AFRICAN DEVELOPMENT BANK GROUP

REPORT ON CLOSURE OF THE REQUEST AND MONITORING BY THE INDEPENDENT REVIEW MECHANISM (IRM) BUJAGALI HYDROPOWER PROJECT AND BUJAGALI INTERCONNECTION PROJECT - UGANDA

BCRM DEPARTMENT

March 2019
INTRODUCTORY NOTE

During the CODE Session held on 16 January 2019, the Director of the Compliance Review and Mediation Unit (BCRM) briefed Members on the content of the Report of the Independent Review Mechanism (IRM) on the Closure of the Request relating to the Bujagali Hydropower Project (BHP) and the Bujagali Interconnection Project (BIP). He pointed out the fact that the Bank Management had submitted the Project Completion Report (PCR) of the Bujagali Interconnection Project (BIP) to the Board of Directors of the African Development Fund (ADF) for information on 25 January 2018. He added that upon receipt of this PCR, the IRM noted that the document made no mention of the involvement of the IRM in handling a complaint that was submitted to BCRM in 2007 by the people who were adversely affected by the BIP. The PCR had been required by the Board of Director at their meeting of October 9, 2012 to report on progress made by Management on the settlement of some pending compensation issues. This Board meeting was considering the recommendations of the fourth monitoring report of the IRM. It made the reporting on the compensation issues the last requirement to be fulfilled by Management before the closure of the complaint.

The Director of BCRM informed CODE that he brought this omission to the attention of the Bank Management. In response, Bank Management prepared a Corrigendum to the PRC that includes the missing information. It was upon review of this evidence that the IRM was satisfied with the steps taken to bring the BIP into compliance with the relevant Bank policies and procedure. The IRM submitted therefore its Closure Report on the Request relating to the Bujagali Hydropower Project and the Bujagali Interconnection Project (BIP), for consideration by CODE.

At the end of the Session, CODE directed the Director of BCRM to submit the IRM Bujagali Closure Report discussed together with the Corrigendum for the Project Completion Report of the BIP prepared by Management to the Boards of Directors for consideration on a lapse-of-time basis.
MONITORING IMPLEMENTATION OF THE MANAGEMENT REMEDIAL ACTION PLAN FOR THE REQUEST RELATING TO THE BUJAGALI HYDROPOWER PROJECT AND BUJAGALI INTERCONNECTION PROJECT THE REPUBLIC OF UGANDA

REPORT ON CLOSURE OF THE REQUEST AND MONITORING BY THE INDEPENDENT REVIEW MECHANISM (IRM)

DECEMBER 2018
ACKNOWLEDGMENTS

The Director of the Compliance Review and Mediation Unit and the Members of the Roster of Experts of the Independent Review Mechanism (IRM) would like to thank the Requestors, the Project Promoters, the Management of the African Development Bank Group (AfDB), and the Bank Country Office in Uganda for their cooperation throughout the IRM compliance review and the monitoring of the implementation of the Action Plan that was prepared and implemented by the Bank Management to bring the Bujagali Hydropower and Interconnection Projects into compliance with the applicable AfDB policies and procedures.

Special thanks also go to the AfDB staff who facilitated for the IRM to formally close the Request and the monitoring of the Management Action Plan for the two Bujagali Projects, which is the subject of this Report.
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<td>African Development Bank</td>
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<td>ADF</td>
<td>African Development Fund</td>
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<td>AfDB</td>
<td>African Development Bank Group</td>
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<td>BEL</td>
<td>Bujagali Energy Limited</td>
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<td>BHP</td>
<td>Bujagali Hydropower Project</td>
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<td>BCRM</td>
<td>Compliance Review and Mediation Unit</td>
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<td>CAO</td>
<td>Compliance Advisor/Ombudsman</td>
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<td>CPMP</td>
<td>Cultural Property Management Plan</td>
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<td>CRMU</td>
<td>Compliance Review and Mediation Unit</td>
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<td>European Investment Bank</td>
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<td>ERT III</td>
<td>Energy for Rural Transformation Phase III Project</td>
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<td>ESIA</td>
<td>Environmental and Social Impact Assessment</td>
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<td>GoU</td>
<td>Government of Uganda</td>
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<td>IAM</td>
<td>Independent Accountability Mechanism</td>
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<td>IDA</td>
<td>International Development Association</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>IFI</td>
<td>International Financial Institution</td>
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<td>Independent Review Mechanism</td>
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<td>IUCN</td>
<td>International Union for Conservation of Nature</td>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
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<td>MEMD</td>
<td>Ministry of Energy and Mineral Development</td>
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<td>MOFPED</td>
<td>Ministry of Finance, Planning, and Economic Development</td>
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<td>MoTTI</td>
<td>Ministry of Tourism, Trade and Industry</td>
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<td>MTWA</td>
<td>Ministry of Tourism, Wildlife, and Antiquities</td>
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<td>Abbreviation</td>
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<td>NAPE</td>
<td>National Association of Professional Environmentalists</td>
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<td>NEMA</td>
<td>National Environment Management Authority</td>
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<td>National Forestry Authority</td>
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<td>PAPs</td>
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<td>PCR</td>
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<td>RAP</td>
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<td>Water Management and Development Project</td>
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<td>XSR</td>
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EXECUTIVE SUMMARY

The Bujagali Hydropower Project (BHP) was approved by the Boards of Directors of the African Development Bank (ADB) on 2 May 2007. The USD 735.5 million (UA 493.6 million equivalent) project, with the ADB co-financing a loan of USD 110 million (UA 73.8 million) was developed by Bujagali Energy Limited (BEL), a private company. The 250 MW Dam is built at the Bujagali Falls on the Nile River.

The Bujagali Interconnection Project (BIP) was approved by the Boards of Directors of the African Development Fund (ADF) on 28 June 2007. The Project provides the transmission infrastructure to connect the Bujagali Hydropower Station to the national electricity grid. The total cost of the BIP was estimated at USD 74.7 million (UA 50.13 million), with the ADF co-financing a loan of USD 28.6 million (UA 19.21 million) with the Japan International Cooperation Agency (JICA). The Uganda Electricity Transmission Company Ltd. (UETCL) implemented this project.

The Director of the Compliance Review and Mediation Unit (BCRM) received a complaint relating to the Bujagali Projects (i.e. the BHP and BIP) by the National Association of Professional Environmentalists (NAPE) and registered it on 16 May 2007 for a compliance review. The NAPE is a Ugandan non-governmental organization (NGO). The issues raised by this complaint included, among others, inadequate Environmental and Social Impact Assessments (ESIAs), inadequate consultation with and compensation of the communities and people affected by the projects (PAPs), inadequate dam safety measures, and the loss of the Bujagali Falls as a spiritual and cultural heritage site.

In response to the complaint, the Bank Management prepared and implemented a Remedial Action Plan that the Boards approved in May 2009. The objective of this plan was to address the non-compliance issues identified in the IRM Compliance Review Report entailing compensation and resettlement, cultural heritage, and the environment, and to bring the two projects into compliance with the applicable Bank Group policies and procedures.

The IRM undertook four monitoring missions to Uganda (2009, 2010, 2011, and 2012) to assess the progress of implementation of the Remedial Action Plan by the Management. Consequently, the IRM submitted its respective Monitoring Reports to the Boards of Directors and the President. The last and Fourth Monitoring Report by the IRM, issued on 9 October 2012, recommended the Bank to ensure that the outcomes of the remaining compliance issues, especially concerning the resettlement and compensation of the PAPs, are included in the project completion reports (PCRs). The Report concluded that, if after assessing the PCRs, the IRM finds that the outcomes of the compliance issues have been satisfactorily addressed in both projects, the IRM will undertake no further monitoring of these projects.

There has been an unusually long delay in the handling of the complaint raised about them (more than ten years) due to two concomitant events: (1) the postponement of the closing dates of the two projects and (2) the process of assessing by BCRM of a new complaint about a related project.

The completion dates of the two Bujagali Projects which were 2013 were postponed to 2015. In September 2013, Management informed BCRM that the postponement was to take place because the completion of the Bujagali Hydropower Project which is a private sector operation would be reported in an Extended Supervision Report (XSR) in 2015 during the early maturity of the project; i.e. about 30 months after the commissioning of the project. The completion report for the
Interconnection Project, a public sector operation, would be prepared in 2015 because the project promoter would utilize some savings from AfDB and JICA loans to upgrade the capacity of the Bujagali switch yard from 132 kV to 220 kV. Accordingly, both financiers extended the last disbursement date to 30 September 2015. As an interim measure, Management submitted to the IRM in April 2014 an update of the actions taken to address the pending issues highlighted in the 4th IRM Monitoring Report of 2012.

To fulfill the requirements of the fourth IRM Monitoring report, Management submitted to the IRM drafts of the Extended Supervision Report (XSR) of the Bujagali Hydropower Project and the Draft of the Project Completion Report for the Bujagali Interconnection Project in March and May 2016 respectively. These Draft Documents provided detailed information on the remaining resettlement and compensation issues, which the fourth monitoring report of the IRM had expected.

While engaging Management on the monitoring of the Action Plan, the IRM learnt in 2016 that additional complaints related to the Bujagali Projects were submitted to the independent accountability mechanisms of other international financial institutions (IFIs), namely, the Inspection Panel of the World Bank. On 19 April 2017, the IRM also received another request alleging potential negative impacts on the Kalagala Offset Area resulting from the Government of Uganda (GoU)’s plans to build the Isimba Dam Project. The BCRM determined that this complaint was outside of the mandate of the IRM since the AfDB was not financing this Dam and, therefore, it did not register this request.

To close the complaint case on the Bujagali Projects, the IRM obtained a copy of the Project Completion Report that Management submitted to the Board. This final completion Report was silent on the resolution of the resettlement and compensation cases when the draft report the IRM received in May 2018 had address them.

Management recognised the omission and prepared a revised Project Completion Report that reflected on the resettlement and compensation issues. As a result, the IRM decided to close the complaint relating to the Bujagali Projects because, in its assessment, the PCRs prepared by the Bank Management have satisfactorily reported on the outcomes of the resettlement and compensation of the PAPs, a prior condition placed in the Fourth IRM Monitoring Report for closing the Request.

The IRM recommend the following to the Boards of Directors:

1. To invite the Bank Management to continue advising UETCL and to monitor the conclusion of the compensation process, primarily the transfer of land titles to the PAPs that have been relocated to the resettlement sites, and to complete the payments of compensation to the PAPs whose court cases (17) are still pending. Moreover, the Bank Management should provide adequate support to both UETCL and BEL to measure the sustainability outcomes of the projects and to benefit from the lessons learned as indicated by the PCRs of the Bujagali Projects.

2. To consider and approve the recommendation of the IRM to close the Request and the monitoring of the Bujagali Projects, with this report being the final Monitoring Report of the two projects.
1. Introduction

In May 2007, the Compliance Review and Mediation Unit (CRMU)—now referred to as “BCRM”—received and registered a Request from a Ugandan non-governmental organization (NGO), the National Association of Professional Environmentalists (NAPE). The NAPE represented also people affected by the project (PAPs) and requested a compliance review of the Bujagali Hydropower Project (BHP) and the Bujagali Interconnection Project (BIP) (“the Bujagali Projects”). From December 2007, the Boards of Directors designated the Independent Review Mechanism’s (IRM) Compliance Review Panel to carry out the compliance review of the Bujagali Projects. The findings and recommendations of the Panel were adopted by the Boards in July 2008. From 2009 to 2012, the IRM Monitoring Team comprising the Director of the BCRM and the IRM Experts monitored the implementation of the Remedial Action Plan prepared by the Bank Management to bring these projects into compliance with the applicable AfDB policies and procedures.

In their last report prepared at the end of the fourth monitoring mission and submitted to the Board and the President on 9 October 2012, the IRM concluded that there would be no further monitoring mission and asked Management to report on the outcomes of resettlement and compensation in the Project Completion Reports (PCRs) planned for 2013. The IRM monitoring activities were to be closed on the basis of the assessment of this outcome.

However, the project activities were extended and the closure of the project took place only in 2018. Also, in the meantime, the IRM had to assess another complaint levelled against the Isimba Dam project, that the requestors claimed may have a negative impact on the Bank funded Bujagali Hydropower and Interconnection Project.

Also, when they submitted the Project Completion Report to the Board in January 2018, Management omitted to report on the outcome of the final compensation and resettlement, issues which had been identified by the Fourth IRM Monitoring Report as the final requirement to be fulfilled to enable the closure of the complaint case. The omission was surprising since Management had shared with the IRM drafts of the Extended Supervision Report (XSR) of the Bujagali Hydropower Project and the Draft of the Project Completion Report for the Bujagali Interconnection Project in March and May 2016 respectively. These Documents had provided detailed information on the remaining resettlement and compensation issues.

Management acknowledged the omission and prepared a revised Project Completion Report that reflects satisfactorily on the resettlement and compensation issues. As a result, the IRM decided to close the complaint relating to the Bujagali Projects.

This IRM Report on the Closure of Monitoring of the Bujagali Hydropower Projects is prepared for consideration by the CODE. The Report is intended to give an opportunity to CODE members to learn more about some of the most difficult complaints about Bank financing, in terms of social environmental safeguards and to take stock of the challenges associated with handling them.
2. Descriptions of the Bujagali Hydropower Project and the Bujagali Interconnection Project

On 2 May 2007, the Boards of Directors of the African Development Bank (ADB) approved a loan of USD 110 million (UA 73.8 million) for the BHP. This is approximately 15% of the total cost of the project estimated at the time of the appraisal USD 735.5 million (UA 493.6 million equivalent). The loan was given to the Bujagali Energy Ltd (BEL)—a private-sector company—as the project sponsor. BEL was to construct a 250 MW run-of-the-river power plant on a Build-Own-Operate-Transfer (BOOT) basis at the Bujagali Falls. This site is on the Nile River near Jinja (about 8 km downstream from the existing Nalubaale and Kiira Hydropower Stations).

The BHP comprises the following components: (a) a 30-meter-high dam with a small reservoir (388 ha); (b) a main spillway gate and an auxiliary siphon spillway; (c) a powerhouse with a total installed capacity of 250 MW (five units of 50 MW turbines); and (d) a switchyard. According to the Investment Proposal of the BHP, the project would help Uganda to develop its abundant hydrological resources to produce low-cost power for domestic use and export to neighbouring countries. The project was expected to generate direct employment of 650 to 1,100 people during construction and 50 full-time jobs during operation. The Proposal also asserted that the project would create job opportunities for local small and medium enterprises (SMEs) and would yield significant financial benefits for the Government of Uganda (GoU). Several donors, including the World Bank, International Finance Corporation (IFC), and the European Investment Bank (EIB), co-financed the BHP.

The BIP would provide the transmission infrastructure to the BHP and its interconnection to the national electricity grid. The Boards of Directors of the African Development Fund (ADF) approved the BIP loan of USD 28.6 million (UA 19.21 million) on 28 June 2007. The BIP’s expected total cost was USD 74.7 million (UA 50.13 million), and the ADF loan covered 38.3% of the total cost. The ADF loan was to finance the transmission lines, the substations, and the audit of the project accounts. The project was co-financed with the Japan Bank for International Cooperation (JBIC). The executing agency of the project is Uganda Electricity Transmission Company Ltd. (UETCL). The major components of the BIP included the construction of about 100-km-long transmission lines, a switchyard at the project site, and a new substation at Kawanda, which was located north of Kampala.

The overall goal of the Bujagali Projects, as stated in the project appraisal reports, was to meet the energy needs of Uganda’s population for social and economic development in an environmentally sustainable manner. Due to their potential negative environmental and social impacts, the projects were classified as high-risk, Category 1 projects, for which Environmental and Social Impact Assessments (ESIAs), Resettlement Action Plans (RAPs), and Environmental and Social Management Plans were prepared by the projects’ promoters (BEL and UETCL).

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3. The Request

The key issues raised by the Requestors were related to the non-compliance of the Bujagali Projects with AfDB’s social and environmental policies and procedures. These issues relayed inadequate consultations, resettlement and compensation issues, and the projects’ encroachment on cultural and spiritual issues without adequate consideration of the demands of the PAPs. The BCRM (which was then known as “CRMU”) registered the Request in May 2007, and based on the findings of the Eligibility Report of the Request; the AfDB’s Boards of Directors approved the compliance review of the Bujagali Projects in September 2007.

4. The Compliance Review Outcomes

In line with the Operating Rules and Procedures of the IRM (2006, IRM Rules), the Compliance Review Panel (hereafter “the Panel”), consisting of the members of the IRM Roster of Experts and the Director of the BCRM, conducted the compliance review of the Bujagali Projects in December 2007.

The key findings and recommendations of the Compliance Review Report prepared by the Panel included, but were not limited to, the following:

a) The PAPs and their cultural sites were not resettled in line with the applicable AfDB policies and procedures. Besides, no meaningful consultations were carried out with the PAPs, which amounted to instances of non-compliance with the Bank’s Involuntary Resettlement Policy (2003) and the Environmental Review Procedures for Private Sector Operations of the AfDB (2000);

b) The project appraisal reports overlooked gender and poverty issues in these projects. In addition, the reports failed to include a section on cultural property that would be impacted by the projects, and no meaningful consultations with all relevant stakeholders were conducted to explain how the Bank staff involved believed that their issues would be adequately and appropriately addressed. This was a non-compliance issue on the part of the Bank Management and staff;

c) The appointment of one witness NGO to be both the independent monitor of the resettlement and a participant in the decision-making process that deals with grievances arising from the resettlement failed to comply with the applicable policy requirements;

d) The Bank Management and staff did not include adequate information in the Bank’s appraisal documents on hydrological sustainability and related economic impacts, and the impact of the different interpretations of the Agreed Curve, the international agreements dealing with the release of water from Lake Victoria. In addition, they did not provide adequate information on sustainable measures to maintain the Kalagala Offset Area and the implications of these issues for the economic and financial viability of the Bujagali Projects.3

The Recommendations of the Panel included the following:

a) The Bank’s policies and procedures should be reviewed to evaluate the comprehensiveness of their coverage, streamlined to avoid unnecessary overlap, and systematized so that it becomes easier for Bank staff and other stakeholders to understand how the different strategies, policies, guidelines, and manuals relate to each other, and how they should be applied in the Bank’s operations;

b) The Bank should facilitate public access to its policies and procedures and to make sure they are clear to the Borrowers;

c) The Bank staff should properly cite the Bank policies and procedures referred to in the project documents;
d) The Bank should review the adequacy of the number and specialization of staff and consultants required for complex projects in order to ensure that they fulfil institutional needs in multidisciplinary areas;
e) The Bank should take appropriate action to ensure that the Bank staff have adequate knowledge of the Bank’s policies and how they are applied in its operations, including in co-financed operations;
f) The Bank should review its data storage system to ensure that project documents become more easily available to staff involved in the Bank’s operations as well as to those working on project evaluation and accountability functions.4

5. The Management Action Plan

In response to the Boards’ decision, the Bank Management prepared a Remedial Action Plan to bring the Bujagali Projects into compliance with the applicable Bank policies and procedures as recommended by the IRM Compliance Review Report. The Management submitted this Action Plan to the BCRM in September 2009.

6. Monitoring Implementation of the Management Action Plan by the IRM

The Director of the BCRM and the IRM Experts conducted four monitoring missions between 2009 and 2012 and reported the progress of implementation of the Management Action Plan to the Boards of Directors. The Report of each monitoring mission highlighted both fulfilled actions as well as pending actions, which required further follow-up by the Bank Management.

The Fourth IRM Monitoring Report, which was submitted to the Boards and the President on 9 October 2012, recommended that the Bank should ensure that the outcomes of resettlement and compensation are included in the PCRs to be submitted in 2013 as per the Management Action Plan. The Report concluded that the IRM would assess the PCRs, and if the IRM considers the reports satisfactory, then no further monitoring would be conducted.

7. Summary of Issues Monitored by the IRM and the Findings of the Four Monitoring Reports

Based on the Management Action Plan, the IRM monitoring team selected critical issues for monitoring and reporting. These issues, with a summary of the findings of the IRM during the four monitoring missions, are consolidated in the table below.

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<th>No.</th>
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<th>The Corresponding Management Action Plan</th>
<th>IRM Monitoring Report(s) Findings</th>
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| 1   | Resettlement and Compensation Issues                                   | Failure to resolve legacy issues prior to the commencement of the project, especially for PAPs of the BIP, constituted non-compliance with the Bank’s Involuntary Resettlement Policy (2003). | A mechanism would be established to monitor compensation outcomes for displaced households and a PCR will be produced. | • First Monitoring Report in 2009 reported delays in compensation.  
• Second Monitoring Report in 2010 urged Bank Management to follow up with the concerned agencies in Uganda to ensure that the Naminya resettlement village was connected to piped water and electricity; and to accelerate pending compensation along the transmission line.  
• Third Monitoring Report in 2011 noted pending court cases for compensation in relation to the BIP; stated satisfaction with the water connection provided to the Naminya resettlement village; and urged Management to supervise electricity connection when the dam would be commissioned.  
• Fourth Monitoring Report in 2012 recommended that the IRM would assess the resettlement and compensation outcomes reported in the PCR for the Bujagali projects, which should be submitted by the GoU. If the IRM finds the reports satisfactory, the IRM Experts and the CRMU will consider the Fourth Monitoring Report as the final monitoring report for the Bujagali Projects. |
| 2   | Consultations regarding Cultural and Spiritual Issues                  | Failure to meaningfully consult with spiritual leaders and stakeholders due to the silence of the appraisal reports on the issue was non-compliance with the Bank’s Involuntary Resettlement Policy (2003), Bank Group Policy on Good Governance (1999), Environmental Review Procedures for Private Sector Operations of the AIDB (2000), and Integrated ESIA Guidelines (2009). | GoU needed to update Cultural Property Management Plan (CPMP) with assistance from BEL— the promoter of BHP. | • First Monitoring Report in 2009 supported the establishment of a stakeholders committee to find a lasting solution to this complex problem.  
• Second Monitoring Report in 2010 urged Management to ensure that the project sponsor (BEL), government, and stakeholders including the spiritual leaders of Nabamba Bujagali and Labaaale Nfandu are involved in resolving the issues of settlement and appeasement of the spirits and the completion of the three cultural shrines.  
• Third Monitoring Report in 2011 commended measures taken and was optimistic that relocation of spirits will be undertaken.  
• Fourth Monitoring Report in 2012 stated that significant efforts had been made to resolve spiritual concerns. However, disagreements about the appropriate role of different spiritual leaders prevailed. BEL was encouraged to remain engaged in the consultation and reconciliation process to find a satisfactory solution to pending spiritual concerns. |
| 3   | Kalagala Offset Area and Forest Conservation                           | There was a need for a long-term management plan to ensure that the Kalagala Offset Area serves its environmental and socio-economic mitigation purposes. | A long-term Sustainable Management Plan (SMP) for the Mabira and Nile River Forests and the Kalagala Offset Area was a part of the World Bank Indemnity Agreement. The SMP was under preparation by the International Union for Conservation of Nature (IUCN). The Bank would review the SMP produced by IUCN. | • First Monitoring Report in 2009 recommended the Bank to review the study once finalized and to discuss with the GoU to withhold any activities until the SMP was completed  
• Second Monitoring Report in 2010 reiterated the above recommendation of the previous monitoring report and required removal of fences built around the Kalagala Offset Area.  
• Third Monitoring Report in 2011 found that the SMP was completed. The IRM monitoring team recommended the need for adequate budget allocation by the GoU for implementing the activities in the SMP and strongly urged the Bank to ask the GoU to ensure that development activities in the Kalagala Offset Area were done in accordance with the SMP.  
• Fourth Monitoring Report in 2012 found that the area established as an offset for the inundated area by the Bujagali Falls yet lacked sufficient support to protect it from intrusion, such as illegal settlements, cultivation, and illegal logging. Budgetary resources allocated by the government for the management of |
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| 4   | Systematic Collection of Data       | Poor socio-economic survey was noted and no grievance mechanism had been established. | Updated socio-economic survey was commissioned for BHP by BEL to be completed by March 2009. The BIP conducted a comprehensive census of the affected land. A grievance mechanism (Resettlement and Community Development Action Plan—RCDAP, Section 9) was in place to deal with disputes in dynamic situations and witness NGO reports would be made available for inspection. | • First Monitoring Report in 2009 emphasized the important lesson for the Bank’s staff to ensure that socioeconomic surveys were conducted to establish appropriate baseline data before an investment of the magnitude of the Bujagali projects was undertaken.  
• Second Monitoring Report in 2010 reemphasized the above recommendation.  
**The issue was not monitored further.** |
| 5   | Witness NGO                         | The treatment of one witness NGO to be both the independent monitor of the resettlement and a participant in the decision-making process that deals with grievances arising from the resettlement failed to comply with the applicable policy requirements. | The witness NGO, while not totally independent, was and had been providing satisfactory performance; and BEL, UETCL (the promoter of BIP), and the GoU would not wish to compromise at this stage. The NGO provided observations and recommendations, but did not participate in the decision-making process. An additional NGO will be included in the Project Monitoring Committee under the National Environment Management Authority (NEMA). The witness NGO will share its reports with the Project Monitoring Committee. | • First Monitoring Report in 2009 recommended close supervision of witness NGOs and their independence in monitoring the grievances of the PAPs.  
• Second Monitoring Report in 2010 found that the Project Monitoring Committee had been established but it was too early to assess its performance.  
• Third Monitoring Report in 2011 found that the contract of the witness NGO was due to expire and the NGO shared lessons with the IRM monitoring team.  
• Fourth Monitoring Report 2012 found the contract of the witness NGO ended in 2012 and the team noted the positive role played by the NGO in grievance management.  
**The issue was not monitored further.** |
| 6   | Overlapping Transmission Lines      | Failure to consider the possibility of overlapping the transmission lines was a non-compliance with the AfDB Policy on the Environment (2004). | The Bank would seek assurance that indemnification sums paid by UETCL to the National Forest Authority (NFA) were applied in accordance with updated the Mabira Forest Plans within the emerging SMP framework. | • First Monitoring Report in 2009 encouraged the Bank’s Management to consider the possibility of minimizing the use of land and forest areas in future projects. The Bank staff reviewed the SMP and its implication on the indemnification to the Forest Reserves.  
**The issue was not monitored further.** |
| 7   | Gender Issues                       | The perfunctory references to gender dimensions in Bank documents was in non-compliance with the AfDB Gender Policy (2001). | The Panel judgment is based on “at entry” documents and differs with implementation practices where gender issues are addressed in Community Development Action Plan (CDAP), the | • First Monitoring Report in 2009 reiterated the importance of supervision of gender issues during the implementation of the projects.  
**The issue was not monitored further.** |
hiring policy, and compensation modalities. For BIP, UETCL had tried to ensure that compensation solutions for households do not discriminate against vulnerable people, in particular the women. Supervisions to date had challenged contractors to assure equal opportunity hiring and witness NGO and BEL were monitoring compliance.

8. Blasting

All IRM monitoring missions urged Bank Management and BEL to consider the compensation and repairs of houses in the resettlement village damaged by the blasting. The Team noted that the complaints by PAPs relating to compensation for house damage were submitted to the Complaint Mechanism of the EIB and the mechanism had not yet finalized its report.

8. The Project Completion Reports (PCRs)

The closure of IRM’s monitoring was scheduled for 2013, which was not possible without receiving the PCRs of both the BHP and the BIP. It was essential for the IRM to assess and be satisfied with the compensation outcomes of these projects as reported in the PCRs, a prior condition for the definite closure of IRM’s monitoring of the Bujagali Projects.

In September 2013, the Bank Management informed the IRM that the PCRs of the Bujagali Projects would be prepared in 2015 instead of 2013. This so was because the PCR of the BHP as a private-sector operation would be prepared in an Extended Supervision Report (XSR) in 2015 during the early maturity of the project; i.e. about 30 months after the commissioning of the project. The PCR for the BIP, a public-sector operation, would be prepared in 2015 because UETCL agreed with AfDB and JICA to utilize the savings from the loans to upgrade the capacity of the Bujagali switchyard from 132 kV to 220 kV. Accordingly, JICA extended the last disbursement of the project to March 2015 and the Bank to 30 September 2015.

In the interim, the IRM agreed with the Bank Management that the latter would prepare and submit a Progress Report on the implementation of the Action Plan for assessment by the IRM and the BCRM. In April 2014, the Management submitted an update on actions undertaken to address the pending issues that were highlighted in the Fourth IRM Monitoring Report of 2012.

9. Closing the Request on the Bujagali Hydropower and the Bujagali Interconnection Projects

Subsequently, Management submitted to the IRM drafts of the Extended Supervision Report (XSR) of the Bujagali Hydropower Project and the Draft of the Project Completion Report for the Bujagali Interconnection Project in March and May 2016 respectively. These Draft Documents provided detailed
information on the remaining resettlement and compensation issues, which the fourth monitoring report of the IRM had expected.

While considering closing the monitoring of the complaint on the Bujagali Projects, the IRM opted to hold off from making its decision since it became aware of two new complaints submitted on 6 September 2016 and 19 September 2016 respectively to the Inspection Panel of the World Bank. At the time, the World Bank was evaluating the impacts of the newly proposed Isimba Hydropower Project in Uganda in line with the Indemnity Agreement signed between the International Development Association (IDA) and the GoU on 18 July 2007 for the Private Power Generation (Bujagali) Project (P089659). The two Complaints alleged that the Isimba Dam will cause potential flooding of the Kalagala Offset Area, which was set aside in 2007 to mitigate the loss of the Bujagali Falls, particularly to ensure the protection of its natural habitat, and environmental and spiritual values associated with the Falls as stated in the Indemnity Agreement. As a result of this Agreement, the GoU approved the Kalagala Offset Area’s SMP for implementation in December 2009.5

The Request to the Inspection Panel was submitted by “three residents of the Busoga region and concerned citizens” (the Requestors), who asked that their identities be kept confidential. The Requestors claimed that the filling of the reservoir of the Isimba Dam at its “tallest proposed height” would flood and negatively affect the Kalagala Offset Area “heavily and irrevocably.”

Although the World Bank was not financing the Isimba Dam, the dam may undermine the management of the protected Kalagala Offset Area as required by the aforementioned Indemnity Agreement. The Requestors considered that they would likely suffer environmental, cultural, economic, and health-related harm from such an inundation.6

The Inspection Panel took the position that the Request concerned the World Bank-funded Private Power Generation (Bujagali) Project (P089659), the Water Management and Development Project (WMDP) (P123204), and the Energy for Rural Transformation Phase III Project (ERT III) (P133312). Since the World Bank supports the protection and management of the Kalagala Offset Area, the BHP, the WMDP, and the ERT III Project can be plausibly linked to the alleged harm.

The Inspection Panel registered both complaints and informed the Board of the World Bank that since the complaints raised similar issues, the Panel would process them as one complaint. The World Bank Management followed by reiterating its concerns to the GoU that the Isimba Project, if constructed and operated in accordance with its proposed design, could potentially and adversely affect the Kalagala Falls site. The World Bank said it will enforce the Indemnity Agreement in order to achieve its objective of preserving biodiversity. Specifically, section 3.06 of the Indemnity Agreement states that:

“The Government of Uganda shall set aside the Kalagala Falls Site exclusively to protect its natural habitat and environmental and spiritual values in conformity with sound social and environmental standards acceptable to the Association. Any tourism development at the Kalagala Falls Site will be carried out only in a manner acceptable to the Association and in accordance with the aforementioned standards. Uganda also agrees that it will not develop power generation that could adversely affect the ability to maintain the

6 Notice of Registration, Second Request for Inspection: Republic of Uganda: Private Power Generation (Bujagali) Project (P089659); (Water Management and Development Project (P123204); and Energy for Rural Transformation Phase III Project (P133312), September 22, 2016. p. 4.
above-stated protection at the Kalagala Falls Site without the prior agreement of the Association. In addition, the Government of Uganda (GOU) undertakes to conserve through a sustainable management program and budget mutually agreed by the Government and the Association (no later than expiration of the prevailing sustainable management program or such later date as the Association may agree), the present ecosystem of the Mabira Central Forest Reserve, as well as the Kalagala Central Forest Reserve and the Nile Bank Central Forest Reserve on the banks of Kalagala Falls (as such Reserves are included within the Kalagala Falls Site).”

The GoU confirmed in writing to the World Bank that it is committed to finalizing an ESIA for the Isimba Project in consultation with the World Bank and in line with international standards for addressing the impacts on the Kalagala Falls Site. The GoU also reassured the World Bank that it will “not take action that would have an impact on the Kalagala Falls Offset” until they have reached agreement with the World Bank to ensure that the agreed objectives of the Indemnity Agreement are complied with.

As part of its due diligence, the Inspection Panel met with World Bank Management to better understand the projects and their status, and spoke with the complainants on different occasions to learn more about their concerns. The Panel was told that the World Bank Management was preparing an addendum to the ESIA, which was expected to be completed by mid-2017 and intended to address the impacts of the Isimba Dam on the Kalagala Offset Area and the resulting mitigation measures that might be needed. The Panel decided to defer its decision on whether to recommend an investigation of the complaint for up to a year awaiting the completion of the addendum to the ESIA and follow-up actions by the World Bank Management.

On 4 April 2017, the Board of Executive Directors of the World Bank approved the Inspection Panel’s recommendation to defer the investigation of the complaint by 12 months. Its decision on a potential investigation was warranted for the WMDP and the ERT-III, but it found that the Private Power Generation (Bujagali) Project (that is, the Bujagali Hydropower Dam) was not eligible to be investigated because the project was closed by the World Bank. The Inspection Panel will conduct the compliance review of the project.

Furthermore, on 19 April 2017, the Director of the BCRM received a similar complaint from two nationals of Uganda concerning the Isimba Dam, claiming its likely negative impact on the Kalagala Offset Area. The Requestors requested their identities to be kept confidential. Upon preliminary review of the Request, the Director of the BCRM noted the following:

a) The complaint relates to the Isimba Dam Project, which is not considered as financed by the AfDB. Therefore, the complaint does not fall within the mandate of the IRM;

b) The Indemnity Agreement that calls for the protection of the Kalagala Offset Area was signed between the IDA and the GoU. The GoU approved the SMP of the Kalagala Offset Area in December 2009. In this context, the role of the AfDB was limited to reviewing the SMP, a task that the Bank Management fulfilled under its Action Plan discussed in Section 5 of this report;

c) The two projects that necessitated the creation of the Kalagala Offset Area with the participation of the AfDB (the BHP and BIP) were completed in 2016. The new complaint, even if it were to be considered for registration, could not qualify for registration because of the limitation clause in the IRM Rules (2006), which were applicable to the Bujagali complaint, and explicitly states that the BCRM cannot register complaints that are submitted after one year (12 months) of the project’s completion.
Consequently, the Director of the BCRM did not register the new complaint relating to the Isimba Dam Project.

To close the complaint case on the Bujagali Power Projects, the IRM obtained a copy of the Project Completion Report that Management submitted to the Board\(^7\). This document was circulated with a cover Board Memo on 25 January 2018. However, instead of reflecting, as expected, the outcome of the remaining pending resettlement and compensation cases, the report made no reference of the major compliance review process the project was subjected to over several years. It was silent on the resolution of the resettlement and compensation cases when when the draft report the IRM received in May 2018 had address them.

Under these circumstances, the IRM called on Management to revise the Project Completion Reports it had submitted to the Board to comply with the reporting requirement on the resettlement and compensation issues as called in the 4\(^{th}\) IRM Monitoring Report. Management has done so now. Therefore, the IRM has examined the PCR and made several observation.

**The PCR of the Bujagali Hydropower Project (the project's XSR)** rated the environmental and social outcomes of the Project as satisfactory. The report states that the completion of the BHP was delayed by about one year because the spillway tailrace had to be redesigned due to the change of ground conditions.\(^8\) The ground conditions had been missed in the preceding preliminary and final design phases, when AES Nile Power was responsible for the project’s development. However, no known adverse environmental changes have occurred because of the BHP. According to the report, the overall benefits of the BHP to the country and as a Clean Development Mechanism project include:

- a) Increase of the proportion of electricity generated from renewable energy by 86%;
- b) Contribution to clean energy efforts by reducing the country’s carbon dioxide emissions by approximately 900,000 tons per year and generating roughly 880,000 Certified Emission Reduction (CER) credits per year;
- c) Replacement of oil-burning plants and reduction of pollutants, including nitrous oxide (\(\text{N}_2\text{O}\)), sulphur dioxide (\(\text{SO}_2\)), and particulate matter;
- d) The doubling of efficiency in the use of water from Lake Victoria due to the flows through two hydropower plants in series.\(^9\)

Concerning the social effects, the XSR considered that the BHP had achieved the Bank’s goals towards improvement of livelihoods for the PAPs through BHP’s monetary compensation and environmental and social programs funded by BEL for over USD 20 million. The programs included building schools, health clinics, malaria prevention centres, water wells, and the connection of resettled residents to electricity, microfinance programs, and the creation of approximately 3,000 jobs during the peak period of construction. Furthermore, the host communities and neighbours of the resettlement area of Naminya have also shared in these economic and social benefits. The project’s contribution is also manifested by the

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\(^7\) Board Memo ADF/BD/IF/2018/11 dated 25 January, 2018, including Uganda-Bujagali Interconnection Project, Project Completion Report, January 2018

\(^8\) Extended Supervision Report 2014 for the Bujagali Hydropower Project, Uganda; p. 7.

\(^9\) Ibid.
increase in economic activity in the area, including construction of houses for displaced people from the project site, as well as increase in their land value.10

As part of the lessons learned from the BHP with regard to cultural heritage, the XSR indicates that cultural property in the forms of graves and shrines on the land acquired for the project were impacted. It proposes that for future projects, the Bank should ensure that the developer takes local spiritual matters seriously by allowing the necessary time to consult meaningfully with local stakeholders in order to understand the local social dynamics and properly determine the legitimacy of spiritual leaderships prior to compensation.11

**The PCR of the Bujagali Interconnection Project** covers the compensation outcomes of the project.12 It indicates that the RAP for this project was successfully implemented with resettlement of the PAPs and the compensation to the PAPs for the loss of their property and assets, including land and crops that were acquired along the transmission line corridor. The report states that 2,798 affected households were compensated in line with the national laws of the GoU. Forty-two houses were built for the vulnerable group, and another 142 households were compensated in kind and in cash, i.e., 128 received land and 21 opted for cash compensation. Ten boreholes were constructed in selected communities affected by the project,13 access roads were constructed in all eleven resettlement sites,14 and piped water was extended to the Namusera resettlement site.15 Three of the eleven resettlement sites were connected to electricity through Umeme Limited, the service provider. In spite of the fact that electricity poles were erected and powered, majority of the PAPs have not yet extended the power to their individual homes. Instead, the host community has benefited from this utility.16

As of 30 June 2018, 185 PAPs were resettled in areas designated by UETCL. From these, 117 PAPs received titles to their land plots. The pending 68 titles include: (a) 12 titles that are processed but cannot be handed over to the beneficiaries until Letters of Administration are processed; (b) 10 titles are being processed in order to be issued in the names of the beneficiaries; and (c) 46 vacant plots still remain under UETCL’s title.17 The process of the transfer of land titles for the resettlement areas is ongoing to enable the PAPs to confirm their rights to land ownership. The report indicates that, as of December 2015, UETCL had not resolved 27 of the 557 cases18 settled out-of-court with facilitation by the Compliance Advisor/Ombudsman (CAO) of the IFC.19 Eventually, an agreement was reached for the payment of a full and final settlement to the 557 people to rectify errors or omissions that had arisen in the calculation of compensation during the time of project implementation.20 A total of UGX 747,915,980 was paid as additional compensation to the 557 people.21 According to the Bank Management, as of 30 June 2018, only

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10 Ibid.
12 Project Completion Report for the Bujagali Interconnection Project, Uganda, March 2016, p. 5.
13 Ibid.
14 Ibid, p. 36.
15 Ibid.
16 Ibid.
17 Updated information provided by Bank Management on 4 July 2018.
18 557 members of the Bujagali Affected communities filed a representative suit in the High Court of Uganda in 2009 against the Uganda Electricity Transmission Company Ltd (UETCL) claiming inadequate compensation for land, crops and structures in the process of the UETCL’s acquisition of land for the construction of the electric power transmission lines (see p. 38 of the PCR of the Bujagali Interconnection Project, Uganda, March 2016).
19 Project Completion Report of the Bujagali Interconnection Project, Uganda, March 2016, p. 34.
21 Ibid, p. 35.
17 of the 27 cases were still pending. The UETCL opened an escrow account for payments of the pending cases.

Overall, as of March 2016, the total amount spent by UETCL in resettlement and compensation of the PAPs in this project was UGX 42,667,136,493,\textsuperscript{22} excluding the 17 cases that were yet to be resolved at that time. The 17 cases that are currently not resolved represent 3% of the 557 cases, and this corresponds to compensation amounting to UGX 4,499,229.\textsuperscript{23} The Bank Management is committed to continue advising UETCL and monitor the conclusion of the transfer of land titles to the PAPs relocated to the resettlement sites and to complete payments of compensation once the 17 pending cases are resolved.\textsuperscript{24}

10. **Key Lessons Learned from the Management Action Plan and Monitoring its Implementation by the IRM**

The handling of this complaint case has taken an unusual long timeline of more than 10 years. Several factors caused the delays, including:

a) The inadequacy of the implementation of the Resettlement Action Plan (RAP), including the valuation process and some deficiencies in the handling of the compensation and resettlement processes;

b) The absence of a comprehensive socio-economic surveys and a well-structured grievance redress mechanisms at the initial stages of both the BHP and BIP;

c) The complexity of the projects, especially as they involved the thorny issues of land ownership and labour issues.

Protection of cultural heritage and sites of sentimental and spiritual value to the local community by large-scale operations such as the Bujagali Projects is complex and can only be mitigated if project sponsors, governments, and the donors find a platform and remain engaged in consultations and reconciliation processes with affected traditional leaders and communities.

The protection of environmental offsets, such as the Kalagala Offset Area, should be supported by strict regulations to prevent the area from further intrusions by human settlements or businesses. Adequate budget should be provided and there should be a clear division of roles and responsibilities among agencies responsible for protecting such areas to effectively enforce regulations or any national protection plan applicable to such areas.

The compensation and resettlement of PAPs can become difficult to settle because of outstanding legacy issues, the submission of different complaints relating to large-scale operations such as the Bujagali Projects to several Independent Accountability Mechanisms (IAMs). Impediments include also the limited capacity and resources constraints on the part of the borrower to manage multiple requirements of donors’ policies, and national laws on compensation.

\textsuperscript{22} Ibid.

\textsuperscript{23} Updated information provided by Bank Management on 4 July 2018.

\textsuperscript{24} Ibid.
11. Conclusion and Recommendations by the IRM

Conclusion

The IRM considers that significant progress has been made with regard to the implementation of the Bank Management’s Action Plan of 2009, including the compensation outcomes required by the Fourth IRM Monitoring Report of 2012. The Management provided further details on the issue of compensations of the PAPs in the PCR (i.e., the XSR) of BHP. The review of the BHP indicates that the outcome of compensations for PAPs was positive. However, the report did not give a detailed breakdown of the compensation and resettlement payments and any pending issues that may help the Bank to evaluate adequately the compensation measures, which are critical to the sustainability of the project. With regard to compensation outcomes for the BIP, the Bank Management has committed to continue following up with the UETCL to ensure the conclusion of the transfer of land titles to the PAPs relocated to the resettlement sites and to complete the payment of compensations once the 17 pending cases are resolved.

The IRM has decided to close both the handling of the Request and the monitoring of the Bujagali Projects based on the fact that they have now been completed. Also, the matter pertaining to the preservation of the Kalagala Offset Area and the Isimba Dam cannot be considered by the IRM because the Bank is not financing this project.

There are several lessons that the Bank Management can learn from its experience in implementing the Bujagali Projects to avoid or properly mitigate negative environmental and social impacts in similar projects to be financed by the Bank Group in the future. The IRM noted particularly the lessons learned by Management with regard to compensation payments, the implementation of the RAP, and the need for comprehensive socio-economic surveys and grievance redress mechanisms to be set in the initial stages of both the BHP and BIP. It was only due to the IRM Compliance Review that these measures were taken after the Projects had started implementation activities.

In addition, during the project implementation phase, disagreements relating to land ownership, labour issues, damage to houses, and asset/crop valuation led to lawsuits and complaints filed by the PAPs with different IAMs. The mediation facilitated by CAO/IFC and UETCL’s opening of an escrow account helped in resolving these complaints before the project’s completion. Management admitted that more long-term or sustainable solutions will be necessary to improve efficiency in compensation payments, which could cause delays to project implementation activities.

Furthermore, the delay by the Chief Government Valuer in approving the compensation and asset rates conducted by the executing agency (UETCL) contributed to growing demands by land owners to be compensated at exorbitant rates.

The IRM welcomes the proposal by the Bank Management to establish more cost-effective measures, such as gazetting the power infrastructure corridors in line with power-sector development strategies in advance to better manage census surveys of eligible PAPs and the compensation process. In addition, there is need for adequate staffing of land valuation offices to expedite the review and approval processes of
compensation rates and asset valuations conducted by the government’s project-executing agencies and to minimize delays on compensation payments and possible disagreements by land owners.

Recommendations to the Boards of Directors

The IRM Experts and the Director of the BCRM recommend to the Boards of Directors the following:

1. To invite the Bank Management to continue advising UETCL and to monitor the conclusion of the compensation process, primarily the transfer of land titles to the PAPs that have been relocated to the resettlement sites and to complete the payments of compensation to the PAPs whose court cases (17) are still pending. Moreover, the Bank Management should provide adequate support to both UETCL and BEL to measure the sustainability outcomes of the projects and to benefit from the lessons learned, as indicated by the PCRs of the Bujagali Projects.

2. To consider and approve the recommendation of the IRM to close the Request and the monitoring of the Bujagali Projects, with this report being the final Monitoring Report of the two projects.
AFRICAN DEVELOPMENT FUND

UGANDA

BUJAGALI INTERCONNECTION PROJECT

PROJECT COMPLETION REPORT

CORRIGENDUM

RDGE/PESD/COUG DEPARTMENTS

February 2019
The Bank’s Compliance Review and Mediation Unit (BCRM) is preparing the Monitoring Closure Report by the Independent Review Mechanism (IRM) on Bujagali Hydropower Project. In order to align the Project Completion Report of Bujagali Interconnection Project with the findings of IRM closure report, a Corrigendum to the Project Completion Report (PRC) dated 25 January 2018 with reference No. ADF/BD/IF/2018/11 has been found necessary. Therefore, we would please ask you to consider the following Corrigendum.

1. In the Section II - “Project performance assessment”, sub-section B - “Effectiveness” and clause 1 – “Progress towards the project’s development objective”, the second paragraph shall be read as <<The BIP provided a transmission system linking the Bujagali hydropower station to the country’s existing transmission network. The Bujagali switchyard, the interface between the transmission system and the Bujagali Power Station, was constructed as part of the BPS project by the private developer. The BIP had have four components and sub-components and the major components were: (A) Overhead Transmission Lines to construct 75 km Bujagali to Kawanda double circuit 220 kV line, 15 km Kawanda to Mutundwe double circuit 132 kV transmission line, 8 km Bujagali to Nalubaale double circuit 132 kV transmission line, and 5 km Bujagali to Tororo double circuit 132 kV transmission line; (B) Substations, new 132 kV Kawanda substation, extension of Mutundwe; (C) Resettlement/Compensation focusing on acquisition of land and easements along the right of way, access roads and substations; and (D) Consultancy Services for project supervision and project audit. The BIP was implemented by UETCL. The commercial operations dates (COD) for BIP was achieved in August 2011 and for BHP in July 2012, but the planned COD date was end of 2011. Compensation of Project Affected Persons (PAPs) for the BIP commenced in 2008 and was implemented up to July 31, 2012 when the project achieved COD. While compensation did not derail the BIP’s implementation, several challenges were experienced, notably due to disagreements related to land/property valuation and crop. In 2007, a complaint about inadequate compensation was submitted to the Independent Review mechanism (IRM) of the AfDB by a Ugandan NGO representing the PAPs. The complaint was processed through compliance review and the Compliance Review Panel found that “Failure to resolve legacy issues prior to commencement of projects, especially for affected people by the Bujagali Interconnection Project, constituted non-compliance with the Bank’s Policy on Involuntary Resettlement. In order to remedy this aspect, the Management in its Action Plan promise that a mechanism will be established to monitor compensation outcomes for displaced households and a completion report produced. The IRM monitored the implementation of this Action item four time from 2009 to 2012 with reports of progress of compensation being reported to the Boards of Directors each year. As the UETCL continued to sort out the compensation of PAPs affected by the BIP, dissatisfied 557 PAPs instituted a class action lawsuit in 2010. Following a mediation processes facilitated by the Compliance Advisor Ombudsman (CAO) of the International Finance Corporation (IFC), most compensation disagreements were resolved out of court. As of December 2015, UETCL had not resolved 27 cases of the 557 cases. By 30 June 2018, the number of pending cases had reduced from 27 to 17 only. Cumulatively, a total of UGX 747,915,980 was paid as additional compensation to the 557 people. Overall, as of March 2016, the total amount spent by UETCL in resettlement and compensation of PAPs in this Project was UGX 42,667,136,493 excluding the 27 cases that were yet to be resolved at that time. The 17 cases that are currently not resolved represent 3% of total 557 cases, and this corresponds to compensation amounting to UGX 4,499,229. Some absentee PAPs are yet to be located/verified, although the corresponding compensation payments have been deposited in an escrow account and payments will be undertaken once verification has been completed>>

1
2. In the Section II - “Project performance assessment”, sub-section B - “Effectiveness” and clause 2 – “Outcome Reporting”, in the table for “Rating* (see IPR methodology)”, add the following:

**Resettlement and Compensation outcomes**

According to the Project Completion Report of the BIP submitted to the Bank by the UETCL in May 2006, the Resettlement Action Plan (RAP) for this Project was successfully implemented with the resettlement of the project-affected people (PAPs), the compensation of PAPs for their property interests including land and crops along the acquired transmission line corridor. The Report provides that 2,798 households were affected by the Project and were compensated in line with the applicable policy of the Government of Uganda. Forty-two (42) houses for the vulnerable group were constructed, 142 households were compensated in kind, 128 received land allocation and 21 opted for cash compensation. Ten (10) boreholes were constructed in selected communities affected by the Project (p.5), access roads were constructed in all the eleven (11) resettlement sites, and piped water was extended to Namusera resettlement site (p.36). Electricity was also extended to three (3) out of eleven (11) resettlement sites through Umeme, the service provider. However, although electricity poles were erected and powered, majority of the PAPs had not yet extended the power to their individual house. Instead, the host community embraced this utility and have extended power to their own houses.

In June 2018, the Bank Management received updated information from UETCL to the effect that one hundred and eighty-five (185) PAPs were resettled in UETCL designated resettlement sites. Out of these PAPs, 117 have received titles to their plots. The breakdown of the pending 68 titles is as follows: (a). 12 titles are processed but cannot be handed over to the beneficiaries until Letters of Administration are processed, (b). 10 titles are under processing (finalizing documentation into names of beneficiaries), and (c). Forty-six (46) Vacant Plots are titled under UETCL. The process of transfer of land titles for the resettlement areas is ongoing to enable the affected persons to confirm their rights of land ownership. Moreover, the 27 cases out of the 557 cases that were reported pending in March 2016 has reduced to 17 cases only. UETCL has opened an Escrow Account to hold money for payments of the pending cases.

The Bank Management is committed to continue advising UETCL and monitor the conclusion of the transfer of land titles to the PAPs resettled in the resettlement sites and to complete payment of compensation in the 17 pending cases.

3. In the Section II - “Project performance assessment”, sub-section B - “Effectiveness” and clause 8 - Lessons learned related to effectiveness, the item 3 in the table shall be read as follow:

<table>
<thead>
<tr>
<th>Key issues (max 5, add rows as needed)</th>
<th>Lessons learned</th>
<th>Target audience</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3. Compensation Payment and Implementation of RAP</strong>: Challenges were experienced in implementing compensation of PAPs, primarily due to poor socio-economic survey at the initial stages of both the Bujagali Hydropower and Interconnection Projects and no grievance redress mechanism had been established by the time the IRM Compliance Review Report was submitted to the Boards in June 2008. In addition, during project implementation disagreements in land property and crop valuation arose, in some cases leading to lawsuits. Mediation (through CAO) and depositing compensation payments in escrow accounts prevented implementation slippages. More longer-term or sustainable solutions will be necessary to improve</td>
<td>1. Updated socio-economic survey were commissioned for BHP by BEL and were completed by 2009. The Bujagali Interconnection Project conducted a comprehensive census of affected land. A grievance mechanism (Resettlement and Community Development Action Plan-RCDAP) was put in place to deal with disputes in dynamic situations and reports by the witness NGO were made available for public inspection.</td>
<td>Bank and GoU</td>
</tr>
<tr>
<td></td>
<td>2. Pro-activeness on the part of the Government of Uganda (e.g. CAO mediation and depositing compensation payments on an escrow account) helped to prevent implementation slippages. However, more cost-effective measures such as gazetting the power</td>
<td>GoU</td>
</tr>
</tbody>
</table>
Key issues (max 5, add rows as needed) | Lessons learned | Target audience
--- | --- | ---
Efficiency in implementation compensation payments. | Infrastructure corridors in line with power sector development strategies in advance will prevent any opportunist/speculative land/property development by potential PAPs, thereby easing compensation processes. | 
In addition to the above, the delay by Chief Government Valuer (CGV) on approving the compensation rates and assets valuation conducted by the executing agency (UETCL) contributed to compensation payments and brought demands by the land owners of exorbitant rates. | Adequate staffing the CGV could expedite the review and approval process of compensation rates and assets valuation conducted by the government’s project executing agencies and minimizes delays on compensation payment and possibly disagreement by land owners. |

4. In the Section II - “Project performance assessment”, sub-section D - “Sustainability” and clause 4 - Environmental and social sustainability, the table shall be replaced by:

<table>
<thead>
<tr>
<th>Rating</th>
<th>Narrative assessment (indicative max length: 250 words)</th>
</tr>
</thead>
</table>
| 3 | In line with the applicable legal and regulatory frameworks as well as the requirements of the different financiers of the project, the project implementation was carried out to meet the “best practices” on environmental and social safeguards. With respect to environmental requirements, the project was implemented in accordance with the National Environmental Laws and the contractors worked in conjunction with the relevant government agencies including the National Environmental Management Authority and the National Forest Authority. These provisions were also complemented by routing supervision and advisory provided by the different international financial institutions involved in the project. This in general led to well informed management of environmental resources especially reserved forest areas in line with international best practices. The project submitted routinely environmental and social monitoring reports that described the monitoring activities and the results of monitoring. The parameters monitored were based on the ESMP including air quality; water quality; noise; flora and fauna; land use, landscape and visual impacts; soil, archaeology; occupational health and safety; and the socio-economic impacts of the project. Latest supervision activities noted and provided advisory on minor non-compliance items with the Bank’s requirements, mainly these were the hazardous waste management procedures and other routine safety issues. 

On the other hand, the project faced considerable challenge in the context of associated involuntary resettlement and compensation which is typical of such large scale projects which traverse large surface areas and contiguous to personal properties. In 2007, the PAPs file a complaint with the Independent Review Mechanism (IRM) of the AfDB about inadequate compensation and resettlement, inadequate public consultations, destruction of cultural heritage and related spiritual matters, inadequate socioeconomic surveys to establish baseline data before the start of the BHP and BIP, need for enhanced protection of the Kalagala Offset Area and adverse impacts of rock blasting for BHP. In 2009, claimants filed suit related to land transactions in the Ugandan courts claiming that the state-owned transmission utility, UETCL, had undercompensated them for land and crops impacted by the 100 km of transmission lines built by UETCL simultaneously with the Bujagali project to evacuate its power. The claim initially involved 557 land transactions but it was later determined to be 514 as there were a number of duplications on the initial list. The complainant and UETCL agreed to an out of court settlement supported by the mediation capacities of the Bank and other financiers. 

Concerning the original scope of Bujagali Interconnection Project, the updated Compliance Review Mechanism Report of CAO outlined compensation claims related to blasting impacts at the dam areas, and the 557 class action case. Based on the out of court settlement agreement, the payment to the claimants is currently up to 87% and has taken over 2 years to implement. However, it is also noted that there are about 220 separate cases from the 557 class action case. The situation of the 220 cases is as such that the UETCL considers their complaint |
belated in comparison to the 557 class action case. The issue is still outstanding in court. UETCL will update the Bank on the 220 compensation case and the blast impact complaints.

Through the Intervention of the IRM and CAO of IFC, among other accountability mechanisms of the donors who supported both projects, most of these complaints were systematically addressed during the implementation of both Projects to the satisfaction of the PAPs. A Sustainable Management Plan for the Kalagala Offset Area was prepared by the International Union for Conservation of Nature (IUCN), reviewed by the AfDB and was finally adopted by the GoU in 2010. When the pending 17 cases are settled by UETCL, it will enhance the sustainability of the BIP and BHP from environmental and social and perspectives.