INDEPENDENT REVIEW MECHANISM
Compliance Review and Mediation Unit (CRMU)

SPOT-CHECK ADVISORY REVIEW OF PROJECT COMPLIANCE REPORT

Project: Tanzania Road Sector Support Project II

November 2016
Acknowledgements

The Independent Review Mechanism Expert and the Director of the Compliance Review and Mediation Unit would like to acknowledge the valuable support they received from the Project Promoter, Tanzania National Roads Agency, the Management of the African Development Bank Group, the local authorities and the local communities in the project area. This support has been invaluable in facilitating the Spot-Check Advisory Review of the Tanzania Road Sector Support Project II, which is the subject of this Report.
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<tr>
<td>AfDB</td>
<td>African Development Bank Group</td>
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<td>CRMU</td>
<td>Compliance Review and Mediation Unit</td>
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<td>ESAP</td>
<td>Environmental and Social Assessment Procedures for Public Sector Operations</td>
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<td>ESMP</td>
<td>Environmental and Social Management Plan</td>
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<td>IRM</td>
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<td>ISS</td>
<td>Integrated Safeguards System</td>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
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<td>MFIs</td>
<td>Multilateral Finance Institutions</td>
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<td>PAPs</td>
<td>Project Affected People</td>
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<td>Resettlement Action Plan</td>
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<td>TANROADS</td>
<td>Tanzania National Roads Agency</td>
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<td>RSSP II</td>
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<td>TZFO</td>
<td>Bank’s country office in Tanzania</td>
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Executive Summary

This Spot-Check Advisory Review of Project Compliance (Spot-Check) was carried out to determine whether the Road Sector Support Project II in Tanzania (RSSP II) is in compliance with the policies and procedures of the African Development Bank. The Board of Executive Directors approved the exercise on May 4, 2016. The IRM is mandated to conduct such sport check review by its Operating Rules and Procedures. The objective of the review is to draw lessons for the purpose of advising Management on compliance issues associated with high risk projects.

The review finds that the Bank followed the necessary due diligence in the preparation and dissemination of relevant project documents. The project was properly categorized as a high risk project due to its very significant resettlement impact. However, there are shortcomings in the record keeping of the documents. The current central archiving system does not include safeguards documents for projects which were approved prior to the adoption to the Integrated Safeguard System which came into effect in 2014. The IRM did not see a documented record of safeguards documents (such as aide-memoires or guiding notes showing the Bank’s technical support to TANROADS) available for this Road Sector Support Project II since it was approved in 2012. However, such record keeping is essential and should be conducted with appropriate care for all projects. A central archiving system for all project safeguard documents will help maintain institutional memory and facilitate Bank wide access to information. The preparation of this Spot-Check was hampered by inadequate access to documentation.

The IRM finds that the Road Sector Support Project II in Tanzania has not been in full compliance with Bank Safeguards Policies. The project was in particularly noncompliant with several provisions of the Involuntary Resettlement Policy 2003. Resettlement was conducted and compensation was paid in accordance with Tanzania’s national laws which are not fully consistent with the Bank Involuntary Resettlement Policy which requires the Borrowers to adhere to once they sign off on the loan agreement. The following are the most significant infringements of the Bank’s Involuntary Resettlement Policy: (i) demolition notices of houses were issued prior to compensation and a number of houses were demolished before compensation was paid; (ii) there was inadequate consultation with people affected by the project; (iii) there was no compensation was paid for loss of income and to affected people who have no formal land titles; (iv) valuation of affected properties was not fully transparent; (v) there was no third party monitoring of compensation procedures and grievance redress mechanisms were established at very late stage of project activities and were not representative (i.e. no representatives of the affected people were designated to be part of these mechanisms); (vi) no adequate gap analysis was conducted to identify inconsistencies between the national laws and the Bank’s Involuntary Resettlement Policy (2003). Thus, no proposals were developed to bridge the gaps between the two regulatory frameworks leading to inadequate compensation of affected people who were found eligible.

Many but not all of these shortcomings were addressed, including during a problem-solving exercise which was conducted by the IRM between 2012 and 2016 after a complaint had been received in June 2012. As part of the remedial action plan adopted under the problem solving exercise, demolition of houses was discontinued, a revised resettlement action plan was issued, disclosure of compensation dates and amounts to affected people was made and the establishment of Grievance Redress Mechanisms was seriously considered. This National laws in Tanzania require the depreciation of resettlement allowances, such as full replacement costs and compensation for loss of income accorded by the Bank Involuntary Resettlement policy, and under these laws the affected people must present formal titles to lands and audited accounts for informal business. As a result, the majority of affected businesses and people who have no formal titles were not compensated. The IRM is of the view, that the objective of the Bank’s Involuntary Resettlement Policy to help resettled people earning capacity and production level was not met by the RSSP II, instead a material harm has been inflicted on people by the project. While the IRM problem solving exercise contributed to bringing the project into
compliance with the Bank Policy on Involuntary Resettlement, the IRM is concerned about the way in which compensation of people affected by the project was handled prior to the IRM intervention as well as after TANROADS and the Bank had signed off on the remedial action plan under the IRM problem Solving. The IRM is of the view that a comprehensive gap analysis would have been instrumental in identifying and addressing the gaps between the requirements of the national laws and the Bank’s Involuntary Resettlement Policy, thereby anticipating on measures for adequate compensation of the people affected by the project.

The IRM notes that the Grievance Redress Mechanisms established by the RSSP II as required under Bank policies were structured by the Borrower with limited guidance from the Bank. As a result, the mechanisms lacked the capacity to handle people complaints relating to valuation or revaluation of their affected properties in a timely manner. The IRM problem solving facilitated representation of the project affected people in these mechanisms. However, for they rely heavily on TANROADS for their operation. However TANROADS plays a dual role under these mechanisms. TANROADS is party in compensation disputes and at the same time member of the District Commission which has a final say on these disputes. This dual role marred the fair and timely redress of complainants as required by the Bank Policy on Involuntary Resettlement.

The IRM observes that the project did not take adequate account of the Bank’s Poverty Reduction and Gender policies. The discussion in the project appraisal document of the project’s economic impact on low-income households is insufficient and includes only perfunctory references to the project’s gender dimensions. In the IRM’s view the lack of attention to these policies limits the impacts the RSSP II contribution to poverty reduction and gender equity. As these policies are central to the Bank’s development objective, they need to be appropriately addressed.

The IRM finds that the project is largely in compliance with the Bank’s Environmental Safeguard Policies. Adequate measures are implemented to prevent soil instability and soil erosion, interferences with local hydrology and land degradation, loss of vegetation and wildlife. However, dust control remains problematic on all construction sites as are the contractors’ delays in obtaining permits to ensure the sustainable use of environmentally sensitive areas.

The IRM notes that there was insufficient guidance of Bank staff to the Borrower with regards to planning for and implementation of the Bank’s safeguard policies as well as the poverty reduction and gender policies. It is essential that Bank staff provides assistance to the Borrowers so that they can comply with the policy requirements of the Bank. Several of the non-compliance instances mentioned above could have been avoided had Bank staff played a significantly more active and supportive role during the preparation of the project resettlement plan and the implementation of the Bank safeguards policies. Most borrowers neither have the knowledge nor the capacity to carry out these tasks without active support of Bank staff.

The IRM is concerned that none of the Bank supervision missions had monitored the TANROADS implementation of the remedial action plan developed under the IRM problem-solving exercise to address the serious compensation and reputational issues raised and to contribute to bringing the project into compliance with applicable Bank policies.

This Spot-Check report contains two sets of recommendations. The first set is project specific and is meant to address remaining shortcomings observed by the IRM since the Road Support Sector Project II construction activities are ongoing. The second set of recommendations is broader. They are made based on lessons learnt from this Spot-Check and are meant to help improve implementation of Bank Safeguard Policies. The Table below consolidates the key findings and recommendations of the Spot-Check.
### Key Findings and Recommendations of the Spot-Check Review

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<th>NO.</th>
<th>FINDINGS</th>
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| 1.  | **Archiving System**  
Some of the RSSP II safeguard documents including aide-memoires on project preparation and launch, correspondences reflecting feedback provided by the Bank to TANROADS during project preparation, appraisal and implementation were not readily available. The IRM noted that the Bank has improved public access to its documents. It has established a new safeguards tracking system to monitor project compliance with the Bank’s Integrated Safeguards System. But the active projects approved before the Bank’s Integrated Safeguards System came into effect in 2014 are not included in this tracking system. | For purposes of comprehensive record and institutional memory-keeping, it is critical for the Bank to establish a central archiving system for safeguards documents relating to the RSSPII as well as all other projects approved prior to the Integrated Safeguards System. |
| 2.  | **Technical Guidance to Borrowers**  
The IRM finds that there was insufficient guidance of Bank staff to the Borrower on the Bank’s safeguards policies and poverty reduction and gender policies. It is essential that Bank staff provides assistance to the borrower so that implementing agencies can comply with the policy requirements. Several of the non-compliance areas noted by the IRM could have been avoided if Bank staff had played a more active and supportive role during the preparation of the resettlement action plans and the implementation of the safeguards policies. | The Bank should provide active guidance to the Borrowers during preparation of project documents relating to safeguards issues such as Resettlement Action Plans and Environmental and Social Management Plans. The Bank should comprehensively brief the borrower and provide him with active support so that the client is aware of and familiar with Bank safeguards requirements and related good practice approaches. |
| 3.  | **Project Supervision**  
The Bank supervision of the implementation of Resettlement Action Plans was inadequate. For instance only one (1) out of the five (5) Bank missions supervised these plans. In addition, none of these missions followed up on the implementation of the Mediation Action Plan, which includes remedial actions agreed upon during the IRM problem-solving exercise, to resolve the serious compensation and reputational issues associated with the RSSP II. | The Bank should provide more rigorous monitoring and reporting on the timely implementation by TANROADS of:  
- The Resettlement Action Plans,  
- The project environmental mitigation measures,  
- The pending issues  
The Bank needs to strengthen its project supervision to ensure that measures to mitigate safeguards related issues are fully addressed by the Borrower. In particular, Bank supervision of, and reporting on any project undergoing an IRM problem-solving exercise, should monitor the implementation of the resulting Remedial Actions Plans by the Borrower. This is to |
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<td>under the IRM Mediation Action Plan, including expediting resolution of large number of pending cases before the Grievance Redress Mechanism and close the monitoring of ongoing re-evaluation of affected properties and the contractor’s use of people’s land. ensure that the issues which triggered the complaints about the Bank project are appropriately handled.</td>
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<td>4.</td>
<td>Project Assessment of Poverty and Gender Dimensions</td>
<td>The appraisal report and the Environment and Social Impact Assessment Report did not include the gender and poverty reduction policies among those applicable to the project. The discussions about the project’s economic impact on low-income households in the Bank’s project appraisal document did not fully assess the project’s economic impacts on low-income households and gender equity dimensions. The RSSP II project supervision missions should closely monitor the status of employment of men and women in project activities and make sure that TANROADS provide assistance to relocated people after resettlement in line with the Bank Involuntary Resettlement Policy, such as helping them to open bank accounts, register their lands titles, etc. Bank Project Appraisal Reports should always refer to all the Bank policies applicable to a particular project and thoroughly assess vital issues relevant to achieve the project objectives, in particular poverty reduction and gender equity.</td>
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### Involuntary Resettlement Policy

The RSSP II has multiple infringements to the Bank’s Involuntary Resettlement Policy (2003). The people affected by the project were not meaningfully consulted during project preparation and the compensation process. Moreover, the IRM could not access any records showing the Bank’s assessment of the extent of the Borrower’s consultations with the PAPs during these processes. Demolition notices were issued prior to payment of compensation, compensation procedures were non-transparent, compensation for lost of assets was paid at depreciated value, compensation for income losses was not paid to informal businesses which did not have audited accounts. There was no third party monitoring of compensation, no gap analysis between Tanzania’s laws and the Bank’s Involuntary Resettlement Policy was conducted. Grievance Redress Mechanisms have been established under the project but their capacity is limited and they rely extensively on TANROADS in the resolution of the compensation cases. This situation creates a conflict of interest since TANROADS is party to the complaints raised by the affected people. TANROADS requested stronger guidance in setting up and managing the Grievance Redress Mechanisms and asked that the Bank helps to share good practice examples from other Regional Member Countries.

### (a) Gap Analysis

A comprehensive gap analysis is required under the Bank’s Involuntary Resettlement Policy.

For RSSP II, project supervision missions should endeavor to address existing gaps, if possible, particularly to ensure that resettled informal businesses and affected people who have no formal titles are compensated. Bank Staff should make sure that gap analysis is undertaken and effectively used to identify and address the differences between national laws and the Bank’ Involuntary Resettlement Policy, in consultation with the Borrower. In sectors where the Bank has a significant portfolio, the gap analysis should be carried out on a sector level and preferably in coordination with other donors, especially other Multilateral Financial Institutions that have similar safeguard policies. The partners can develop a sectoral framework for the application safeguards that any project can follow. There gaps are then be addressed on a sector level.

### (b) Compensation Procedures

For the RSSP II, the Bank project supervision missions should closely follow up with the ongoing revaluation of properties and persuade TANROADS to ensure expeditious resolution of voluminous pending compensation cases before the Grievance Redress Mechanisms.

In general, Bank staff needs to provide guidance to Borrower to ensure that affected people received their resettlement assistance as provided for by the Bank Policy (for e.g., full replacement costs, compensation for loss of income, compensation of people who have no formal land titles etc). In addition, the Bank should monitor the valuation and revaluation of affected properties beyond routine review of documents received from Borrowers. For instances, visiting affected properties and people during missions). Bank should be rigorous in review of compensation records provided in support of requests for
disbursement on projects. Particular attention needs to be given to income loss compensation where national regulations often differ from the Bank’s policy. There are numerous good practices established how income compensation can be provided to project affected people who earn income from informal employment. Active support and guidance from Bank staff relying on cross country learning and good practices is essential.

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<th>(c) Grievance Redress Mechanisms</th>
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<td>The Bank should provide immediate guidance to TANROADS to improve the delivery capacity of the Grievance Redress Mechanisms established under the RSSP II to enable them resolve the remaining large number of pending cases before them.</td>
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<td>In light of the importance of the Grievance Redress Mechanisms, the costs of establishing and operationalizing them, including hiring experts, should be made part of project costs funded by the Bank. The Bank staff should play an active role in assisting the Borrower in the establishment of such mechanisms. In particular, the Bank’s technical support should help the borrowers to change their current perception of these mechanisms as seasonal instruments to resolve disputes only after the start of project implementation activities. Instead, such support should be for the Borrower to establish sound structures that are accessible early-on in a project to the people who are or likely to be adversely affected. Now that it has its Integrated Safeguards System, the Bank should intensify the use of Guidance Notes. In addition it should require the Borrower to report as</td>
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6. **Costs of Resettlement and Compensation**

Costs for compensation for resettlement were included in the project cost but not financed by the Bank loan. Costs for compensation of assets and income losses were funded by the Government of Tanzania. As budgetary funds for compensation are often inadequate, compensation level are often fixed at lower levels than full replacement costs. In the project, compensation payments also needed to be delayed as adequate funds were not available on a timely basis and resettlement thus could not be implemented on a timely basis. This led to significant costs being incurred by the affected people.

The Bank should consider financing compensation costs for resettlement as part of its loans or grants. This would alleviate the budgetary burden posed on Government’s budgets and would expedite project implementation.

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<th>(d) Consultations of Project</th>
<th>People Affected by the Project</th>
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<td>In the case of RSSP II, the Bank’s supervision mission should monitor the effective engagement of TANROADS with the people affected by the project on the resolution of their remaining concerns as well as during ongoing valuation of properties to avoid additional complaints about the project.</td>
<td>In general, the Bank should be more actively engaged with the Borrower during the relevant stages of the project cycle to ensure that public consultations with affected people are meaningful. Bank staff should guide the Borrower about the concept of meaningful consultations. Consultations conducted need to be documented and Bank staff should participate in selected consultations to assess how the consultation processes are conducted.</td>
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<th>(e) Third Party Monitoring</th>
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<td>The Involuntary Resettlement Policy requires third party monitoring. Bank staff needs to ensure that such monitoring takes place and that the indicators monitored are meaningful. In particular, the monitoring process should measure whether the living standard, income earning capacity and production level of project affected people is at least at the level or better after resettlement in comparison to the pre-resettlement situation as is required under Bank policy.</td>
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| 7. | **Monitoring implementation of the Environmental and Social Management Plan (ESMP)**  
 Monitoring of implementation of the ESMP was inadequate. Despite the Bank’s supervision of the implementation of the Environmental and Social Management Plan, the records of Bank missions show that TANROADS had not implemented the recommendations of these missions regarding contractors’ integration of the Environmental and Social Management Plan into their work programs, as well as dust control and improvement of working conditions at project.  
 | The IRM strongly recommends more rigorous supervision of TANROADS by Bank Management to ensure that the recommendations of the supervision missions are effectively addressed. |

| 8. | **Monitoring of Contractor’s Compliance and Performance**  
 The contractors have limited awareness of the Bank safeguards policies and procedures, and that the contractors’ work programs were not adequately monitored by TANROADS.  
 There are some delays in the implementation of the Environmental and Social Management Plan mitigation measures by the Contractors. For example, inadequate dust control is a major issue on all the construction sites, and the contractors have not yet obtained permits to ensure the sustainable use of environmentally sensitive areas such as wildlife protected areas, game reserves, forest areas and wildlife migration corridors.  
 | The Bank should ensure the timely implementation of the mitigation measures by TANROADS, in line with the project Environmental and Social Management Plan.  
 The Bank should strengthen the monitoring of contractors’ work programs and provide essential support to implementing agencies such as TANROADS to ensure that contractors comply with the applicable Bank’s safeguards standards in a systematic way. |
9. **Road Sector Specific Investment Approach**

The Bank has a very large active portfolio in the road sector in Tanzania. At present, investment decisions are made on project by project basis and there is a limited engagement on the sector level to address sector issues. Several of the non-compliance issues noted in this spot check review would best be addressed on a sector level rather than through a project by project approach.

In countries where the Bank has a large active portfolio in the road sector such as Tanzania, the Bank should consider shifting from a strictly project based approach to a sector investment based approach. Investment financing would then be based on a sector investment program agreed upon with the government and preferably with other donors. Important sector issues could then be addressed as part of this sector approach, such as implementation and financing of road maintenance and implementation of safeguard policy issues. Gaps identified between the country’s legislative framework and the donor’s safeguard policies could be discussed and measures designed on how to bridge them. Importantly, capacity constraints in the implementation of safeguard policies could be identified and capacity building measures be implemented on a sectoral level. The sector investment financing approach would then be complemented by a sector approach to safeguard policy application.

10. **Institution Building and Cross Country Learning on Implementation of Safeguards policies**

The IRM was made aware of the challenges TANROADS faces in understanding fully all aspects of the Bank safeguards policies and procedures as well as the needed institutional capacity and knowledge for TANROADS to implement these policies. Some of the glaring needs relate to the alignment of Bank policies and procedures with those of the Borrower, the execution of compensation procedures and the establishment of sound internal systems to handle project environmental standards. TANROADS staff reiterated the importance of coordinating with the Bank as part of the institutional capacity support to address its needs in these areas. Such needs are not unique and limited to Tanzania. In fact there is a lot of merit to such approach to institutional capacity building of implementing agencies at the regional level.

The Bank should enhance its institutional capacity building support to enable Borrowers be in a position to implement all aspects of Bank safeguard requirements. Moreover, Borrowers would benefit from cross country learning workshops where they can exchange sector specific experiences and learn about good practices that are effective in the implementation of safeguard requirements in the different Regional Member Countries.
1. **Background and Objectives of the Spot-Check Review**

In accordance with the Operating Rules and Procedures of the Independent Review Mechanism (IRM) of 2015, the IRM is mandated to undertake an advisory role which is divided into two activities: (1) the spot-check advisory review of project compliance (spot-check), carried out by one of the IRM Experts and (2) advisory services provided by the Director of the Compliance Review and Mediation Unit (CRMU). The scope of these advisory services is to enhance institutional learning by providing independent opinions on systemic issues, and technical advice on any projects and programs financed by the African Development Bank Group (AfDB), so as to strengthen their positive social and environmental impacts. The services are carried out when: (a) the CRMU receives a request for such advice or technical opinion from the President and/or the Boards of Directors; or (b) the President and/or the Boards approve a CRMU proposal to undertake similar services.

The specific objective of the spot-check is to draw lessons from the experience of the IRM for the purpose of advising Management on compliance issues associated with high risk projects. The spot-check examines whether or not there has been an infringement of any Bank Group operational policies or procedures in respect of a project’s design, appraisal and/or implementation.

This Spot-Check Report focuses on the Road Sector Support Project II (RSSP II) in Tanzania. It was initiated by the CRMU and discussed with Management. Under the IRM Rules, the CRMU is to undertake two spot-checks of two high risk projects per year. However, in light of the CRMU proposal, the Board of Directors approved, on 04 May 2016, that only the RSSP II undergo the spot-check review for this year. The key rationale for this is that, firstly, this spot-check will be the first learning exercise of its kind, and therefore, the focus on one project could be considered as a modest start for the IRM to test the methodologies and set the ground rules for an effective cooperation between Management and the IRM throughout the current as well as forthcoming annual spot-check exercises. Secondly, considering that of the 24 total Requests received by the CRMU, 45% of these complaints related to energy projects, 36% to transport projects and 18% to social projects (water, employment, and health), drawing lessons from the Bank’s management of transport projects will be of considerable assistance in identifying the operational and systemic issues behind the growing number of complaints relating to these projects. Thirdly, based on the hands-on experience of the IRM in handling the complaint relating to the RSSP II through a problem-solving exercise, the CRMU considers the safeguards issues linked to this project as critical. The spot-check of the project could offer greater opportunities for learning from the operational issues associated with this project’s compliance with Bank safeguards policies. Finally, the CRMU has already resolved four major complaints relating to the transport sector through a problem-solving exercise, and the noticeable recurrence of similar problems relating to safeguards issues will be a key dynamic in addressing the wholesale systemic issues, at the heart of these complaints. With the growing lending in the transport sector, the ultimate goal of the spot-check is to help Management ensure that its safeguards procedures are sound, so that the Bank’s future investments in this sector are sustainable.

Upon the Boards’ approval of the RSSP II spot-check, the IRM conducted a desk review, and a field mission to Tanzania, from 18 to 23 July 2016. During this mission, the Expert visited the project sites, and interviewed the PAPs, the project promoter, the Tanzania National Roads Agency (TANROADS), the local authorities, the Bank staff responsible for the project and other stakeholders.

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1 Paragraph 1b of the IRM Operating Rules and Procedures of 2015.
The IRM would like to emphasize that the findings of this Report are based on information made available by Management at the time of the spot-check, and that the factual issues have already been verified with Management. Accordingly, this Report is submitted to the Boards of Directors for consideration.

2. The Tanzania Road Sector Support Project II

2.1. Project Description

On 5 April, 2012, the Boards of Directors approved the co-financing of the RSSP II for UA 140.00 million, along with funding from the Japan International Cooperation Agency (JICA) for ¥7,659,000,000, and the Government of Tanzania for USD8.43 million. The Government contribution covers the compensation of PAPs who lived along the three sections of the road to be upgraded by the RSSP II, i.e., Dodoma-Babati, Tunduru-Mangaka and Mangaka-Mtambaswala. The key components of the RRSP II are civil works, consulting services, capacity building and compensation of PAPs. The project is to improve the road transport infrastructure, provide community access to bigger markets and social services, and enhance tourism and regional integration.

The project is classified as high risk “Category 1” due to its potential negative environmental and social impacts. Accordingly, an Environmental and Social Management Plan (ESMP) and Resettlement Action Plans (RAP) were prepared to mitigate these impacts, most notably, the compensation of approximately 4247 people who will be relocated by the project. TANROADS is responsible for the implementation of these plans.

In accordance with the Bank Implementation Progress Results Report (IPR) issued in February 2016, the project implementation is in line with the works schedules except for some delays of civil works on the Tunduru-Managaka-Mtambaswala section and the lapse of some civil works contracts. Consequently, the project will not be completed as scheduled on 20 July, 2017. By July 2016, the Bank had already disbursed UA 83,327,424.8 2 out of total loan UA140 million while TANROADS has paid out compensation to PAPs living along the Babati-Dodoma section in July 2013, and to those living along the Mangaka-Mtambaswala Tunduru- Lumesule and Tunduru –Muhuwesi sections in November 2014.

The CRMU received the complaint relating to RSSP II in June 2012, and concluded its problem-solving exercise in July 2016. The detailed IRM Problem-Solving Closure Report will be submitted separately to the Boards of Directors for information. However, the key issues relating to the complaint, as well as the outcome of this exercise, are summarized in section III of this Report.

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4 The Appraisal Report, Paragraph 2.5, pp. 5-6.
5 The Appraisal Report, supra note 4, p. iii.
6 Ibid, p.11.
7 Ibid, p.11.
8 The Appraisal Report, p.11.
9 Implementation Progress Results Report (IPR), p. 2.
2.2. Problem Solving Exercise

2.2.1. Complaint Handling

On 05 June 2012, two months after the project approval on 5 April 2012, the CRMU received a complaint from two Requestors who live on the Dodoma-Babati road section. The Requestors had received notice from TANROADS that their houses would be demolished, but without compensation on the grounds that their properties had been unlawfully built on the Road Reserve. The CRMU registered the Request for problem-solving on 25 June 2012. The Management Response to the Request was duly submitted to CRMU in July 2012, and included a Remedial Action Plan which had been prepared by TANROADS and the Bank to address the compensation issues raised by the Request. 13 Under this plan, TANROADS was to undertake the following:

- Withdraw the demolition notices by July 2012;
- Submit an updated Resettlement Action Plan (RAP) by August 2012;
- Disclose compensation dates and amounts to the PAPs by August 2012;
- Submit the works/compensation schedules to the Bank by September 2012, and a proof of compensation paid to the PAPs of each road section prior to the commencement of the construction works.

In reviewing the updated Resettlement Action Plan and valuation reports submitted by TANROADS, the CRMU noticed that: (1) the Requestors’ properties were excluded from the eligible structures for compensation; and (2) neither independent monitoring nor the Grievance Redress Mechanisms (GRM) had been arranged for as required by the Bank Policy on Involuntary Resettlement 2003. 14 Subsequently, the CRMU visited the affected properties and PAPs, and held the 1st problem-solving meeting, culminating in the signing of a Mediation Action Plan (MAP) by the Requestors, the Bank and TANROADS in October 2012. The added value of this Plan was that it covered the compensation issues for the entire project. It also required TANROADS to withdraw the demolition notices by November 2012, carry out campaigns to inform the PAPs of compensation dates and amounts by December 2012, and to update the RAP and operationalize the GRMs by January 2013. The 1st CRMU monitoring of the implementation of the Mediation Action Plan in June 2013 established that TANROADS had only sent the letters withdrawing the demolition notices to the PAPs. Accordingly, the CRMU’s 2nd problem-solving mediation meeting held on 18 June 2013, extended the timelines for the implementation of the remaining pending actions to July 2013. The 2nd monitoring of the implementation of the Mediation Action Plan in December 2015 – January 2016 concluded that TANROADS had implemented most of the pending actions. However, the PAPs along the three road sections still had pending compensation cases before the GRMs. Also, on the Tunduru-Mangaka and Mangaka-Mtambaswala road sections, monitoring highlighted TANROADS’ (1) partial disclosure of compensation information to the PAPs; (2) inconsistent valuation of affected properties (i.e. depreciation of the replacement costs and non-compensation for loss of income, both of which are required by the Bank Policy on Involuntary Resettlement); (3) lack of assistance to vulnerable people; and (4) lack of monitoring of disputes between the Contractors and the PAPs, disputes due to the latter’s realization that they had signed unfair land purchase agreements.

14 The Bank’s Resettlement Policy in paragraph 4.1.11 states that “An independent third party should monitor large resettlement plan implementation with regular feedback from the affected people”. Furthermore, it requires that the “monitoring activities should include a review of the grievance mechanism to ensure not only that there is an adequate channel for affected people to express concerns but also that the concerns are addressed in a timely manner.”
2.2.2. Outcome of the Problem Solving Exercise

In view of full payment compensation made to the Requestors and other PAPs, and the fact that the construction activities are still ongoing, the CRMU’s 3rd problem-solving meditation meeting on 15 July 2016, formally closed the Request, and agreed that the Bank will monitor the remaining issues highlighted by the 2nd monitoring of the MAP.

3. The Spot-Check Advisory Review of Project Compliance

3.1. Procedural Issues

3.1.1. Project Preparation

The IRM examined the relevant documentation related to the project. The Appraisal Report indicated that the project is classified as a Category 1 based on its potential adverse social and environmental impacts; these are issues of involuntary resettlement, and impacts on the environment including forest resources. Accordingly, full Environmental and Social Impact Assessments and Environmental and Social Management Plans and Resettlement Action Plans were developed.\(^\text{15}\) The Summary of Environmental and Social Impact Assessments and Resettlement Action Plans were posted on the Bank’s website on 01 December 2011. With regard to involuntary resettlement, the Appraisal Report stated that the road works will inevitably affect a significant number of people and necessitate the relocation of residential and associated buildings (such as grain stores and commercial buildings), community structures (including prayer houses, schools, health facilities and water points) and communal lands.\(^\text{16}\) Subsequently, approximately 753 residences were to be affected on the Dodoma-Babati Road section, 402 on the Tunduru-Mangaka Road, and 472 on the Mangaka-Mtambaswala Road, affecting a total of 1627 residences. In accordance with the Bank’s Involuntary Resettlement Policy, Resettlement Action Plans (RAPs) for all three road sections were prepared. A total budget of TZS13.27 billion (equivalent to USD8.43 million) was allocated for compensation and resettlement, to be met by the Government of Tanzania as part of counterpart financing.

The IRM notes that the project was properly categorized in line with the Environmental and Social Assessment Procedures for the Public Sector (ESAP) and a full Environmental and Social Impact Assessment (ESIA) was carried out as well as a full Resettlement Action Plan (RAPs) for the three road sections.\(^\text{17}\) The Environmental and Social Impact Assessment was prepared in line with the national laws of Tanzania. This document identified the negative impacts of the project on the people and the environment, particularly during the construction phase and proposed measures to mitigate them.

The IRM determines that the Bank Management showed the necessary diligence in preparing and disseminating the relevant documents that led to the approval of the project by the Board.

The Bank has improved public access to its documents and established a new safeguards tracking system to monitor project compliance with the Bank’s Integrated Safeguards System. However, some of the RSSP II safeguard documents including aide-memoires on project preparation and launch, correspondences reflecting feedback provided by the Bank to TANROADS during project preparation, appraisal and implementation were not readily available. The IRM could not obtain the aide-memoires. Also, the projects approved before the Bank’s Integrated Safeguards System came into effect in 2014 are not included in the tracking system.

\(^{15}\) Ibid. p. 9.

\(^{16}\) Ibid. p. 11.

\(^{17}\) Executive Summary Environmental and Social Impact Assessment for the RSSP II, p.2.
It is critical that the Bank establishes a central archiving system for safeguards documents relating to the RSSPII as well as all other projects approved prior to the Integrated Safeguards System. This will help in maintaining institutional memory and facilitate Bank wide access by staff.

Section 3.1.9 of the Environment and Social Assessment Procedures for Public Sector Operations (2001) requires operations to review the Terms of Reference of the Environment and Social Impact Assessment, and to consult with the project team responsible for preparing feasibility studies. The IRM considers that the Bank Management appropriately prepared and disclosed the summaries of the Environmental and Social Management Plan and the Resettlement Action Plans prior to the approval of the project by the Boards. However, it was only one year after project approval by the Boards that TANROADS submitted the final Resettlement Action Plans and compensation schedules to Bank Management.

The late submission of these documents casts doubt on the adequacy of the technical guidance provided by the Bank to TANROADS.

The Bank should provide active guidance to the Borrowers during preparation of project documents relating to safeguards issues such as Resettlement Action Plans and Environmental and Social Management Plans. The Bank should comprehensively brief the borrower and provide him with active support so that the client is aware of and familiar with Bank safeguards requirements and related good practice approaches.

Section 3.3 of the Bank’s Involuntary Resettlement Policy requires that displaced persons should be meaningfully consulted early in the planning process and encouraged to participate in the planning and implementation of the resettlement program. Displaced persons should be informed about their options and rights pertaining to resettlement, and given genuine choices from technically and economically feasible resettlement alternatives. The IRM met with a number of project stakeholders who felt that they had not been consulted and that their views had not been sufficiently considered during project preparation. The IRM could not access any records showing the Bank’s assessment of the extent of the Borrower’s consultations with the PAPs during project preparation. This lack of consultation with project beneficiaries defeats the development approach of the project, which should be participatory and inclusive. Evidently, the recurrence of this problem in all projects that have undergone the IRM compliance review or problem-solving, indicates that the Bank needs to play a more proactive role in public consultations.

The IRM recommends that for the RSSPII, the Bank Bank’s supervision mission should monitor the effective engagement of TANROADS with the people affected by the project on the resolution of their remaining concerns as well as during ongoing valuation of properties to avoid additional complaints about the project. In general, the Bank should be more actively engaged with the Borrower during the relevant stages of the project cycle to ensure that public consultations with affected people are meaningful. Bank staff should guide the Borrower about the concept of meaningful consultations. Consultations conducted need to be documented and Bank staff should participate in selected consultations to assess how the consultation processes are conducted.
3.1.2. Project Implementation

The Bank supervision of the RSSP II highlighted a number of environmental and social issues that make up some of the challenges to the timely implementation of the project. By July 2016, the Bank had regularly supervised the project through five semi-annual missions carried out between 21 March 2014 and February 2016. The Bank’s Social and Environment Experts participated in only three out of these five missions.

The IRM observed that compared to the Environmental and Social Management Plan, the Bank supervision of the implementation of Resettlement Action Plans was inadequate since only one (1) out of the five (5) Bank missions supervised these plans. In addition, none of these missions followed up on the implementation of the Mediation Action Plan, that is, the set of remedial actions agreed upon during the problem-solving exercise, to resolve the serious compensation and reputational issues associated with the RSSP II. The IRM remedial actions are meant to resolve prejudices caused by project compensation procedures and to help the project to mitigate legal and reputational risk.

Therefore, the IRM recommends that the Bank supervision of the RSSP II should be more rigorous in monitoring more effectively and reporting on the timely implementation by TANROADS of the Resettlement Action Plans, the project environmental mitigation measures and the pending issues under the IRM Mediation Action Plan. TANROADS should in particular expedite the resolution of the large number of pending cases before the Grievance Redress Mechanisms and close the monitoring of ongoing re-evaluation of affected properties and the contractor’s use of individual lands.

In general, the Bank needs to strengthen its project supervision to ensure that measures to mitigate safeguards related issues are fully addressed by the Borrower. In particular, Bank supervision of, and reporting on any project undergoing an IRM problem-solving exercise, should monitor the implementation of the resulting Remedial Actions Plans by the Borrower. This recommendation is meant to ensure that the issues which triggered the complaints about the Bank project are appropriately handled.

The IRM also noted the contractors’ limited awareness of the Bank safeguards policies and procedures, and that the contractors’ work programs were not adequately monitored by TANROADS. For instance, by July 2016, that is two years after the beginning of project activities, the contractors had not yet obtained all the necessary permits from the authorities for site work and/or water use, causing delays to the civil works. In addition, the contractors have not complied with national laws on payment of the minimum wage or signed formal contracts with the workers. The IRM was informed that, as a result, the workers have on one occasion, gone on strike at the sites, with the result that civil works were disrupted.

Moreover, all Bank supervision mission reports considered the health and safety working conditions of the project as poor. Despite these findings, the recommendations from these missions were not taken fully into account by TANROADS.

The IRM recommends that the Bank should ensure the timely implementation of the mitigation measures by TANROADS, in line with the project Environmental and Social Management Plan. In addition, the Bank should strengthen the monitoring of contractors’ work programs and provide essential support to implementing agencies such as TANROADS to ensure that contractors comply with the applicable Bank’s safeguards standards in a systematic way. Moreover, the IRM strongly recommends more rigorous supervision of implementing agencies such as TANROADS by Bank Management to ensure that the project implementation unit of the project addresses effectively the recommendations of the supervision missions.
The Bank mission of 28 August to 10 September 2014 (section 3.7.9 page 14 of Aide Memoire) reported that the contractors had failed to pay the minimum wage to the workers. In addressing this issue, the IRM pointed out that the mission should not have referred to the Bank Integrated Safeguards System (ISS), Operational Safeguard 5 on labor conditions, since the ISS was not in effect at time of the approval of the project, in 2012. The IRM is concerned by the legal risks associated with the imposition of obligations on the Borrowers, where those obligations are not detailed in any project documents.

Therefore, the IRM encourages Bank Management to require supervision of the project to report on project compliance with applicable policies and regulations agreed upon under the loan agreement.

3.2. Non-compliance Issues according to Applicable Bank Policies

The IRM reviewed non-compliance issues relating to the Involuntary Resettlement Policy (2003), the Environment Policy (2004), the Environmental and Social Assessment Procedures for Public Sector Operations (ESAP) (2000). These were the safeguards policies identified in the Project Environmental and Social Impact Assessment Report as applicable to the project. The spot check review focuses on compliance with these safeguard policies as well as the poverty alleviation and gender policies which the IRM considers applicable to this project.

3.2.1. Poverty and Gender Dimensions

The goal of the Bank Policy on Poverty Reduction (2004) is to ensure that poverty in Africa is reduced. Infrastructure development is a priority sector for the Bank to achieve this poverty reduction objective. Protecting and supporting the role of women in the development process, is a key component of the poverty reduction strategy. The Bank Group Gender Policy (2001) acknowledges that gender in all societies is an important criterion in assigning roles and rights and in shaping women’s and men’s access to and control over resources.

The Policy on Poverty Reduction in Paragraph 5.5.2.3 states that, to ensure that infrastructure developments contribute to poverty reduction, the Bank, among other, supports the development of basic infrastructure and public utilities, especially in rural areas; promotes the access of the poor to efficient, safe and affordable infrastructure services; and involves the poor in the development and maintenance of essential infrastructure. Paragraph 5.4 of the Gender Policy requires staff to incorporate gender analysis as an integral part of all Bank policies, programs and projects.

The IRM found the discussion of the project’s economic impact on low-income households in the Bank’s project appraisal document non-exhaustive. The appraisal report and the Environment and Social Impact Assessment Report did not include the gender and poverty reduction policies among those applicable to the project. In the IRM’s view, the omission of these important policies from the project’s formal records sends the wrong message to the Borrower about issues that are central to the Bank’s development approach.

The appraisal report made only generic reference to the project’s contribution to a small increase in employment opportunities during construction activities, and provided only perfunctory references to the project’s gender dimensions. The IRM is of the view, that this restricted analytical approach and the non-application of the Bank’s poverty reduction and gender policies limits the project’s impact on poverty reduction and gender equity.

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18 See Executive Summary of Environmental and Social Impact Assessment for RSSP II, p.4-5
19 “Infrastructure” includes transport, power, water, sanitation, and telecommunications (See Section 5.5.2.1 of Policy on Poverty Reduction.
20 Bank Group Gender Policy, 2004, p. 25, Section 5.5.18.
A more poverty oriented approach could have been pursued in the design and implementation of the project with stronger emphasis on the benefits which accrue to women and the very poor. Employment benefits accrued to women have so far been very limited. Three out of five Bank supervision missions\(^2\) have already noted that RSSP II female employment under the road construction contracts was very low.

The IRM recommends that the RSSP II project supervision missions should closely monitor the status of employment of men and women in project activities and make sure that TANROADS provide assistance to relocated people after resettlement in line with the Bank Involuntary Resettlement Policy, such as helping them to open bank accounts, register their lands titles, etc.

**Bank Project Appraisal Reports should always refer to all the Bank policies applicable to a particular project and thoroughly assess vital issues relevant to achieve the project objectives, in particular poverty reduction and gender equity dimensions.**

### 3.2.2 Involuntary Resettlement

According to the Bank’s Involuntary Resettlement Policy (2003) which is applicable to the project, the objective of this policy is to avoid resettlement where possible. If resettlement becomes necessary, then displaced people should receive resettlement assistance so that their standard of living, income earning capacity and production level are improved (see Art. 3.2). People displaced need to be compensated at full replacement costs for assets and economic losses. Section 4.1.6 of the Involuntary Resettlement Policy lays out project compensation procedures. These are: (1) the resettlement plan needs to describe the legal basis for expropriation and compensation at full replacement cost for land and property; (2) the plan needs to identify the gaps between the Bank’s legal framework and the Bank’s Resettlement Policy and make proposals on how to bridge the gaps, (3) the criteria for assessing the value of land, housing and other property should be standardized and applied in a transparent way; (4) the dispute settlement procedures should be sufficiently agile to resolve arguments over valuation quickly; (5) in cases where affected people do not have land titles, cadastral surveys may have to be carried out to establish the basis for compensation and procedures to regularize and recognize claims to land, including claims that derive from customary law and traditional usage; (6) an independent monitoring body should be assigned to supervise compensation, and this body in turn, should be regularly supervised by Bank staff.

The IRM found that RRSP II has not fully complied with the principles and procedures laid out in the Involuntary Resettlement Policy (2003):

- **Legislative Framework of Resettlement/Gap Analysis:** Section 4.1.6 of the Bank Involuntary Resettlement Policy requires the Resettlement Action Plans to identify any gaps or inconsistencies between the Borrower’s legal framework and the Bank’s Resettlement Policy, as well as the mechanisms to bridge such gaps. The IRM review of the RSSPII records, and interviews with the Bank and TANROADS staff, established that there was no standalone document on gap analysis carried out carried out which identified the inconsistencies between Bank policies and procedures, and the national laws of Tanzania. The IRM was verbally informed that the Bank and the Ministry of Works had signed an aide-memoire to address differences between the national laws and the Bank’s policies with particular regard to payment of the full replacement costs to the PAPs. Unfortunately, a copy of this aide-memoire was not made available for the IRM to determine whether or not this document was coherent and binding. The IRM is of the view that the project has not complied with the Bank Involuntary Resettlement Policy in this aspect.

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\(^2\) ibid, page 14, section 3.7.11.
The project applied national laws in the resettlement of affected people. However, several of the provisions of the national legislative provisions were inconsistent with the Bank’s Involuntary Resettlement Policy (2003). The RRSP II records indicate that the project’s compensation procedures only followed national laws (namely: Tanzania Land Policy of 1997, Land Act of 1999, Land Assessment of the Value of Land for Compensation Regulation 2001 and Land Acquisition Act, 1967 Act No. 47). By strictly applying the borrowers legislative framework without assessing inconsistencies with the Bank’s Involuntary Resettlement Policy and proposing measures to bridge the gaps, the houses of a significant group of PAPs were demolished prior to compensation, compensation paid to PAPs was insufficient for them to purchase houses each of equal or better quality prior to their resettlement, and income losses were not compensated if PAPs could not furnish audited business accounts and show title to land on which they operated their business.

The IRM therefore recommends that for RSSP II, project supervision missions should endeavor to address existing gaps between the national laws of Tanzania and the applicable Bank Involuntary Resettlement Policy, if possible, particularly to ensure that resettled informal businesses and affected people who have no formal titles are compensated. Further, Bank Staff should make sure that gap analysis is undertaken and effectively use to identify and address the differences between national laws and the Bank’ Involuntary Resettlement Policy, in consultation with the Borrower. In sectors where the Bank has a significant portfolio, the gap analysis should be carried out on a sector level and preferably in coordination with other donors, especially other Multilateral Financial Institutions that have similar safeguard policies. The partners can develop a sectoral framework for the application safeguards that any project can follow. There gaps are then be addressed on a sector level.

- **Demolition of houses prior to compensation.** PAPs were issued demolition notices prior to receiving compensation. Some of them were compelled to demolish their houses at their own cost and project records do not show the PAPs whose houses were demolished. Demolition of houses prior to compensation is not consistent with the Bank’s Involuntary Resettlement Policy.

- **Lack of transparency in the revaluation of affected properties:** The affected properties underwent several, lengthy revaluation processes due to the realignment of the road reserve. The interviews with the PAPs revealed that they had not been well informed of the criteria of such a revaluation. In addition, the IRM noted that the affected properties located within the new road reserve (30 meters either side of the existing road) had been excluded in the earlier evaluation, and that these affected properties within the that road section were revalued at exceedingly low rates.

The IRM recommends that for the RSSP II, the Bank project supervision missions should closely follow up with the ongoing revaluation of properties and persuade TANROADS to ensure expeditious resolution of voluminous pending compensation cases before the Grievance Redress Mechanisms.

- **Depreciation of replacement costs:** The Bank’s Involuntary Resettlement Policy requires compensation of assets at full replacement value. Tanzanian legislation applies a considerable depreciation allowance. Application of a depreciation allowances is permissible provided that the compensation value is sufficient for the PAPs to purchase new assets which are equal or better than the assets they held prior to resettlement. It is argued, and the IRM agrees, that many of the PAPs were not able to purchase such assets with the compensation received. Thus the objective of the Involuntary Resettlement Policy that PAPs should be at least as well off and preferably better off after resettlement was not achieved. Unfortunately, no monitoring data exists on the livelihood impacts of resettlement. These livelihood impacts should be carefully monitored. The IRM thus makes its assessment based on information collected during the problem solving exercise and subsequent interviews with groups of PAPs.
• **Non-compensation for loss of income:** Income losses were not properly compensated under the project. Most PAPs resettled were engaged in informal employment. But income from loss of businesses was only compensated if audited financial statement could be presented and if the business operator held title to the land on which the business operated. The Bank’s Involuntary Resettlement Policy requires income losses to be compensated even if the PAPs do not hold formal title to the businesses or land from which they derive economic benefits. Good practice examples exist from different countries how income losses in informal employment can be compensated. National legislations are often more restrictive for income loss compensation than MFI’s Involuntary Resettlement Policies. But compensatory measures can be implemented to bridge these gaps and Bank staff should have advised the Borrower and good practice examples of such measures.

In general, Bank staff needs to provide guidance to Borrower to ensure that affected people received their resettlement assistances as provided for by the Bank Policy (for e.g., full replacement costs, compensation for loss of income, compensation of people who have not formal land titles etc.). In addition, the Bank should monitor the valuation and revaluation of affected properties beyond routine review of documents received from Borrowers; for instances, visiting affected properties and people during missions. Bank should be rigorous in review of compensation records provided in support of requests for disbursement on projects. Particular attention needs to be given to income loss compensation where national regulations often differ from the Bank’s policy. There are numerous good practices established how income compensation can be provided to project affected people who earn income from informal employment. Active support and guidance from Bank staff relying on cross country learning and good practices is essential.

• **Lack of independent monitoring of procedures and limited capacity of project grievance redress mechanisms:** A review of the project records by the IRM and its field mission established that there was no independent third party tasked by the project to monitor the compensation procedures. In addition, there are large numbers of pending cases before the Grievance Redress Mechanisms due to their limited capacity to handle the complex valuation or revaluation procedures of affected properties as well as their limited resources to expedite the resolution of disputes.

The IRM recommends that the Bank should provide immediate guidance to TANROADS to improve the delivery capacity of the Grievance Redress Mechanisms established under the RSSP II to enable them resolve the remaining large number of pending cases before them.

In future projects, the Bank staff needs to make sure that third party monitoring takes place and that the indicators monitored are meaningful. In particular, the monitoring process should measure whether the living standards, income earning, capacity and production level of project affected people is at least at the same level or better off after resettlement in comparison to the pre-resettlement situation as is required under Bank policy.

The IRM notes the project has multiple violations of the Bank’s Involuntary Resettlement Policy. Inadequate compensation or no compensation prior to demolition make it very likely that the PAP’s standard of living declined after resettlement which is not consistent with the objective of the Bank Involuntary Resettlement Policy.

### 3.2.3 Environmental Sustainability

Section 3.46 of the Environmental and Social Assessment Procedures for Public Sector Operations obliges the Borrower to implement the Environmental and Social Management Plan, including compliance with the indicators identified in project implementation documents, the Bank’s policies and guidelines, as well as environmental and social covenants included in the loan documents. Annex 11 of
the Environmental and Social Assessment Procedures provides the generic terms for the preparation of the Environmental and Social Management Plan including: objectives, mitigation measures, public consultations with affected people, monitoring of contractors, costs and agency designated for the Environmental and Social Management Plan implementation, and monitoring and reporting on the Management Plan.

The IRM established that the project’s compliance with the Environmental and Social Management Plan is more positive, with the exception of some broader issues (timely implementation of mitigation measures, follow-up on agreed actions) that need the Bank’s attention to ensure sustainable outcomes.

3.2.3.1 Implementation of Mitigation Measures under the Environmental and Social Management Plan

For the purpose of the spot-check exercise, the IRM focused its assessment on the following issues for which the Environmental and Social Management Plan had proposed several mitigation measures to prevent the instability of slopes and soil erosion, vibration, air pollution, interference with local hydrology, land degradation, loss of vegetation and wildlife.

Contractors are advised to avoid unnecessary ground clearance and sensitive re-alignments, to provide lined drainage channels on sensitive terrains to control the speed and volumes of storm-water and to avoid the erosion of arable land and the creation of gullets. In addition, contractors are advised to plant grass or other vegetation to minimize the exposure of soil surface, and consequent erosion. The IRM mission had the opportunity to visit sections of the road under construction and other sections where construction work has been completed. The mission found that appropriate mitigation measures recommended regarding soil erosion seem to have been implemented, and the risk of sedimentation resulting from soil being washed into drainage areas addressed. Proper grading was visible as well as properly designed channels aimed at directing water flows. However, the IRM mission did not observe substantive grass planting and afforestation activities on the three road sections. The mission was informed by the contractors that such activities are planned for in their work programs.

The IRM mission observed that dust control is a major issue on all the construction sites and that the Environmental and Social Management Plan included several mitigation measures to reduce dust emissions. The mission convoy was stopped at a road blockade by a group of villagers concerned about their continuous exposure to dust and the contractors’ failure to take action. The mission could not verify whether watering the sites to reduce dust emissions was being practiced regularly at all active work sections along the roads, at quarries and borrow sites for the protection of workers, as well as at sections of road heavily traversed by construction vehicles. The protest incident during the IRM mission seems to suggest that either the contractors do not often sprinkle water to reduce the dust level or they do not adequately notify the local people about the intensity and frequency of the heavy traffic through their section of the road.

The IRM mission noted the contractors’ delays in obtaining permits to ensure the sustainable use of environmentally sensitive areas. For example, the IRM mission was informed that a contractor had submitted an application to utilize a site in the Bereko protected forest to extract building materials. In addition, in spite of the fact that the Tunduru-Mangaka road section passes through three wildlife protected areas, game reserves, and forest areas and crosses an important animal migration corridor between Lukwika-Lumesule-Selous and Niassa National Park in Mozambique23, the IRM mission noted that the contractor had not yet contacted the authorities to identify these corridors.

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23 Section 3.7.4 page 13 of Aide Memoire, 28 August -10 September 2014
The construction of the roads are known to interfere with the natural surface and groundwater flow regimes. The Environmental and Social Management Plan recommended good design features be adopted to ensure that changes to hydrological regimes are minimized and that any impacts are insignificant. The project is to provide controlled and effective storm water dispersion by installing adequate and appropriate drainage structures with the discharge points well designed to avoid accelerated erosion downstream.

On the completed portions of the roads it visited, the spot-check mission observed the construction of drainage structures to control storm water dispersion and accelerated erosion. In addition, proper landscaping could be seen on the road section completed, indicating that measures are in place to reduce the loss of materials and land degradation.

The spot-check mission was advised that contractual arrangements are usually put in place between the contractor and the owners of lands where construction materials are acquired. It emerged from the CRMU’s earlier mission during a problem-solving exercise, and confirmed by a Bank supervision mission in August 2014, that on one occasion, the contractual arrangement had been flawed because, instead of a lease agreement, the land owners unknowingly signed a purchase agreement. It is important to note that many of the villagers are illiterate and that TANROADS has the responsibility to supervise the contractors to ensure their full compliance with their obligations.

The IRM recommends the timely implementation of the mitigation measures by TANROADS, in line with the recommendations of the Environmental and Social Management Plan.

3.2.3.2 Monitoring of Contractor’s Compliance and Performance

In spite of the sequence of the project supervision of the implementation of the Environmental and Social Management Plan, the Bank mission records show that TANROADS had not implemented the recommendations of these missions regarding contractors’ integration of the Environmental and Social Management Plan into their work programs, as well as dust control and improvement of working conditions at project sites. The physical supervision of the project is one component of project monitoring. TANROADS’ failure to implement the missions’ recommendations could be attributed to the lack of the Bank’s additional guidance or coordination with TANROADS beyond the supervision missions.

The IRM mission was verbally informed that TANROADS had submitted a progress report including its monitoring of the Environmental and Social Management Plan. Since this report was not made available to the IRM, it was therefore difficult to assess the comprehensiveness of planned actions and adequacy of resources earmarked for implementation of the Environmental and Social Management Plan as a critical component of the overall project sustainability outcome.

The IRM strongly recommends more rigorous supervision of TANROADS by Bank Management to ensure that the recommendations of the supervision missions are effectively addressed.

4. Harm Inflicted on the Project Affected People

The safeguards policies and procedures are designed to avoid or mitigate harm to people and the environment and, more broadly, to support what can loosely be understood as “good development practice” that is, development that is participatory, just, sustainable, equitable, and in line with people’s own priorities and visions for their future.

In light of the assessment done, the evidence reported above regarding the Tanzania Road Sector Project

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24 Land acquisition by contractors (section 3.7.1 page 12 of Aide Memoire) for camp site and borrow sites section 3.7.2 page 13 of Aide Memoire, 24 August 2014.
II shows that the PAPs have been harmed. The project triggered large-scale involuntary resettlement and has a detrimental impact on the environment. Some of the PAPs lost their assets, while others had their residences demolished, and many lost their businesses (shops, kiosks, restaurants, tea/coffee stands, milling machine, houses for renting, guest houses). In addition, a good number lost their crops and farm land, while community structures along the road sections, such as a worship place, offices, warehouse, water tank, water collection points, school and markets, were negatively affected. The most striking environmental impacts include excessive dust.

The CRMU’s problem-solving helped to mitigate the impacts of some elements of non-compliance with Bank policies and procedures. For example, compensation processes that had initially overlooked the requirements of the Bank’s Policy on Involuntary Resettlement were improved. As a result, some PAPs finally received compensation. Part of the harm caused is due to the contractors’ limited understanding of the requirements of the Bank policies. Had the appraisal report adequately addressed the poverty and gender dimensions, mitigation measures would have been more comprehensive and helped to meet more readily the project development goals.

5. Advisory Opinion

5.1. Road Specific Approach

The Tanzania Country Strategy Paper 2016-2020, recognized that “Several factors have contributed to the Bank’s successful engagement with Tanzania, notably the relevance of the Bank’s support to the country’s national development priorities. Transport and energy have been identified by the Government as the key growth binding constraints leading to their prioritization in national development plans. As a result, transport and energy currently account for 49% of the Bank’s on-going portfolio. In addition, the Bank’s support to infrastructure has focused on achieving national and cross border connectivity to lay the foundation for inclusive growth that benefits the majority of the population. However, given the size of the economy, more investment in infrastructure is needed to achieve sustainable economic transformation”\(^{25}\). The Paper continued by stating: “The Bank’s new Country Strategy Paper 2016-20, will continue to support the Government’s strategies to transform the economy towards inclusive and green growth. The Country Strategy Paper is articulated around the following two strategic pillars: (i) Infrastructure development, and (ii) Strengthening governance and accountability. Bank interventions under the first pillar will focus on improving both domestic and regional transport connectivity as well as access to electricity. The second pillar, which reinforces the first pillar, will focus on improving financial management, institutional and capacity building support reforms to unlock private sector investments and finance for job creation.”\(^{26}\)

The IRM was informed about the implementation of the Transport Sector Investment Plan 2012/13 – 2016/17 by the Government that has generated results, notably in road transport, with some modest improvements and the need for scaling up the ongoing effort. The Bank’s extensive investment in the road sector in Tanzania could be an opportunity to develop a sector specific approach to the road sector.

The Bank has a very large active portfolio in the road sector in Tanzania. With such a portfolio, instead of pursuing a strictly project based approach.

The Bank has a very large active portfolio in the road sector in Tanzania. At present, investment decisions are made on project by project basis and there is a limited engagement on the sector level to address sector issues. Several of the non-compliance issues noted in this spot check review would best be addressed on a sector level rather than through a project by project approach. With such a portfolio, a sector based approach for financing may be envisaged where funding is provided based on an agreed sector investment program. The respective financing would then be coordinated with other donors. The

\(^{25}\) Tanzania Country Strategy Paper 2016-2020, see Paragraph 2 of the Executive Summary.

sector investment financing approach would then be complemented by a sector approach to safeguard policy application. This would include conducting a sector gap analysis which identifies the existing gaps between national policies and procedures and Bank safeguard requirements. The sector gap analysis would also make proposals on how to address them and identify institutional constraints which hinder adequate safeguard implementation and lay out capacity building measures. The sector gap analysis and follow up measures would best be undertaken in close coordination with other major donors, but especially Multilateral Finance Institutions (MFIs), most of whom have safeguard requirements very similar to the Bank’s Integrated Safeguards System. In addition, other sector issues could be addressed such as road maintenance implementation and financing.

The IRM recommends that the Bank should consider adopting a sector investment financing approach in Regional Member Countries where the Bank has significantly large road sector portfolios. The sector investment financing approach would then be complemented by a sector approach to safeguards policy application.

5.2. Funding of Resettlement Cost as Part of Bank Loans and Grants

Resettlement and economic displacement of people and communities can have significant adverse impacts on affected people’s future lives, social fabric and livelihoods. Addressing this concern is at the heart of the Involuntary Resettlement Policy (2003) of the Bank. Well-planned and well-executed resettlement and compensation can contribute to positive long-term relationships with the communities and strengthen the development outcome of Bank investment. Conversely, poorly managed resettlement can negatively impact communities affected by Bank investment and also put our social license to operate at risk.

The IRM observed that the compensation and resettlement of the PAPs was not fully in accordance with the Bank Involuntary Resettlement Policy. The evidence outlined in the section shows that TANROADS’ application of national laws, which were not fully consistent with the Bank’s Involuntary Resettlement Policy resulted in inadequate compensation of PAPs. As a result many PAPs are likely to be less well off after resettlement than before resettlement. But adequate compensation so that PAPs are at least as well off after resettlement is a key principle of the Bank’s Involuntary Resettlement Policy.

The IRM observes that compliance with Bank policy related to compensation is a recurrent issue raised by all the complaints that have been handled through its compliance review and problem-solving exercises. The current practice of Borrowers paying compensation from their own budgetary funds as part of the project counterpart funding poses a significant challenge. Inadequate budgetary funds of the borrower delay project implementation as resettlement cannot be undertaken on a timely basis due to inadequate funds for compensation. Moreover, constrained budgetary resources make it difficult for the Borrower to fund compensation at full replacement cost as is required under Bank policy.

The IRM recommends that the Bank should include financing of the compensation cost for resettlement of people affected by its projects under its loans and grants.

5.3. Mandatory Gap Analysis between national laws and Bank policies

Bank policies are not necessary aligned with the national laws of the Borrower. The IRM notes for example that the Bank Involuntary Resettlement Policy is usually more generous in terms of compensation of the project affected people than that of the laws of most Regional Member Countries. In addition, in most cases the Project Implementing Agencies are not always conversant with the full range of Bank policies and procedures applicable to the project they are in charge of. The Bank’s Involuntary Resettlement Policy requires that a gap analysis be undertaken as part of the resettlement plan.
Bank staff and management need to assure that early in the project preparation this gap analysis be undertaken and that gaps be discussed with the Borrower. In doing so, the Bank will establish the differences between Bank safeguards policies and procedures and those of the Borrower at the beginning of the project. Also, the Bank will be in a position to better design and support measures that are needed to address the identified gaps. The gap analysis can also be used to identify capacity building needs to sufficiently strengthen the institutional framework so that the Borrower is equipped to implement the safeguard policy measures.

Moreover, in sectors where the Bank has a substantial portfolio, a sector wide gap analysis should be conducted and a discussion will need to take place with the borrower on how these sector gaps can be addressed. This sector effort should ideally be conducted in coordination with other Multilateral Financial Institutions, which have similar safeguard policies. Most of the gaps between national legislation and the Bank Safeguards Policies may be most likely effectively addressed at the sectoral level.

5.4. Grievance Redress Mechanisms and Learning

The existence of functional Grievance Redress Mechanisms is critical for mitigating the complaints raised at project level. Despite their limitations, the mechanisms established in the context of the Tanzania Road Sector Project II and other projects are useful. The IRM notes the positive evolution within the Bank of a new Integrated Safeguard System (Volume 2: Guidance on Safeguard Issues) including a detailed section on GRMs covering the scope and the steps to be followed from design to operationalization of these mechanisms. It is clear that the Integrated Safeguards System has created a dynamic for transformation of Bank businesses practices.

In light of the importance of such grievance mechanisms, the costs of establishing and operationalizing them, including hiring experts, should be made part of the project costs funded by the Bank. The Bank staff should play an active role in assisting the Borrower in the establishment of such mechanisms. In particular, the Bank’s technical support should help the borrowers to change their current perception of these mechanisms as seasonal instruments to resolve disputes only after the start of project implementation activities. Instead, such support should be for the Borrower to establish sound structures that are accessible early-on in a project to the people who are or likely to be adversely affected. Now that it has its Integrated Safeguards System, the Bank should intensify the use of Guidance Notes. In addition it should require the Borrower to report, as part of its progress report, the status and outcome of cases handled by the Grievance Redress Mechanisms. This will not only lend credence to the process, but it will help the Bank mitigate any potential costs overruns due to the complaints.

5.5 Institution Building and Cross Country Learning on Safeguards Policies

The IRM noted that TANROADS has established a solid track record in implementing effectively road sector projects in the country and is aware of the needed technical capacity for such. It has been responsible for projects financed by multilateral development Banks and has developed internal guidelines for implementing such projects.

The IRM was made aware of the challenges TANROADS faces in understanding fully all aspects of the Bank safeguards policies and procedures as well as the needed institutional capacity and knowledge required to implement these policies. Some of the glaring needs relate to the alignment of Bank policies and procedures with those of the Borrower, the execution of compensation procedures and the establishment of sound internal systems to handle project environmental standards. TANROADS staff reiterated the importance of coordinating with the Bank as part of the institutional capacity support to address its needs in these areas. Such needs are not unique and limited to Tanzania. In fact there is a lot of merit to such approach to institutional capacity building of implementing agencies at the regional level.
The IRM recommends that Bank should enhance its institutional capacity building support to enable Borrowers be in a position to implement all aspects of Bank safeguard requirements. Moreover, Borrowers would benefit from cross country learning workshops where they can exchange sector specific experiences and learn about good practices that are effective in the implementation of safeguard requirements in the different Regional Member Countries.

6. Conclusion

The IRM notes that in the design and early implementation of the Tanzania Road Sector Project II there were instances of non-compliances with the Bank’s Involuntary Resettlement Policy. These included: (i) issuance of demolition notices prior to compensation; (ii) demolition of a number of house without payment of compensation; (iii) non transparent compensation procedures and processes; (iv) inadequate consultation of the PAPs; (v) compensation levels for assets below replacement value; (vi) payment for income losses only in the few cases where audited financial statements for businesses were available; (vii) absence of third party monitoring; (viii) absence of a gap analysis to identify gaps between Tanzania laws and the Bank’s Involuntary Resettlement Policy.

Attempts to address many of these shortcomings were made during the problem solving exercise conducted by the IRM between 2012 and 2016, after a complaint had been launched to the Compliance review and Mediation Unit in June 2012. But the IRM is concerned that the project was originally designed and implemented with significant non-compliance with the Bank’s safeguard policy on Involuntary Resettlement. Without the IRM problem solving exercise, the project would have be implemented with very severe non-compliance issues. Even with the adjustments made under the problem solving exercise, non-compliance issues persist, such as compensation levels lower than full replacement of assets, the lack of compensation for income losses, the absence of third party monitoring and the absence of a gap analysis.

The IRM found the project largely in compliance with the Bank’s Environmental Safeguard Policy. However, the inadequate dust control on all construction sites remain an issue so is the delays of contractors to obtain permits to ensure the sustainable use of environmentally sensitive areas.

The IRM is concerned that neither the appraisal report nor the Environmental and Social Impact Assessment did an exhaustive analysis in line with the provisions of the Bank’s poverty reduction and gender policy. With more focus on these policies, the project could have been designed and monitored to assure a stronger poverty alleviation and gender inclusion impact.

The IRM finds that the insufficient guidance and support of Bank staff to the implementing agency on the Bank’s safeguard and poverty and gender policies resulted in the noted non-compliance instances. A more active engagement and support to the Borrower early on would have led to a more positive outcome. The additional Bank support provided was observed during the problem solving exercise. The effort was made therefore rather because of the exceptional situation. It is the support of Bank staff in operations and management which is required to assure that Borrowers are resourced to comply with the often complex rules related to Bank safeguard policies.