

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

SECOND PROGRESS REPORT
ON THE IMPLEMENTATION OF MANAGEMENT'S ACTION PLAN
IN RESPONSE TO
THE INSPECTION PANEL INVESTIGATION REPORT
(REPORT INSP/136219-UG)

ON THE
REPUBLIC OF UGANDA
WATER MANAGEMENT AND DEVELOPMENT PROJECT
(CREDIT NO. 5127-UG)
AND
ENERGY FOR RURAL TRANSFORMATION PHASE III PROJECT
(CREDIT NO. 5653-UG)

July 22, 2021

ACRONYMS AND ABBREVIATIONS

ABIA	Amendment to the Bujagali Indemnity Agreement
BIA	Bujagali Indemnity Agreement
CFR	Central Forest Reserve
EKFS	Extended Kalagala Falls Site
ERT-III	Energy for Rural Transformation III Project
ESIA	Environmental and Social Impact Assessment
ESIA Addendum	Environmental and Social Impact Assessment Addendum for Isimba Hydropower Plant
GoU	Government of Uganda
GWh	Gigawatt hour
HPP	Hydropower plant
IDA	International Development Association
IFC	International Finance Corporation
IPN	Inspection Panel
KFS	Kalagala Falls Site
km	Kilometer
KOA	Kalagala Offset Area (<i>also referred to as Kalagala Falls Site, KFS</i>)
KOSMP	Kalagala Offset Sustainable Management Plan
LRP	Livelihood Restoration Plan
LTCO	Long-Term Conservation Options
MAP	Management Action Plan
MIGA	Multilateral Investment Guarantee Agency
MP	Management Plan (for the EKFS)
MW	Megawatt
NRICA	Nile Riverbank Investors and Conservation Association
RAP	Resettlement Action Plan
SCA	Special Conservation Area
SECP	Stakeholders Engagement and Communication Plan
WMDP	Water Management and Development Project

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on the Implementation of the Management Action Plan in Response to the
Inspection Panel Investigation Report on the Uganda Water Management and Development
Project (CREDIT NO. 5127-UG) and Uganda Energy for Rural Transformation Phase III
Project (CREDIT NO. 5653-UG)

1. This is the second Progress Report to the Board of Executive Directors (the Board) on the implementation of the Management Action Plan (MAP) in response to the Inspection Panel Investigation Report No. INSP/136219-UG on the Uganda Water Management and Development Project (WMDP) and Uganda Energy for Rural Transformation Phase III (ERT-III) Project.

2. As explained in this report, progress on some of the actions that require travel and face-to-face meetings, consultations in particular, has continued to be adversely affected by COVID-19-related restrictions on travel and gatherings. The Government of Uganda (GoU) has informed the Bank that it has not been able to organize consultations under such conditions and that it will resume the consultation process as soon as the situation allows.

I. BACKGROUND

3. *The Bujagali Project.* In 2007, the Board approved the Uganda Private Power Generation (Bujagali) Project (Bujagali Project), which involved construction of the 250-MW Bujagali Hydropower Plant (HPP) on the Victoria Nile, some eight kilometers north (downstream) of the town of Jinja. The project was supported by loans from the International Finance Corporation (IFC), and Guarantees from the International Development Association (IDA) and the Multilateral Investment Guarantee Agency (MIGA). The Bujagali HPP was commissioned in August 2012. In 2020, the plant delivered 1,385 GWh, or 31.3 percent of the total energy generated in the country that year. Following project closure, as per policy, the Bank continues to monitor the financial risks covered by the IDA guarantee, which will expire in November 2023.

4. *Kalagala Falls offset.* To alleviate the adverse environmental and social impacts of the Bujagali Project, the GoU provided contractual undertakings to IDA to establish an offset in the area of Kalagala Falls, located about 15 km downstream of Bujagali HPP, which included a 10.2 km stretch of the river, as well as the Central Forest Reserves (CFR) of the Kalagala Falls and the Nile Bank. This offset, referred to as the Kalagala Falls Site (KFS) and also as the Kalagala Offset Area (KOA), was "... exclusively to protect its natural habitat and environmental and spiritual values..."¹ To manage the offset, the GoU approved a Kalagala Offset Sustainable Management Plan (2010-2019) (KOSMP), which was launched in May 2011.² The WMDP supported, under one of its components, priority investments related to the implementation of a part of the KOSMP. The WMDP closed on December 31, 2018; as per its Implementation Completion Report (ICR), the activities in support of the KOSMP were completed satisfactorily and the GoU is committed to protection of the affected areas.³

¹ Section 3.06 of the Bujagali Indemnity Agreement dated July 18, 2007 (the "BIA") between International Development Association and Republic of Uganda (Number B-0130-UG).

² Maintaining a sustainable management program for KFS and Mabira CFR is an obligation under the Indemnity Agreement.

³ Republic of Uganda: Water Management and Development Project – Implementation Completion and Result Report (IDA-51270), World Bank, February 12, 2020.

5. *Isimba HPP.* As part of its plan to expand electricity access and provide adequate power supply, the GoU began construction of the Isimba HPP in 2015. The project, a 183-MW facility located about 36 km downstream of the Bujagali dam, was prepared and implemented by the GoU, using its own funds and financing from China Eximbank. The World Bank Group was not involved in preparation, financing, or construction of the Isimba project, nor was the Bank consulted by the GoU on the construction of the Isimba HPP. The Isimba HPP was commissioned in March 2019.

6. *ESIA Addendum.* When the Bank became aware in 2012 of the planning for the Isimba project and its proximity to the KFS, the Bank engaged with the GoU to determine the extent to which the Isimba HPP would affect the KFS. Since the Environmental and Social Impact Assessment (ESIA) for the Isimba HPP did not adequately address the potential impacts of the project on the KFS, the Bank requested a further assessment to specifically examine these potential impacts. In response, the GoU, using IDA funds from the ERT III project, prepared: (a) an Addendum to the ESIA of the Isimba HPP (ESIA Addendum), which focused on assessing environmental and social impacts of the Isimba HPP on the KFS and identifying mitigation measures; and (b) a Long-Term Conservation Option Report (LTCO Report), which examined options for protecting the KFS using the laws and regulations of the Republic of Uganda. The LTCO Report was completed in July 2017 and the ESIA Addendum in November 2017. With the completion of these two studies in 2017, the ERT-III is no longer financing any activities related to the “Extended KFS” (EKFS).

7. *Requests for Inspection.* On September 22, 2016, the Inspection Panel (IPN or the Panel) [registered two Requests for Inspection](#), IPN Requests RQ 16/05 and RQ 16/08 (hereafter referred to as “the Requests”), of three IDA-financed projects that were in various ways related to the KFS: the Bujagali Project, and the WMDP and ERT-III Projects, as described above. Management provided its [Response](#) to the Requests on October 27, 2016. On December 16, 2016, the IPN submitted to the Board its Recommendation, recommending deferral of its decision regarding investigation pending completion of Isimba HPP ESIA Addendum, preparation of which was in progress at the time. On April 4, 2017, the Board (a) found that the Bujagali Project was not eligible for investigation as the project closed in 2012; and (b) accepted the deferral of the IPN’s recommendation to investigate, for the remaining two projects, the WMDP and ERT-III.

8. *Panel Investigation.* On February 4, 2018, Management provided an [Update on Management Actions](#) to the Panel and the Board with information on the actions taken during the deferral period and the completion of the ESIA Addendum for the Isimba HPP in late 2017. The Panel subsequently sent its [Second Report and Recommendation](#) to the Board on May 3, 2018, recommending an investigation of the WMDP and ERT-III. The investigation, authorized by the Board on September 19, 2018, was completed on May 2, 2019, when the IPN issued the [Investigation Report](#) (Report No. 136219-UG). On June 28, 2019, Management provided its [Report and Recommendation](#) to the [Board, which considered it](#) on December 3, 2019, and approved the Management Action Plan.

9. *Amended Indemnity Agreement.* Following the completion of the ESIA Addendum and LTCO Report in 2017, the Bank and the GoU entered into an amendment to the Bujagali Indemnity Agreement (BIA)⁴ to reflect the findings and recommendations of these reports. The amended BIA (ABIA), signed on January 24, 2018, modified the boundaries of the KFS by excluding the portion of

⁴ Available here: <http://documents.worldbank.org/curated/en/520961519228498878/Official-Documents-Amendment-to-the-Indemnity-Agreement-for-B0130-UG>

the river flooded by the Isimba HPP reservoir, and extending the KFS further upstream toward the Bujagali dam, creating the EKFS.

10. *Extended Kalagala Falls Site.* The EKFS⁵ encompasses “the stretch of Nile River approximately 15 kilometers long that begins upstream at 2.5 kilometers below the Bujagali dam wall and ends downstream at the tail end of the Isimba Dam reservoir (Maximum Pool Level of 1,055 meters above sea level), thereby including (A) the entire Nile River aquatic area within these limits; (B) all river islands within these limits; (C) all land within 100 meters of both the left and right river banks from the annual maximum high-water line;⁶ and (D) the entire area of the Namavundu, Kalagala Falls and Nile Bank Central Forest Reserves except any portions inundated by the reservoir of the Isimba Dam.”

11. *Obligations of the GoU.* The ABIA addresses weaknesses identified in the management and protection of the original KFS by including specific GoU obligations to assure effective establishment and maintenance of the EKFS in ways that also appropriately address potential social impacts. The relevant GoU obligations and actions include: (a) to adopt, by December 31, 2019, and thereafter maintain, a mechanism that ensures legally-binding and long-term conservation, protection and management of the EKFS; and (b) to prepare and adopt, by December 31, 2019, a *Management Plan (MP)* for the EKFS, including measures to address potential social risks.⁷ These obligations are further elaborated in a *Supplemental Letter*⁸ dated January 24, 2018 between IDA and the Republic of Uganda which – *inter alia* – stipulates that if the MP requires the imposition of new or enhanced restrictions on access to natural resources, it will specify measures that would be taken to provide appropriate time-bound compensation to people using natural resources and whose livelihoods could be adversely affected by the EKFS-related management activities, prior to the effectiveness of such MP, and based on eligibility criteria mutually agreed by the GoU and IDA.

12. The ABIA preserves the objectives of the protection and commits the Republic of Uganda to establishing long-term protection of the EKFS under the Ugandan legislation. The Supplemental Letter further clarifies the elements that the legal mechanism and the MP are required to include, such as measures to protect the livelihoods of people adversely impacted by any new/enhanced restrictions under the EKFS MP. Overall, the EKFS represents a significant net gain in the areas to be protected compared to the original boundaries of the KFS.

⁵ The name “Extended Kalagala Fall Site” (EKFS) is used informally to refer to the Kalagala Falls Site as defined by the January 24, 2018, amendment to the BIA. The ABIA continues to use the term “Kalagala Falls Site” to refer to this area. In some documents of the Republic of Uganda, the area is referred to as “Kalagala and Itanda Falls Special Conservation Area.”

⁶ The 100-meter limit was selected to coincide with the existing “river bank” protection zone established under the National Environment (Wetlands, River Banks and Lake Shores Management) Regulations, 2000, in order to avoid any incremental impact of establishing the EKFS on people’s livelihoods.

⁷ The original November 30, 2018 deadline for these two obligations was extended to December 31, 2019 by an amendment to the BIA dated November 30, 2018, available here: <http://documents.worldbank.org/curated/en/394221544801526377/Official-Documents-Third-Amendment-to-Indemnity-Agreement-B-0130-UG>

⁸ Available here: <http://documents.worldbank.org/curated/en/480341518474391782/Official-Documents-Supplemental-Letter-Ref-Section-3-06-a-of-Amended-Indemnity-Agreement-for-B0130-UG>

II. IMPLEMENTATION OF THE MANAGEMENT ACTION PLAN

MAP implementation progress

13. Table 1 summarizes the status of actions taken under the MAP as of June 28, 2021.

Table 1: Status of MAP Implementation

Action	Status (as of June 28, 2021)
<p>The GoU to prepare a public consultation and communication plan for the Livelihood Restoration Plan (LRP) and EKFS MP, in coordination with local community-based organizations.</p> <p>The Bank will review and advise through knowledge and good practice sharing.</p> <p><i>Timeline: by November 30, 2019</i></p>	<p>Ongoing. The GoU prepared a Stakeholders Engagement and Communication Plan (SECP) in November 2019. The GoU strengthened engagement with stakeholders, including meetings in early 2020 with the Nile Riverbank Investors and Conservation Association (NRICA), an association representing a large number of stakeholders in the EKFS (such as tourism operators, real estate developers, business owners, landowners, and individuals with land interests in the EKFS). The onset of the COVID-19 pandemic in March 2020 and the ensuing prohibition of meetings and public gatherings have, however, disrupted the consultation process.</p> <p>The Bank reviewed the SECP and provided comments and suggested improvements in early December 2019. The Bank had also engaged with NRICA in discussing the impacts of establishing the EKFS as a Special Conservation Area (SCA). Over the past year, the Bank received several letters from NRICA and some affected businesses, raising various concerns (deforestation, agriculture encroachment, land rights, demarcation, etc.). The Bank shared these concerns with the GoU, both at the technical level and at the level of senior officials, so that they may be adequately addressed.</p> <p>The GoU technical team provided an updated SECP on June 22, 2021, which the Bank is reviewing. The Bank will advise GoU as part of its comments that the revised plan should be made publicly available as well. The Bank will continue to provide advice and good practice lessons on stakeholders' consultations.</p>
<p>The GoU to declare EKFS a Special Conservation Area under the National Environment Act. The Bank will review the draft Statutory Order for consistency with the 2018 BIA.</p> <p><i>Timeline: by December 31, 2019</i></p>	<p>Completed. The GoU declared EKFS as a Special Conservation Area under the National Environment Act through a Statutory Instrument, which was gazetted on December 27, 2019.</p> <p>The Bank reviewed the Statutory Instrument for consistency with the 2018 BIA and was satisfied.</p>
<p>The GoU to prepare and adopt the EKFS Management Plan.</p> <p>The Bank will review and clear the plan and monitor the implementation for consistency with the 2018 BIA and relevant Bank Policy.</p> <p><i>Timeline: preparation and adoption by December 31, 2019;</i></p>	<p>Ongoing. The GoU delivered to the Bank a revised draft MP in December 2020, which was discussed with the Bank and then updated again in May 2021 to take into account the Bank's comments. Some appendices to the MP are still to be updated and shared with the Bank, and are expected by end-August 2021. The revised draft MP will also need to be consulted upon with stakeholders before it is finalized.</p> <p>The MP was expected to be finalized by end of September 2020 and subsequently adopted. However, continued</p>

Action	Status (as of June 28, 2021)
<i>implementation throughout the duration of the IDA Partial Risk Guarantee (November 2023)</i>	restrictions on meetings and travel related to the COVID-19 pandemic continue to delay the completion of stakeholder consultations.
<p>The GoU to prepare and adopt a LRP (including, if applicable, a Resettlement Action Plan - RAP) for the EKFS.</p> <p>The Bank will review and clear the plans and monitor implementation for consistency with the 2018 BIA and Operational Policy (OP) 4.12.</p> <p><i>Timeline: preparation and adoption of the LRP (and RAP, if applicable) prior to impacts, as defined by the EKFS MP.</i></p>	<p>Ongoing. The GoU prepared an interim draft of the LRP and a preliminary valuation report for a RAP. Further work on these documents, however, is on hold pending the finalization of the MP. In addition, further consultations with stakeholders and project-affected people will be held on the documents before they are finalized. The LRP and RAP (if it proves needed) will be completed after the finalization of the MP. The COVID 19 pandemic and the constraints on meeting and travel imposed by the GoU will likely add to the time required to complete the documents.</p>

14. The actions reported in the table are discussed in more detail below.

15. Management notes that the course of the COVID-19 pandemic in the Project area has had an impact on the timelines for implementation of actions presented in the MAP. Public health measures and other restrictions related to COVID-19 continue to affect the Government’s ability to organize public consultation with stakeholder groups. Public consultations, where mandated by Bank Policy, will need to be carried out as soon as the situation permits to finalize the instruments that are set out in the MAP.

16. *Stakeholder consultations and communication.* The GoU held a number of consultative meetings throughout preparation of the ESIA Addendum (2016-2017), preparation of the Statutory Instrument to declare the EKFS as a SCA (2018-2019), and preparation of the EKFS MP (2019-2020). The consultations were carried out by teams from the Ministry of Energy and Mineral Development, Ministry of Water and Environment, National Forestry Authority, and National Environment Management Authority. The mobilization of stakeholders for the consultations was carried out by local level leaders and local government institutions.

17. During finalization of the Statutory Instrument, in November 2019 the GoU also drafted the SECP that is to accompany preparation and implementation of the EKFS MP. The Bank team provided comments and suggested improvements to the plan in relation to stakeholder analysis and engagement; strengthening community participation and ownership; sequencing consultation processes to inform preparation of the MP and LRP (and RAP, if it proves necessary); and broadening consultation methods. The GoU technical team submitted an updated version of the SECP on June 22, 2021, which is currently being reviewed by the Bank and which will be subject to stakeholder consultations before being finalized.

18. As part of preparing the EKFS MP, as well as initiating preparation of the LRP and valuation of assets in the EKFS (in case a RAP proves necessary), the GoU team continued to carry out consultations with stakeholders throughout early 2020, until they were interrupted by the onset of the COVID-19 pandemic and the ban on gatherings. The GoU had intended to resume consultations after the restrictions on travel and public meetings were lifted. However, the country has been hit with the

third wave of the pandemic, which compelled the GoU to re-introduce some of the previously lifted restrictions. Under the current circumstances, the timing of further stakeholder consultations will depend on the course of the pandemic. The Bank will continue to follow-up and engage with the GoU on the consultations and subsequent finalization of the MP.

19. NRICA has continued to raise concerns to the Bank during the past year related to encroachment and land degradation; the methodology for the EKFS border demarcation; prohibition of activities inconsistent with the conservation objectives; licensing of activities that will be permitted; need for clarity regarding the Uganda National Environment Management Authority's requirements for user permits and related Environmental Impact Assessment; land ownership and land titles within the EKFS; and integration of its proposals into the MP. The Bank shared the concerns with the GoU and its technical team and requested the GoU to engage with NRICA and other stakeholders. In March 2021, Haven Eco River Lodge – a tourism business firm operating in the EKFS – raised concerns to the Minister of Water and Environment, asking for guarantees that its land rights would be respected upon implementation of the EKFS MP. The Bank requested the GoU to respond to this concern as well.

20. *Legal protection of the EKFS.* The adoption of the Statutory Instrument in December 2019, approved by Parliament, was a significant milestone and a sign of the commitment of the Republic of Uganda to ensuring long-term, sustained protection of the offset under Ugandan legislation and, therefore, beyond the expiration of the Indemnity Agreement scheduled for November 2023.

21. *EKFS MP.* The current discussions on improvements to the MP are in areas such as: clarifying the legal framework for land ownership and land use rights; demarcation of borders of the EKFS; management of authorized and prohibited activities in the different areas of the EKFS; updating of appendices on CFR management plans, ecotourism plans, fragile ecosystems, livelihood framework, and monitoring plan for aquatic resources and fisheries; implementation arrangements and responsibilities, including participatory/partnership arrangements with local communities, businesses, groups, and individuals with interest in the EKFS SCA; and stakeholder consultations. Addressing these issues will require additional consultations, whose schedule and conduct will depend on the course of the pandemic.

22. *LRP and RAP for the EKFS.* The GoU prepared a “Valuation and Survey Report for Land, Buildings, Crops, Trees and Loss of Income for the Development of the Resettlement Action Plan for the Kalagala-Itanda Offset Area” (“Valuation and Survey Report”), which should be an integral part of the RAP, should such a RAP be needed (this is to be established after the EKFS MP is finalized and adopted). This Valuation and Survey Report will need to be approved by the Chief Government Valuer. Following the approval of the Valuation and Survey Report and adoption of the MP, the LRP and RAP (if needed) will be further developed and will undergo a thorough consultation process before being finalized. However, further work on the LRP and RAP has been put on hold pending completion of the MP, which will determine the scope of the impacts of establishing the EKFS and therefore needs to precede LRP/RAP design.

Summary of video-consultations with affected stakeholders on MAP implementation progress

23. *Consultations.* Consultations were held with stakeholders via videoconference on July 8, 2021, as pandemic-related restrictions prevented face-to-face meetings. Participants included stakeholders from local communities and business organizations. Given that the Requesters had asked to keep their identities confidential, the Bank team was unable to invite the Requesters specifically but invited to

this consultation meeting known stakeholders with an interest in the issues and participants from previous consultations on the MAP. The Bank arranged for live simultaneous translation to be available in *Luganda* and *Lusoga*. The consultations did not include any Government representatives.

24. **MAP progress.** The progress of MAP implementation was presented by the Bank team. The Bank team then invited feedback from the participants.

25. ***Feedback from consultation participants.***

- Many participants expressed their frustration regarding the slow pace of implementation of the MAP. While they understood the delays due to the COVID-19 pandemic situation, they continue to operate their businesses in a state of uncertainty regarding potential restrictions that may result from the MP for activities in the EKFS. The Bank team assured them that any restrictions that may emerge from the EKFS being declared a Special Conservation Area will be clarified in the MP. At this stage, however, the MP is not finalized for Bank review.
- One participant also raised concerns regarding the slow pace and the Government's approach to compensation for tourism operators for impacts created by the Isimba project. The Bank team clarified that the Bank had no role in the Isimba project and therefore, this is not part of the MAP.
- Participants also noted that they have not received any feedback or information in response to their outreach to Government agencies regarding the MP. They continue to be concerned that the MP could be finalized without adequate stakeholder consultations, or consideration of the input provided by them. They noted that their business activities are consistent with the conservation objectives of the EKFS and that some would even actively contribute to conservation efforts. The Bank team confirmed that the Bank will require robust consultations with stakeholders in accordance with Bank policy and that ascertaining this will be part of the Bank's review and clearance of the respective instruments.
- Some participants inquired whether the budgetary burden on Uganda stemming from the COVID-19 pandemic may adversely impact the Government's ability to fund and implement the MP. They also sought assurances that the lessons learned from the implementation of the first Kalagala Offset MP would be adequately reflected in this final MP. They further requested that the Bank keep them abreast regarding the upcoming stakeholder consultations on the MP since they felt that they were not always promptly informed about such engagements through local channels in the past.

III. NEXT STEPS

26. This Progress Report will be provided to the Requesters, and publicly disclosed on the Bank's website.

27. ***Next progress report.*** The next progress report will be provided to the Board in 12 months' time, or upon completion of the MAP, whichever occurs first.