESIA:	Environmental and Social Impact Assessment
GEF:	Global Environment Facility
IRM :	Independent Review Mechanism
MIE :	Ministry of Economic Infrastructure
MRU:	Mano River Union
NGO:	Non-Governmental Organization
PAPs:	Project Affected Persons
FRP:	Full Resettlement Plan
ESAP:	Environmental and Social Assessment Procedures
KP :	Kilometre point

I. INTRODUCTION

- 1.1. This note has been prepared by Bank Management to inform the Compliance Review and Mediation Unit (CRMU) of the actions taken up to now in accordance with the Environmental and Social Action Plan (ESAP). This ESAP was submitted with Management's Response to Petition No. RQ2016/3 sent to CRMU on September 15, 2016
- 1.2. As a reminder, a complaint was submitted to CRMU on 15 September 2016 by two Guinean nationals from the non-governmental organization (NGO) called Agro-forestry Resources Unlimited (ARU), working in the areas of environment and governance. The complaint was lodged against the Road Development and Facilitation Programme within the Mano River Union (UFM), Guinea section.
- 1.3. According to the rules and procedures of the Independent Review Mechanism (IRM)), ESAP should be submitted after approval of the compliance review report. However, Bank's Management anticipated the non-compliances identified after its review of the facts. Following the IRM Compliance Review Report, another ESAP will be prepared for project compliance.

II. PROJECT CONTEXT

2.1 Programme Description

2.1.1 The Bank, on December 18, 2014, approved the Roads and Transport Facilitation Programme within the MRU. The Governments of Cote d'Ivoire, Guinea, Liberia and Sierra Leone submitted to the Bank a request for financing the development and asphaltting of the Danane-Lola (87.35 km), Bolequin-Liberia's Toulepleu-Border (65 km), Tabou-Prollo (28 km), Karloken-Fish Town (80 km) and the Harper-Cavally junction (16 km). It consists of 276.35 km of yet dirt roads, barely 6m wide, impassable in all seasons, with crossings for the most part made of makeshift wood.

2.1.2 The region's isolation, the high number of roadside checks and the inadequacy of border posts are factors of fragility that fuel the successive crises that have marked the region over the past 20 years. However, these roads record traffic that is expected to increase in light of the area's economic potential and the efforts being made to get these countries out of recurring crises that have for long been plaguing them. In order to cope with current and future traffic, it is imperative to improve the level of road services, increase their capacity to support traffic in all seasons and ease border controls. This will require the development and asphaltting of roads and border posts for joint controls.

2.1.3 The programme will be beneficial to transport users, carriers, agricultural producers and the 2.83 million people in its impact area, and particularly the disadvantaged groups (women and children) who make up the majority of the population. The programme will be carried out from June 2015 to June 2019 at a tax and customs free estimated total cost of UA 221.97 million).

2.1.4 The programme's overall objective is to support the post-conflict economic recovery of the MRU region through the improvement of road infrastructure and the promotion of intra-

community trade. Its specific objectives are to: (i) improve transport conditions on the roads concerned and thus reduce transport costs, (ii) promote the free movement of people and goods between the three countries, namely Côte d'Ivoire, Guinea and Liberia and improve the living conditions of the population in the project area.

2.1.5. The programme's Guinean component includes, among other things, the asphaltting of the 39.75 km- long Lola-Ivorian border road.

III STATUS OF IMPLEMENTATION OF THE PROGRAMME'S GUINEAN COMPONENT

3.1. The main dates of the contract's work schedule are as follows: (i)) Service order to start work was given by the project owner on April 10, 2017 ; (ii) Service resumption order to start work on 25 October 2017 ; (iii) Effective work commencement date on 06 November 2017 following the meeting held on 25 October 2017 during which the service order was modified and presented as baseline for start of work on the Lola-N' Zoo- Cote d'Ivoire Border project; (iv)) the report of the Environmental and Social Impact Assessment (ESIA) and the Environmental and Social Management Plan (ESMP) made available to the control mission by the project owner on 07 December 2017.

3.2. As of 31 July 2018, the level of completion of physical work was as follows: (i) 74% for site installation; (ii) 65.85% for the clearing of rights-of-way; (iii) 148.38% for general earthworks; (iv) 23.44% for drainage. Overall, actual work progress is 40.74%, for a consumed timeframe of 4.83% as of 31 July 2018 from October 25, 2017 (date of amended Service Order). The work thus has a slight delay compared to the time spent.

3.3. In terms of human resources, the control mission's environmental expert and its community development specialist were mobilized respectively on January 23 and February 23, 2018. The company has had a security officer since project's inception. Unfortunately, it was not until early July 2018 that the company's environmental expert was mobilized. At the level of the project owner, an environmentalist was assigned to the project since its design. However, the recruitment of a social development specialist to strengthen the project implementation unit has been considerably delayed. Although the job description was validated since 2017, recruitment at national level has encountered difficulties, on the one hand, with regard to the required quality of CVs and, on the other hand, to the duration of the national recruitment process.

IV STATUS OF IMPLEMENTATION OF ACTION PLAN

The timeline of the different points discussed below is in keeping with the one indicated in the ESAP.

4.1 Suspension of all Physical Activities until Closure of Complaint Processing

4.1.1. The purpose of this action was to make it possible to clear, based on the precautionary principle, all outstanding issues in the complaint. Notwithstanding the fact that ESAP was agreed upon with the Guinean government in 2016, it was only on 03 April 2018, after several reminders, that the Bank obtained proof of notification to the contractor. This notification made by letter No. 0240/MTP/CAB/DNRN/2018 of 03 April 2018 to the company indicates the termination of work in the areas not compensated and expropriated until the effective

compensation of affected persons.

4.1.2. The Bank's March 2018 environmental and social supervision mission was informed that clearing work has been carried out on the project's right-of-way in sections not affected by expropriation or by the Nimba Mountains borders. However, the mission noted through exchanges that some farms (with or without crops) have been affected. The control mission in collaboration with the affected persons identified in a participatory manner the people and the properties, especially farms (of Rubber tree, Coffee tree, Cola tree, Banana tree, etc.) that were affected by the works. An inventory was made but no document in proof of compensation was produced.

4.1.3. The Bank reminded the Guinean side and other stakeholders that this constitutes non-compliance with the Bank's rules and procedures and the financing agreement, as no proof of compensation has been provided to the Bank to date. For this reason, on June 11 2018, the Bank, notified the Guinean side of its intention to suspend disbursements for the project so that corrective measures can be implemented as quickly as possible.

4.1.4. The Bank drew the attention of the Guinean party to the fact that finalization of the settlement plan is a prerequisite for the total clearance of the right-of-way. To speed up the process, the following recommendations were made for the update and finalization of the Full Resettlement Action Plan (FRAP): (i) agreeing and notifying Project Affected Persons (PAPs) of the eligibility cut-off date; (ii) publishing in consultation with the local authorities, the list of PAPs in each locality and opening a notebook in each of these localities to record remarks/corrections and complaints; (iii) setting up complaint reception committees in each locality and at the Lola Prefecture; (iv) building an updated PAPs database based on information collected.

4.1.5. From July 6 to 9, 2018, the Ministry of Public Works (MTP), in collaboration with the local authorities and the persons affected, proceeded to compensate people whose agricultural property had been affected (see section on presentation of proof of compensation for details).

4.2 Updating of ESIA and FRAP Reports

4.2.1. The objective of this action was to enable consideration of all the observations made by the Bank on the ESIA and the FRAP in accordance with the ESAP established in 2014. Indeed, an ESAP had been agreed upon between the Bank and Guinea for the updating of reports to take into account, among others: (i) protection measures for sacred and cultural sites; (ii) consideration of some observations on the FRAP (updating of the FRAP and declaration as of public interest); (iii) consultation of stakeholders; (iv) definition and management of long-term impacts on biodiversity and trans-boundary forests; and (iv) measures to prevent the Ebola virus disease.

4.2.1 Revision of Reports following Publication of Summaries

4.2.1.1 The above issues could not be satisfactorily addressed at the time of the publication of the summaries on the Bank's website in August 2014, given the Ebola prevalence context. The Bank was also unable to visit the site during project appraisal because of the travel restrictions imposed on its staff. Following release of the summaries, the National Bureau for Technical

Studies and Development (BNETD) submitted in October 2014 a revised version of the ESIA and the FRAP (called version 2)) .

4.2.2 Revision of Reports after Site Visit in 2016

4.2.2.1 During the Bank's December 2016 mission to verify the facts of the complaint against the project, it was clear from discussions with the Guinean side that no progress had been made in the implementation of ESAP 2014. This concerns in particular the validation of reports at the national level and declaration of project as a public utility. This situation is mainly due to: (i) the fact that the versions of the **APD** (Detailed Preliminary Project) reports (, including the ESIA and the FRAP, were submitted late to the Guinean party by BNETD, in December 2014; (ii) the ESIA and FRAP reports, which should have been submitted to BGEEE by DNI (National Directorate of Infrastructure) in 2014, in accordance with the 2013 Bank Preparation Mission recommendations, were only submitted in 2016; (iii) the context marked by the spread of the Ebola virus disease between 2014 and March 2016. It was during this mission that the Bank received the environmental compliance certificate issued on 20 December 2016 by the Ministry in charge of the environment, in accordance with national regulations.

4.2.2.2 However, the site visit enabled the Bank to note that versions 2 of the ESIA and FRAP reports did effectively contain inconsistencies that could not be detected due to the absence of a site visit during project appraisal. In line with the ESIA prepared in 2014, an additional study on the characterization of flora and fauna was requested. An updated ESIA was agreed upon with the Guinean side. In January 2017, the Bank, together with the Guinean party, spelled out the Terms of Reference (ToR) for the update of the ESIA, ESMP and FRAP reports. The ToRs were validated by BGEEE in February 2017. BGEEE also recommended national experts that could be considered by BNETD for further studies.

4.2.2.3 BNETD was requested to update these reports. Indeed, following a joint agreement between the Government of Cote d'Ivoire and the Government of Guinea, the Road Management Agency (AGEROUTE), in its capacity as Delegated Contracting Authority, acting on behalf of the Ministry Economic Infrastructure (MIE) of Cote d'Ivoire, commissioned BNETD to conduct, between 2013 and 2014, detailed engineering studies (technical, geotechnical, hydrological, economic, environmental, social and cost estimates) for the construction and asphaltting of the Danane-Lola road (including the Cote d'Ivoire-Lola border).

4.2.2.4 On the basis of this agreement, BNETD mobilised a multidisciplinary team of Guinean and Ivorian experts between March 2017 and July 2017 as follows: (i) Fish Biodiversity Specialist; (ii) Bird Biodiversity Specialist; (iii) Mammalian Biodiversity Consultant; (iv) Amphibian and Reptiles Biodiversity Specialist Consultant; (v) Plant Biodiversity Specialist; (iv) Socio-economic experts. For water resources and water quality analysis, basic data obtained by the laboratory of the Centre for Environmental Studies and Research (CERE), on behalf of the WAE 2014 mining company, were used. Noise and air quality measurements were conducted in 2017 to complete the update of the ESIA and ESMP reports. A complete inventory of properties was carried out together with the MTP in 2017 and in 2018, to update the FRAP.

4.2.2.5 It is important to note that the considerable delay in updating the ESIA, ESMP and FRAP reports was due to : (i) non-payment by AGEROUTE in Côte d'Ivoire of the fees for the studies conducted in 2014. Given the high cost of mobilizing additional experts, AGEROUTE had to clear all arrears and make the necessary advances for further studies. This took a great

deal of time, because of the procedures involved; (ii) in addition to this resource mobilisation problem, the coordination and submission of deliverables by the different experts was delayed; (iii) the fact that the entity that finances and conducts the studies is not in Guinea did not facilitate project ownership and monitoring in Guinea by the project owner.

4.2.3 Revision of Reports after Change in Road's Right-of-way and Detour in the Bamboo Area (bordering the Nimba Mountain central area)

4.2.3.1 On the recommendation of the Ministry of Public Works by letter No. 0853/MTP/DNRN/2017 dated 15 November 2017, a joint compensation committee was set up by the Prefect of Lola to find an alternative to reduce the road's right-of-way. Thus, the initial 40-metre right-of-way was reduced to 24 metres, i.e. to 12 meters on both sides of the road axis. From March 30th to April 25th, 2018, a census of the property and people in the 24-metre right-of-way was conducted.

4.2.3.2 The planned route, from kilometre point (Pk) 13 + 800 to Pk 16 + 900 was reviewed as part of the analysis of alternatives and variants. This section of the proposed road was the closest to the boundaries of the central area of the Nimba Mountains. Five variants were analysed. A variant called "concerted variant" was chosen as the optimal variant from the technical, environmental, social and economic standpoints. It has the following characteristics: (i) it is 4.55 km long and is one of the shortest of the variants analysed; (ii) it is far by approximately 250 m from the boundaries of the central area of the Nimba Mountains; (iii) it stands clear of the resettlement area at the level of Foromota village as well as of the remnant SSMN buildings. However, implementing this variant will require additional actions, including: (i) flora and fauna assessment to determine the baseline situation of the remnant SSMN buildings; (iii) vegetation restoration after work completion.

4.2.3.3 A version 4 of the ESIA, ESMP and FRAP reports was drawn up to take into account the detour. These versions were submitted to the Ministry of Public Works and the Bank. The Bank also made comments on this version.

4.2.3.4 In order to speed up the process, the Bank had exchanges with all the stakeholders and requested the project to formally decide on this variant so that the above measures can be taken. On the strength of this demand, the MTP sent its confirmation for the concerted variant to the contractor on 03 April 2018. In accordance with the minutes of the working session for the choice of the concerted variant, it was agreed that a quantitative and qualitative inventory of the flora be carried out over a 5 km distance in the deviation zone. Since SSMN has 12 researchers including botanists, entomologists, zoo-technicians, etc. with the capacity to conduct this inventory, an agreement was prepared and signed in April 2018 between the contractor and SSMN under the supervision of the control mission. A deadline of one month was agreed upon for conducting the floristic inventory to which was added a wildlife inventory.

4.2.3.5 In May and June 2018, SSMN submitted the interim and final report of the complete inventory to the MTP and the Bank. Following submission of the report, BNETD developed version 5 of the ESIA, ESMP and FRAP reports to take into account the results and the measures proposed. The latter included field inventories and other properties that will be affected in the detour area. This version 5 also included the Specific Terms and Conditions (CCTP) of the environmental and social aspects that were submitted to MTP for consideration in the contractor's contract. Following successive comments from the Bank, BNETD successively

produced versions 6 through 11 of the ESIA and ESMP reports. This latest version of the reports was submitted in August 2018 (Annex 1A and 1B). The CCTPs are an annex of the ESIA. They have been attached as Annex 2.

4.3 Disclosure of Updated Versions of ESIA and FRAP Reports

4.3.1. The purpose of this action was to facilitate access by both stakeholders and complainants to the updated versions. This would, if necessary, make it possible to take into account all concerns before finalizing the reports. The main stages of consultation and engagement with the population were preceded by prior disclosure of environmental and social information in the appropriate context.

4.3.2. It is worth recalling that during the ESIA and the FRAP update, public consultations were held from 19 June to 9 July 2017 in the 13 localities crossed by the road., The purpose of these community meetings was to inform them about the ESIA and FRAP, on the one hand, and, on the other hand, to promote stakeholder ownership of the outcomes of the studies. The localities, where the properties of the population have been affected, are those of Gouela, Bourata, Doromou, Gbie, Zoo, Keoulenta, Gbakore, Gouamo, Weyakore, Gokota and Lola Centre.

4.3.3. On 09 and 10 October 2017, public consultations were conducted by BGEEE, MoC and the MTP project coordination team. The public inquiry consisted in visiting each village to provide a summary of ESIA and FRAP findings and consulting people in each village to obtain their views on the construction of the road.

4.3.4. Another public consultation was held on 12 October 2017 in the conference room of the Lola Prefecture and focused on the ESIA and FRAP reports (version 4) on the Lola-N'zoo Gouela-Cote d'Ivoire Border road construction project. It was attended by 75 people, including the Lola Prefect with his collaborators, and departmental officials representing the Ministries of Environment, Water and Forests (MEEF); Town Planning, Housing and Construction; Livestock; Trade and Industry; Tourism and Handcrafts; Health; Education ; Social Affairs; Agriculture; Plan, and Public Works, Sub-divisional and Municipal authorities of N'zoo; Civil Society representatives; Youth organizations; Religious groups; NGOs; Mining Companies (Guinea Iron Mines Corporation, West Africa Exploration and Sama Resources); representatives of neighbouring communities to the road route; Women ; Elders; the Press, the Body of Nature and Security Conservationists.

4.3.5. A public hearing was also held on 1st November 2017 in Conakry, Guinea. It brought together members of the Technical Committee for Environmental Analysis (CTAE) in the technical room of the Guinean Bureau of Studies and Environmental Assessment of the Ministry of the Environment, Water and Forests, from 9:30 am to 13:35 pm, to review and validate the ESIA, ESMP and FRAP reports. It was attended by representatives of MEEF, the Ministry of Mines and Geology, the Ministry of Territorial Administration and Decentralization, the Ministry of Public Works, the Ministry of Higher Education and Scientific Research and the Civil Society. Following this hearing, the revised versions of the ESIA, ESMP and FRP (version 4) reports were validated in accordance with national regulations.

4.3.6. At the Bank's request and in accordance with the ESMP, a campaign to sensitise local populations, health services involved in the project as well as transport unions, motorcycle taxi

riders, etc. was carried out between 25 January and 25 April 2018. In accordance with the ESMP, it was decided that the ESIA, ESMP and FRAP reports should be submitted to complainants. Following the complaint, a variant solution (concerted variant) was reviewed and taken into account in versions 4 and other later versions of the ESIA, ESMP and FRAP. The draft versions of these reports were submitted by letter 089/MTP/DNI/2017 of 15 December 2017 to the NGO ARU complainants. No comments were received from the complainants on the submitted reports.

4.3.7. Following complainants' access to the ESIA, ESMP and FRAP reports and enhanced consultations and dialogue to find an optimal solution, notably the working session of 09 February 2018, the complainants notified CRMU of their agreement on the materialization of the 5 km detour at the level of the scientific station.

4.4 Preparation and Implementation of Project's Consultation and Communication Plan

4.4.1. The purpose of this action was to facilitate adherence to, participation in, and ownership of the project by all the key actors throughout its implementation. Given the financial and human resource constraints in Guinea and Cote d'Ivoire, the Bank supported the DNI and BNETD in preparing the consultation plan.

4.4.2. This plan was finalized in April 2018. This delay was mainly due to delays in mobilizing resources to carry out this work in support of BNETD. This plan is an integral part of versions 5 and later versions of the ESIA, ESMP and FRP reports. The revised version of this plan dates from June 2018. It provides all the information on the consultation and communication actions carried out up to June 2018 (Annex 3).

4.5 Presentation of Proofs of Payments to Affected Persons

4.5.1. The objectives of this action are to: (i) set up expropriation commissions; (ii) Pay compensation and, where necessary, assist in resettlement; (iii) Prepare the project's implementation report.

4.5.2. By a Prefectural decision 015/PREF/LO/2018 dated 25 April 2018, conflict management committees were created in each project-related village or sector. Each management committee is composed of 3 members. The list of committee members has been posted in each village and is accessible to the populations concerned. These committees have been accepted by the populations who use them for submitting and processing various complaints.

4.5.3. From 6 to 9 July 2018, the MTP began compensating people whose farm property is affected. This compensation was preceded by a week of negotiations. The compensations concerned the localities of Gogota, Weyakore, Kemeta, Gbakore, Gouamo, Foromota, Keoulenta, N'zoo and Gbie. No protests or absences were recorded. Of the 116 people concerned, 95 were compensated for a total amount of GNF 1.464 billion. The Compensation Commission was chaired by the Secretary General of the Decentralized Communities of Lola in the presence of the committees in charge of receiving and managing complaints in each locality. The remaining 21 people in the villages of Doroumou, Bourata and Gouela will be catered to during the second compensation phase. Negotiations are currently ongoing for this second phase and will end in mid-August 2018. It should be noted that those affected by the detour and whose farming property will be affected were compensated during this first tranche of payment.

4.6 Finalisation of Agreements with BGEEE

4.6.1. The objective of this activity is to define the framework for BGEEE's participation in the monitoring and implementation of the ESMP. In accordance with the ESMP, an agreement (001/DNI/OEP/2017) was signed between DNI and BGEEE on 22 December 2017 for Loan No. 2100150038293 amounting to FG 500,000,000. The agreement covers the monitoring of the reconstruction of both the Coyah-Farmoriah-Sierra Leone border road and the Lola-N'zoo-Border- Cote d'Ivoire road.

4.6.2. The Bank's supervision mission of July 2018 was informed that the National Directorate of National Roads signed a separate agreement No 002/DNRN/UGP/2018 of June 2018 at the tax-free cost of GNF 375,198,690 solely concerning the implementation of the Coyah-Farmoreah-Sierra Leone Border ESMP. An agreement will have to be drawn up separately for the Lola-N'zoo-Border - Cote d'Ivoire project.

4.7 Add supplementary activities and specific plans, if necessary and as the case may be, to the contractor's contract, the control office and for the procurement of equipment for specific support to CEGENS/OGUIDAP, etc.

4.7.1. The objectives of this action are to: (i) take into account the mitigation measures resulting from the update; (ii) ensure that they are applied by the party concerned.

4.7.2. Following the updating of the ESMP plan, a number of measures were taken into account, notably:

- **Support to the Environment Management Centre of the Nimba and Simandou Mountains (CEGENS) of the Ministry of Environment, Water and Forests :** (i) finalisation and validation of the Nimba and Simandou Mountains management plan; (ii) logistical support (motorcycles and GPS) to forest rangers to ensure the reserve's integrity; (iii) support for fire fighting; (iii) compensatory reforestation of at least 15 ha at the Nimba Mountain reserve ; (iv) signalling of the reserve's boundaries along the road with signs;
- **Support to the SSMN for the renovation of the laboratory of the former IFAN Base wick is now the Nimba Mountains Scientific Station, to improve the technical conditions of scientific research on the rich biodiversity and environment of the Nimba Mountains;**
- **Mitigation measures in the detour phase of the zone since the opening of the right-of-way, work monitoring and catering/compensation, particularly the degraded sites in the bamboo detour area, old quarries and the Gouamo -Gonomalota crossroads - an old road parallel to the bamboo zone detour road;**
- **Ecological monitoring of species of special interest for nature conservation and sensitive habitats;**
- **Strengthening awareness-raising measures for environmental protection, STIs/HIV-AIDS, etc.**
- **Updating the list of people physically and economically affected by the project as**

well as related property on both the initial route and the road deviation.

4.7.3. Taking into account of the main environmental and social measures resulting from the updating of the ESIA, ESMP and FRAP has led to substantial variations in the cost of the ESMP and the FRAP, as indicated in the table below. Overall, the total cost of environmental and social measures has doubled by more than 2.6. For the FRAP, in particular this cost has been multiplied by 12 compared to the initial cost earmarked in the project's appraisal report. This is mainly due to: (i) updating of the unit prices used for the 2014 appraisal as compared to those of 2018; (ii) increase in the number of people as a result of the change of eligibility deadline; (iii) consideration of economic losses, especially commercial losses at the entry to Lola.

4.7.4. It is worth noting that the initial ESMP estimate took into account the costs indicated in the appraisal report approved by the Bank, notably: (i) those included in the works contract; (ii) the provisions made for awareness-raising; (iii) the provisions made for implementation monitoring; (iv) the provisions made for the FRP.

Environmental and social measures	Initial cost (GNF)	Current cost (GNF)
ESMP-works measures	1,597,281,280.00	1,597,281,280.00
Sensitisation of people on HIV/AIDS, malaria, road safety, Ebola virus and environmental protection	9,920,829,417.00	9,920,829,417.00
Implementation of ESMP	109,497,535.50	109,497,535.50
Additional measures (catering, support to CEGENS, support to SSMN, ecological	-	2,429,068,181.82
FRAP	1,607,000,580.30	20,511,852,006
TOTAL ESMP and FRAP	13,234,608,812.80	34,568,528,420.32

4.7.5. Financing for additional measures has been discussed with the Guinean party. This will concern the use of savings made under the works contract. It will also take into account a review of the consistency of the initial related measures envisaged under the project. It was decided that related construction work concerning the paving of 2.8 km of roads and sanitation in Lola, costing UA 1,477,559 or GNF 15,792,002,836, be suspended as the paved road crosses the entire city of Lola for over 1,5 km.

4.7.6. The Guinean party will review all options and submit to the Bank a proposal to revise the list of properties and services with the aim of financing the total cost of the ESMP and the FRAP.

V CONCLUSION

5.1. There has been progress in the implementation of all of the ESMP measures. However, the implementation of these actions suffered too much delay because of: (i) delay in mobilising resources and experts to update the ESIA, ESMP and FRAP reports ; (ii) the recruitment of the company's environmental and social staff and the social development specialist to strengthen the project implementation unit at the level of the MTP; (iii) absence of ownership and monitoring

of the updating of the ESIA, ESMP and FRAP reports by the Project Owner, since the entity that finances and prepares these reports lives outside Guinea.

5.2. The Bank should strengthen its monitoring to ensure that the project rapidly complies with its 2004 environmental policy and its 2003 involuntary displacement policy, at the latest at the end of the year. To achieve this goal, the actions below should be implemented.

	Action	Responsible	Deadline
1	Implement the roadmap agreed with the Bank in June 2018	Ministry of Public Works (MTP)	According to agreed upon deadlines
2	Submit to the Bank the proposal to revise the list of properties and services with the objective of financing the cost of the ESMP and the FRP	MTP/Ministry of Planning	End-September 2018
3	Facilitate the mobilisation and disbursement of resources needed to compensate the remaining affected persons	Bank	End-November 2018
4	Implement the recommendations of Bank environmental and social supervision missions	MTP	According to agreed upon deadlines
5	Strengthen the monitoring and implementation of the ESMP		At least one supervision mission every six months