

Inspection Panel

REPUBLIC OF UGANDA: Water Management and Development Project (P123204) and Energy for Rural Transformation Phase III Project (P133312)

Investigation Plan (October 9, 2018)

I. Introduction

On May 1, 2016, and September 19, 2016, the Inspection Panel received two Requests for Inspection, which the Panel decided to process jointly. They were submitted by three residents of the Jinja district in Uganda, and three residents of the Busoga region of Uganda, respectively, who asked the Panel to keep their identities confidential. They alleged environmental, social, cultural, economic, and health-related harm resulting from the filling of the Isimba Dam reservoir, which will cause flooding of parts of the Kalagala Offset Area (KOA) in Uganda.

Management submitted its Response on October 31, 2016. On December 16, 2016, the Inspection Panel issued a first Report and Recommendation which noted that three Bank-financed projects could plausibly be linked to the alleged harm: the Private Power Generation (Bujagali) Project, the Water Management and Development Project (WMDP), and the Energy for Rural Transformation Phase III Project (ERT-III). The Panel recommended to defer, by up to 12 months, its decision on whether an investigation was warranted to allow it to wait for the completion of the Environmental and Social Impact Assessment addendum (ESIA addendum) that Bank management was preparing and follow-up actions by the Bank. While the Panel found all three projects eligible in its report, the World Bank's Board of Executive Directors, in a discussion on April 4, 2017, interpreted that, although the guarantee under the Bujagali Project was still open, the Project was closed for the purposes of the Inspection Panel process, and thus not eligible for inspection. The Board approved the Panel's recommendation of a deferral on whether an investigation of the WMDP and ERT-III projects was warranted.

In its second Report and Recommendation of May 3, 2018, the Panel took into consideration various developments since the deferral, including the November 2017 ESIA addendum and resulting follow-up actions by Management. The Panel recommended carrying out an investigation into the alleged issues of harm and related potential non-compliance, which the World Bank's Board of Executive Directors approved on September 19, 2018.

II. The Panel's Recommendation

The Panel noted in its Report and Recommendation that the Requesters and the Request meet the technical eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification. The Panel considered the alleged serious harms to be plausibly linked to Bank-financed projects, and that the Request raises important issues of potential harm and policy non-compliance that can only be fully ascertained in the context of an investigation. The Board approved the Panel's recommendation to investigate the alleged harms plausibly linked to the WMDP and ERT III projects.

This document presents an outline of the investigation plan as required by the Panel's Operating Procedures. It includes a summary of the key questions and issues to be addressed during the investigation, and a brief description of the investigation methodology. This outline is being made publicly available through the Inspection Panel website.

III. Scope of the Investigation: Issues of Harm and Compliance

The Requesters alleged that people whose livelihoods depend on the KOA were likely to suffer harm if the Bank failed to hold the Government of Uganda (GoU) to its commitments under the Indemnity Agreement (IA) that created the KOA. They argued that the development of the Isimba Dam would threaten the management of protected resources, including adjacent forest reserves, river banks, wetlands, and the local economy. They claimed that fishermen, subsistence farmers, and people working in the tourism industry, particularly the Busoga people who derive livelihoods from this part of the Nile River, would be irretrievably harmed if the Isimba Dam was built and filled to its highest level. The Requesters also claimed that the relevant section of the Nile River to be flooded contained many unique species of flora and fauna that would be irrevocably lost, and that the spirits and gods that protect the Bujagali Falls would be impacted negatively. In addition, the Request also alleged health impacts due to stagnant water resulting from the flooding.

During its visit in February 2018, the Panel observed many of the harms raised by the Requesters. The Panel's investigation will assess these harms and alleged non-compliance with the relevant World Bank Operational Policies and Procedures.

The Panel's investigation will include an analysis of the following issues:

Background: The WMDP supports the implementation of specific activities under the Kalagala Offset Sustainable Management Plan (KOSMP), which was developed as a requirement under the Bujagali Project's Indemnity Agreement that established the KOA as an offset to protect its natural habitat and environmental and spiritual values.

The ESIA addendum, developed to assess the environmental and social impacts of the Isimba Dam on the KOA, was financed by the ERT III.

A. The purpose and management of the KOA

- a. What is the purpose of the KOA?
- b. What is the purpose of the KOSMP?
- c. What are the activities and investments of the KOSMP that are supported/financed under the WMDP?
- d. How did the Bank assess the GoU's capacity to manage the KOA and implementation of the KOSMP?
- e. What legal measures were supported by the Bank for the protection of the KOA?
- f. How did the Bank supervise the implementation of the KOSMP as a safeguard instrument?

B. The Construction of the Isimba Dam and its impact on the KOA

- a. When did the Bank become aware of the construction of the Isimba Hydropower Plant and its potential impact on the KOA?
- b. What steps did the Bank take to assess these impacts and ensure the protection of the KOA?
- c. When and how did the Bank engage with the Government of Uganda on this issue?
- d. When and why was the ESIA addendum commissioned and when was it completed?
 - i. What impacts on the KOA does the ESIA addendum identify?
 - ii. What is the expected impact of the mitigation measures proposed in the ESIA addendum and how will the Bank ensure the implementation of these measures?
 - iii. How does the ESIA addendum assess compensation and livelihood restoration of people/businesses in the impacted KOA due to the construction of Isimba?

C. The Extended Kalagala Offset Area (EKO)

- a. Why and when was the idea of creating an extended offset considered?
- b. How will impacts due to the loss of the original KOA be mitigated in the EKO?
- c. How will the mitigation measures be implemented and supervised, in particular with regard to impact on the following:
 - i. Environmental impacts (loss of biodiversity, wetlands, rapids)
 - ii. Cultural and spiritual impact
 - iii. Livelihood impacts and compensation
 - iv. Health impacts
- d. What kind of grievance mechanism will be put in place?
- e. What kind of information disclosure, consultation and participation has taken place and will take place regarding the EKO?

IV. Methodology of Fact Finding

For the purposes of this investigation, the Panel will enlist the assistance of one or two expert consultants with specific expertise on Environmental Assessment and natural habitat offsets, including their protection and management.

The investigation will be conducted in three phases: (i) investigation preparation and identification of the expert consultant; (ii) review of documentation, staff interviews and field visit; and (iii) report drafting and finalization. The investigation will include interactions with the Requesters, other community members, Bank staff, implementing entities, development partners and other relevant stakeholders. The Panel will make every effort to conclude the investigation within six months.

The Panel's Investigation Report and Management Response will be made publicly available after the Board of Executive Directors meets to consider the Panel's findings and to discuss and approve the Management Response and Action Plan.