

## PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

### A. Introduction

1. This is an assessment of the program safeguard systems (PSS) for the proposed Solomon Islands Sustainable Transport Infrastructure Improvement Program (STIIP). The STIIP will support the execution of the work program that the Ministry of Infrastructure Development (MID) derived from the National Transport Plan (NTP) and which is funded through the National Transport Fund (NTF). The outcome of the STIIP is improved transport infrastructure for nationwide access to social services and inclusive growth. The outputs are: (i) rehabilitated and maintained safe, gender-responsive, and climate- and disaster-proofed transport infrastructure for all users; (ii) improved competency and capacity of government agencies to implement the NTP using strengthened country systems; and (iii) a strengthened MID to supervise and manage the NTP work program. The infrastructure works comprise maintenance or rehabilitation of roads, bridges, and wharfs. The STIIP will adopt the results-based lending approach.

2. The objective of the PSS assessment is to (i) identify the level of environmental and social risks of the STIIP, and the current implementation capacity of MID with respect to managing the risks; (ii) define good practices as well as gaps between Solomon Islands' country safeguard system (CSS)<sup>1</sup> and the Asian Development Bank (ADB) Safeguard Policy Statement (2009) (SPS); and (iii) recommend actions to strengthen the capacity of MID and its central project implementation unit (CPIU) to promote good practices and adopt gap-filling measures.

### B. Program Environmental and Social Impacts and Risks

3. The STIIP outputs 2 and 3 are related to improving country systems and institutional capacity, so do not involve physical activities. Only output 1 includes physical infrastructure works, with the following targets: (i) maintenance of 640 kilometers of unsealed roads and 159 kilometers of sealed roads; (ii) rehabilitation of 19 kilometers of sealed roads; (iii) maintenance of 130 bridges; (iv) maintenance of 60 wharfs; (v) reconstruction of six additional wharfs; and (vi) construction six small-scale gender-responsive facilities.

4. It is estimated that most STIIP activities will involve labor-based or machine-based maintenance works and that only a small portion will be rehabilitation or reconstruction activities. On a preliminary basis, the outputs of the STIIP were screened and categorized according to the type of activity and likely environmental and social effects. The screening allows the activities to be grouped into one of the following three tiers based on their level of environmental and social complexity (starting with the least complex):

- (i) Tier 1—labour-based, equipment-supported (LBES) or community-based routine maintenance contracts, mainly for roads, which includes clearing drains, culverts, or outlets; patching potholes; cutting grass; and other related works.
- (ii) Tier 2—machine-based maintenance contracts (MBMCs), mainly for maintenance of roads, which includes repairing damage, refilling and/or compacting base materials, sealing, and other related works.
- (iii) Tier 3—rehabilitation or reconstruction of roads and wharves that were badly neglected and are beyond disrepair, and/or were damaged by extreme weather events or other natural disasters. The works will involve resurfacing or re-sheeting roads; repairing jetty

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<sup>1</sup> The CSS and PSS are used interchangeably in this report. The CSS comprises national safeguard systems that apply across sectors and across projects, but the report focuses only on aspects of the CSS that are relevant to the STIIP and may be called PSS.

or wharf slabs or piles; rebuilding, repairing, or replacing damaged bridges and large culverts; building new water crossings; or rehabilitating roads. In some cases, wharves or jetties will be constructed at new locations.

5. Activities that would be categorized as category A under the SPS are specifically excluded from the program. STIIP impacts will be similar in extent and scale to the ongoing and recently completed transport projects. The impacts and risks will be site-specific, few if any will be irreversible, and all are readily mitigated and managed. The detailed description of the STIIP's environmental and social impacts and risks is presented in the Safeguards Procedures Manual (SPM) accessible from the list of linked documents in Appendix 1 of the main text.

### **C. Safeguard Policy Principles Triggered**

6. The SPS consists of three safeguard policies: environment, indigenous peoples, and involuntary resettlement. Each includes a number of policy principles. A results-based lending program (through CSS and gap-filling measures) should adhere to relevant SPS principles that are triggered according to the nature of the program activities.

#### **C1. Environment**

7. The environmental safeguard comprises 11 policy principles. The STIIP will trigger all but principles 8 (critical habitat) and 9 (pollution prevention). The detailed description of principles triggered is found in the SPM.

#### **C2. Indigenous Peoples**

8. ADB's indigenous peoples safeguard principles are triggered if a program or project directly or indirectly affects any "distinct and vulnerable" groups of indigenous peoples in terms of (i) their dignity, human rights, livelihood systems, or culture; and (ii) territories that they own and use, occupy, or claim as an ancestral domain or asset.

9. The country's population is composed of Melanesians (95.3%), Polynesians (3.1%), Micronesians (1.4%), and other groups (e.g., i-Kiribati Gilbertese–Micronesian, Chinese). The Melanesian population meets two of the four characteristics of indigenous peoples in the SPS definition.<sup>2</sup> Melanesian customary, cultural, economic, social, and political institutions dominate the country's society and culture at large. While having many dialects in the different island provinces, and areas within provinces, Melanesians communicate in Pidgin, which is the official language of the country. For these reasons, they cannot be deemed disadvantaged, excluded, or vulnerable. Other ethnic groups in Solomon Islands exhibit some characteristics of indigenous peoples, but lack criteria (ii) under the SPS definition. They are migrants or descendants of migrants, and therefore have no collective attachment to geographically distinct habitats or ancestral territories in the STIIP area, or to natural resources in these habitats and territories.

10. Finally, by the kind of activities proposed under the STIIP, the dignity, human rights, livelihood systems, or the cultures of Melanesians and other ethnic groups will not be negatively affected, directly or indirectly. None of the proposed works under the STIIP would fall within the

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<sup>2</sup> The four characteristics are: i) self-identification as members of a distinct indigenous cultural group and recognition of this by others; (ii) collective attachment to geographically distinct habitats and ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language often different from the official language of the country or region.

three types of activities enumerated in Policy Principle 4 of the indigenous peoples safeguard, which requires consent of indigenous peoples.<sup>3</sup> On the contrary, by increasing mobility and enhancing access to socioeconomic opportunities, the STIIP activities contribute to the socioeconomic development of all ethnic groups in the country.

11. Given the lack of vulnerability of indigenous peoples and the kind of impacts that the STIIP will have on different ethnic groups, the indigenous peoples safeguard is not triggered.

### **C3. Involuntary Resettlement**

12. An examination of the proposed activities under the STIIP indicates the possibility of small-scale economic displacement, but physical displacement is highly unlikely.

13. Activities or projects are classified as category A for resettlement if they physically or economically displace 200 people or more with major impacts, i.e., relocation or the loss of 10% or more of productive assets. While category A projects are excluded from the STIIP, most activities will affect fewer than 200 people and cause losses of productive assets below the threshold, so they will be category B, or even category C in some cases. All 12 policy principles of the resettlement safeguard are triggered for the STIIP, but the extent of resettlement impact is likely to be minor and will be managed in a way commensurate with the level of impact. The detailed description of principles triggered can be found in the Safeguards Procedures Manual.

## **D. Diagnostic Assessment**

### **D1. Assessment Methodology and Resources**

14. **Review of documents.** A desk review of relevant policy documents, project documents, and reports was undertaken. This included key reports prepared under technical assistance (TA) for Strengthening Country Safeguard Systems in the Transport Sector in Solomon Islands.<sup>4</sup> The TA reviewed the CSS legal framework and current implementation practices and procedures in the transport sector, including the capacity of MID and its CPIU; the Environment and Conservation Department (ECD) of the Ministry of Environment, Climate Change, Disaster Management and Meteorology (MECDM); and the Ministry of Lands, Housing and Survey (MLHS). The findings and recommendations of the TA were directly relevant for the PSS assessment for the STIIP.

15. The assessment studied practices implemented for the first and second Solomon Islands Road Improvement (Sector) projects and the Transport Sector Development Project (TSDP)<sup>5</sup> to determine the lessons they yielded. In addition, extensive discussions took place with the safeguards team, asset management team, LBES and MBMC planning and implementation teams within the CPIU–MID, which features a mix of consultants and MID staff. The assessment is based on discussions of current good systems and practices for institutional arrangements, current procedures concerning the interaction of MID and MEMCD as well as internal MID

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<sup>3</sup> These activities include (i) commercial development of the cultural resources of indigenous peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of the natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of indigenous peoples.

<sup>4</sup> ADB. 2012. *Technical Assistance for Strengthening Country Safeguard Systems in the Transport Sector*. Manila (TA 8217).

<sup>5</sup> ADB. 2006. *Technical Assistance for Road Improvement (Sector) Project*; ADB. 2009. *Second Road Improvement (Sector) Project*; ADB. 2010. *Transport Sector Development Project*. Manila.

procedures, followed by an analysis of the gaps or risks identified and the necessary gap-filling measures to be included in MID's SPM. The findings of the analysis are briefly described below.<sup>6</sup>

16. **Consultations.** Consultations were undertaken with the MECDM; MID; MLHS; Ministry of Women, Families, Youth and Children, and development partners. The draft PSS assessment was discussed in a stakeholder workshop on 18 February 2015, and disclosed publicly.

## **D2. Environmental Safeguards Assessment**

### **a. Policy and Legal Framework**

17. The Environment Act 1998 and the Environment Regulations 2008 provide the legal basis for environmental CSS. The regulations outline the environmental assessment procedures to obtain development consent. Also relevant is the legislation on nature protection, forestry, occupational health and safety, town and country planning, and legislation from the line ministries, which ECD may take into account while reviewing the assessment.

18. The legal analysis from the TA for Strengthening Country Safeguard Systems in the Transport Sector (footnote 4) showed that the legislation of Solomon Islands corresponds fully or partially to about 70% of the key elements of ADB's environmental safeguard principles, but does not match the other 30%. The gaps identified and the recommendations to bridge them relate mostly to the procedures for development consent and environmental assessment. Some recommendations concerned the environmental impact statement process, which is relevant for larger projects with a higher level of impacts. Since category A projects will be excluded under the STIIP, the current regime of further strengthening the procedures within MID (including adoption and implementation of the SPM) and boosting coordination with ECD will be sufficient to manage environmental impacts under the STIIP. A summary of the diagnostic assessment can be found in SPM.

### **b. Institutional Arrangements**

19. **Regulatory agency.** The MECDM (and ECD within it) is the central regulatory agency mandated to implement the Environment Act. ECD coordinates with many line agencies (including MID and MLHS), particularly as regards the development consent application and review. ECD experiences significant staff constraints in carrying out its mandate. Five officers, including the director, are available to service the environmental assessment and management system for the entire country.

20. **Line ministry and implementing agency.** MID is the lead agency in charge of implementing the NTP, including managing environmental impacts in the transport sector. The CPIU has been structured to support the implementation of the NTP through the NTF regardless of the funding source of individual projects or investments in the transport sector. The CPIU manages screening, assessment, mitigation, and monitoring of environmental issues related to activities under the NTF. The CPIU safeguards team, tasked to support TSDP implementation, at present comprises five permanent and one half-time position—one national consultant responsible for the environment, one for social development, two for community liaison, one for community education and governance, and a half-time position for community education and gender development. The team is supported by an intermittent international specialist.

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<sup>6</sup> The Safeguards Procedures Manual provides further details.

21. Recently, within the MID structure (staff as opposed to project-based), a Grade 8 Social Safeguards Officer position was created and filled, and another safeguards officer was approved by the Public Service Commission but is yet to be recruited by MID. MID has applied for a third safeguards position, which is awaiting approval by the Public Service Commission. A summary of the diagnostic assessment can be found in Institutional Assessment accessible from the list of linked documents in Appendix 1 of the main text.

**c. Current Procedures and Practices**

22. **Country safeguard system requirements.** In general terms, all development activities are subject to formal development consent procedures unless a project proponent has applied for, and received, an exemption certificate from ECD. The Schedule to the Environment Act lists the “prescribed activities” and the Environment Regulations establish the procedures for undertaking the environmental assessment of those activities. The developer is required to first submit a development proposal application (including an activity description).

23. The current MID activities that are listed in the Schedule to the Environment Act include those identified as “Activity 3 non-metallic industries”—(d) extraction of aggregates stone or shingles—and “Activity 9 public works sector”—(b) infrastructure developments, (g) airport developments, and (k) ports and harbors.

24. Tier 1 and tier 2 activities under MID are generally granted an exemption by ECD–MEMCD. Tier 3 activities require development consent in accordance with the procedures set out in the Environment Regulations. For tier 3 activities, based on the information provided in the development application (project description), MECDM determines whether (i) no further assessment is required, (ii) a preliminary environmental report is required, or (iii) if major projects are considered, an environmental impact statement is required. To date, MID’s tier 3 subprojects have required only preliminary environmental reports. Upon approval of a preliminary report, ECD–MEMCD will issue a development consent. No construction work can commence until the development consent is issued.

25. **Ministerial and implementation unit procedures.** CPIU–MID has set up an environmental management system (EMS) to comply with the national environment legislation as well as the requirements of its development partners. Various guidelines, either approved or drafted by the CPIU, exist: (i) Tier 1 Implementation Guidelines (approved); (ii) Tier 2 Implementation Guidelines (draft); (iii) ECD’s Environmental Assessment Handbook (applies to Tier 3 activities of ECD); (iv) Community Advisory Committee (CAC) Guidelines (approved); and (v) Guidelines for Sourcing Road Construction Materials (drafted under SIRIP and covering quarry management and river gravel, and coronous extraction and use).

26. The safeguard procedures implemented by CPIU–MID for the TSDP are built upon those established under previous projects and which have evolved into an EMS for the transport sector. As noted above, this includes a process whereby the activities are screened and categorized, and appropriate assessment and management requirements are established, being simple mitigation and management instruments for tier 1 activities (in the form of guidelines) and tier 2 activities (in the form of a construction environmental management plan, while Tier 3 activities go through the more rigorous assessment, review, and EMP process. An important element of the EMS is the requirement for a subproject request to procure a so-called “birth certificate,” so that all activities are signed off by all sections within the CPIU, including the safeguards manager. The birth certificate in effect verifies that all mandatory requirements (feasibility study, safeguards, bid and contract documentation) have been completed, confirmed, and may proceed to procurement. This process is set out in more detail in the SPM.

27. The CPIU established the consultation, participation, and grievance redress mechanism requirements for different steps of screening, assessment, planning, implementation, and monitoring. In summary, the process involves (i) initial stakeholder engagement, including disclosure of project activities, awareness raising, and training of potential contractors; (ii) establishment of CAC and subproject scoping (explaining scope of project to community and seek feedback on issues); (iii) project screening in consultation with ECD–MECDM; (iv) compilation of information about the site and location (including feasibility baseline studies as necessary); (v) preliminary project design with environmental and/or social assessment and development application, and issue of exemption or development consent; (vi) detailed design with updated assessments and procurement (includes request to procure or “birth certificate” process); (vii) integration of the pertinent EMP in contract documents; and ((viii) implementation involving environmental health and safety guidelines and checklist, construction environmental management plan, and construction supervision and monitoring.

#### **d. Gaps, Risks, and Additional Measures**

28. Although CPIU–MID has different guidelines in place as part of its EMS, these are not fully implemented for various reasons. The NTP had a provision to develop the SPM covering both social and environmental safeguards, but such a manual was not prepared or adopted until recently. For the STIIP, the SPM will integrate all relevant guidelines, checklists, and related matter into a single compendium, so that all relevant MID staff, contractors, CAC officials, community, and supervisors have easy access to and a better understanding of the requirements, including through awareness training.

29. The EMS has gradually improved the practices within MID and among contractors, but it is yet to be applied consistently across NTP activities. It has happened, largely prior to the current EMS procedures, that activities proceeded without due implementation of the EMS, including application for development consent. Implementation gaps also relate to the supervision and monitoring of construction environmental management plans. The roles of job manager, site supervisor, and safeguards team were not clearly articulated. Also, a lack of environmental staff made it difficult to carry out routine quality assurance checks on compliance with construction environmental management plans, and broader monitoring. The weaknesses in MID job managers’ and site supervisors’ understanding of procedures need to be overcome by clarifying these roles in the SPM, and ensuring that the procedures are understood and implemented correctly. The role of environment staff needs to be strengthened, both by issuing clear guidelines on monitoring and by providing adequate resources.

30. The gaps also result from a lack of regular coordination with ECD as the main regulatory agency. Tier 3 (and some tier 2) activities require development consent, so greater collaboration is needed between ECD and CPIU–MID. It is recommended that MID and ECD develop a coordination mechanism for this.

31. Capacity building and training of all stakeholders, particularly in the communities, is also needed.

#### **e. Conclusion—Capacity to Manage the Program’s Environmental Risks**

32. It is concluded that the country’s environmental legislation and MID’s EMS, with some strengthening and gap-filling measures, will be sufficient and adequate to meet the nine SPS

environmental principles triggered for the STIIP.<sup>7</sup> MID needs to strengthen coordination with ECD and to ensure consistent and more rigorous application of the EMS. To reduce the risk of noncompliance with environmental provisions, monitoring, and enforcement, the capacity of safeguard staff needs strengthening.

33. A number of program safeguard actions for the environment, as well as land acquisition and resettlement (LAR) safeguards, are listed in Section E.

### **D3. Land Acquisition and Resettlement Safeguards**

#### **a. Policy and Legal Framework**

34. The Lands and Titles Act 1996 sets out the fundamental principles and procedures for the government's acquisition of both alienated and customary land: sections 71–85 of the act deal with compulsory acquisition of land for public purposes; sections 60–70 deal with the voluntary purchase and lease of land; and Part XV discusses easement. The act (sections 60–70) provides an elaborate consultative process to purchase or lease land. It is time-consuming and prone to delays because of the mandatory period of legal appeals and potential breakdowns in negotiation. The government does not want to compulsorily acquire customary land given the high risk of landowners' resistance and backlash. The TA for Strengthening Country Safeguards in the Transport sector recommended modifications to introduce transparency and update the process for acquiring land through negotiation, and the follow-on TA will further support building the capacity of the MLHS to implement this modified process.

35. Another law that allows acquisition of land—the Roads Act 1996—is also directly relevant. It empowers the Minister of Infrastructure Development to declare land adjoining a road, street, or thoroughfare as part of a public road and to negotiate with the owner for compensation of the land and assets on the land. If the two parties are unable to reach agreement, the process of acquisition continues under the Lands and Titles Act. An Infrastructure Management Bill, which would replace the Roads Act, has been finalized and is due to be submitted to the National Parliament.

#### **b. Institutional Arrangements and Capacity to Manage Land Issues**

36. Social development, community participation, and professionalism figure prominently in the Vision and Mission of MID.<sup>8</sup> The NTP states the government's commitment to implementing social safeguards to meet the country's legislative requirements as well as its development partners' requirements. MID also committed to produce an SPM to guide the preparation, implementation, and monitoring and evaluation of NTF-funded projects, including social safeguards.

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<sup>7</sup> The STIIP will also benefit from the implementation of parallel CSS strengthening under TA for Supporting Good Governance through Safeguards, which is under implementation in coordination with ECD and the MLHS: ADB. 2014. *Technical Assistance for Supporting Good Governance through Safeguards*. Manila (TA 8737-SOL).

<sup>8</sup> Vision: "An effective transport infrastructure and transport services to support sustainable economic growth and social development in Solomon Islands." Mission: "To enhance the prosperity and participation of the Community (through the implementation of the Community Advisory Committee guidelines) by providing an integrated, efficient and affordable infrastructure and transport system supported by ethical, professional and valued staff."

37. As noted in paras. 20 and 21, the CPIU includes a safeguards team of six. The two community liaison officers and the community education officer are directly involved in (or facilitate) community consultations, orientation of bidders, trainer's training of contractors, operations of the CAC, and negotiating with affected people on land use agreements.

**c. Current Implementation Practice and Procedures**

38. MID implements a screening process to identify and group its activities into the appropriate tier. Scoping is undertaken to assess the extent of works needed and whether they are labor-based or machine-based maintenance works, major rehabilitation works, or new works, and to identify the LAR effects and planning requirements.

39. **Land acquisition.** Although the government has legal recourse to compulsory acquisition of land for public purposes, to date it has not exercised this right. Landowner resistance is strong, and the land acquisition processes under the Lands and Titles Act are cumbersome, time-consuming, and prone to indefinite disputes, mainly from legal challenges.

40. **Memorandum of agreement on land use.** Because of the shortcomings of the formal land acquisition process, CPIU–MID has established a process of gaining access to land without undergoing the process stipulated in the Land and Titles Act. Instead, the CPIU–MID enters into a memorandum of agreement (MOA) with landowners whereby the latter voluntarily grant access to land adjoining the current transport infrastructure for the conduct of civil works such as carriageway expansion or installation of drains. The customary owners will allow MID unimpeded use of, and access to, the affected land without need to purchase it. In exchange, the landowners will be paid compensation for non-land assets, including crops, fences, and graves. If applicable, transfer of temporary structures and a business disruption allowance will also be paid. Land ownership will be retained by the present landowners. Thus far, four NTP-projects have MOAs in place, one of which is a tier 3 project.

41. A MOA does not encounter the problems usually met in following Lands and Titles Act procedures because (i) it encourages participation of the provincial government, which has specific responsibilities for identifying and informing the rightful owners; (ii) it relies heavily on community consultations and participation in project processes, including LAR activities through the CAC; (iii) it includes compensation for all non-land assets, transfer allowances, income losses due to business disruption, and benefit sharing through employment by the project; (iv) it includes a transparent and documented multi-level grievance redress mechanism, with emphasis on local mediation and dispute resolution through the CAC; and (v) it requires third-party validation to ascertain if access was granted voluntarily, and in a free and informed choice by the affected people.

42. **Land acquisition and resettlement frameworks.** In addition to the MOA process, CPIU–MID has also adopted project-specific resettlement frameworks that provide for (i) the screening of LAR impacts during the pre-feasibility stage; (ii) consultations with and participation of affected persons and communities; (iii) disclosure of information; (iv) grievance redress mechanism; (v) assessment of impacts and preparation of resettlement plan(s) during the feasibility stage; (vi) update of the assessment and planning document after the detailed design; and (vii) monitoring and reporting. CPIU–MID has evolved good practices for the integration of LAR requirements as part of project preparation and implementation.

43. **Consultation.** In terms of consultation and information disclosure, CPIU–MID has prepared and implemented a CCP under the ongoing TSDP. The CPIU safeguards team



disseminates project information to local stakeholders in the initial phase of all tiers of activities. It also publicizes the request for expressions of interest for LBES contracts among communities living in the project site, informing the latter of the works and increasing the probability of poor and vulnerable groups to participate. The safeguards team also provides training to potential contractors on relevant project requirements.

44. One element in the CCP is the establishment of CACs. Their role is currently set out in the CAC guidelines adopted by MID. Across tier 1 and 2 activities, LBES or MCBM contractors are required to form a CAC prior to construction mobilization. For tier 3, the CPIU team organizes, builds the capacity, and facilitates the operation of the CAC before the contractor is selected. The CAC is the first level of the grievance redress mechanism and consists of representatives selected by the community and serving in a voluntary capacity. A grievance redress mechanism has been adopted for several ongoing projects, and the same mechanism will be used under the STIIP.

45. **Managing land acquisition and resettlement impacts.** The scope of mitigation of LAR impacts varies according to the type of activity. Some activities can be accommodated within the existing footprint, but they may require temporary and intermittent access to land outside the right-of-way during construction. The LBES, MBMCs, and some rehabilitation activities fall under this category. A few others require permanent expansion of the footprint outside the right-of-way.

46. These activities are handled by the CPIU safeguards team in cooperation with CACs and maintenance contractors. The impacts are minor and are managed through provisions included in the LBES, MBMC, and rehabilitation work contracts. In case of LBES, the contractors are often also the customary owners of affected land and trees, crops, plants, and structures. The compensation budget is included in the contract, and as contractors, the communities and landowners are paid to undertake the clearing of their own properties. The owners keep the salvaged materials. In MBMC, while contractors are not often from the communities, they do employ customary owners, providing a stake in both the works and safeguards implementation. The CPIU and MBMC contractors work together to gain voluntary provision for temporary access to land outside the right-of-way. Relevant costs are included in MBMC contracts. Since tier 1 and tier 2 activities do not require any land acquisition, and access to adjoining land is only temporary or intermittent, a resettlement plan is not needed for these activities.

47. For activities that require permanent access to land outside an existing right-of-way, the CPIU negotiates with the landowners to obtain access through the MOA process (para. 66).

48. For tier 3 works, as required, the CPIU safeguards team prepares the resettlement plan documenting the MOA process. The plan is prepared and disclosed by CPIU–MID. For the Naro-Lambi road, the only tier 3 subproject under the TSDP, the safeguards team undertook to organize and train the CAC, assist in consultations, conduct the inventory of losses and valuation of affected assets, and facilitate the signing of the MOA.

49. In terms of implementation, all civil works contracts include safeguard responsibilities financed through an item in the bill of quantities. The safeguards manager checks for the inclusion of all relevant safeguard provisions in the tender documents and signs off before these are issued to bidders. The CPIU safeguards team provides orientation training on these responsibilities to bidders during the pre-tender conference.

50. Post-award, the safeguards team conducts training of trainers for the contractor, who in turn trains the CACs in the conduct of consultations, grievance redress and dispute resolution,

and monitoring and evaluation, among others. The safeguards team has developed detailed guidelines for the operation of a CAC, which is periodically updated as lessons are learned. These guidelines include the safeguard responsibilities of the CACs.

51. The enforcement of the contract conditions is the responsibility of the job managers, with the safeguards team helping in the resolution of safeguards and other social issues.

52. Since no tier 3 activities with resettlement plans have reached implementation, resettlement monitoring reports are yet to be prepared.

**d. Gaps, Risks, and Additional Measures**

53. Despite the project-specific resettlement frameworks, MID is yet to adopt the SPM (providing guidelines for preparation, implementation, and monitoring of NTF-funded projects, including LAR safeguards) although it is a requirement of the NTP. The SPM was to be adopted and was to integrate the MOA process as well as all relevant aspects of LAR safeguards across the different activities during a project cycle, e.g. (i) screening; (ii) consultation, participation, and information disclosure; (iii) grievance redress; (iv) assessment of impacts, and LAR planning and documentation; (v) implementation and assistance to affected persons; and (vi) monitoring and reporting. For tier 3 projects, where customary land was involved and customary landowners did not agree to grant an easement or access, the MOA process might not be adequate. The SPM was also to incorporate the modified land acquisition process under the Lands and Titles Act for those activities that may require measures beyond the MOA process.

54. The CPIU safeguards team does not have a person focused exclusively on LAR, since almost all contracts to date were LBES and MBMC, with no land acquisition. Consequently, the current safeguards team does not have much experience in the preparation, supervision, and monitoring of tier 3 projects that involve land acquisition. Given the possibility that tier 3 projects may increase in future, the absence of a safeguards specialist with LAR experience will be a major gap. It is recommended that the technical assistance to CPIU include an LAR specialist.

55. The current work of the safeguards team is front-loaded and focuses on the feasibility and procurement stages. Given its small size, its participation in contract supervision and safeguard monitoring is limited. The need for a supervising and monitoring function is likely to increase, and CPIU must be given both support and responsibility for this task.

56. MOAs risk legal challenges if a proper process is not followed. Therefore, the current MOA process requires improvement in several areas, e.g., (i) provision of a professional valuer to undertake valuation; (ii) timely payment of compensation payments; and (iii) adjustment of the payments to inflation in the case of delays.

57. The budget for CAC operations is currently part of the bill of quantities of the works contractor. If any delay occurs in the procurement process, the CAC's organization and operation may be hampered. For tier 3 projects with LAR impacts, LAR must be undertaken before the contract is awarded, but there may be no budget available for CAC tasks before the contract is awarded. Therefore, the CPIU must budget for keeping CACs engaged and updated while tendering is in progress.

58. Further, the CPIU has no procedures to deal with physical displacement and off-site relocation, if needed in the future. The SPM needed to provide these procedures.

59. **Conclusion.** Given that most STIIP activities fall under tier 1 and tier 2, requiring only temporary access during construction, it is concluded that current procedures and practices, with additional strengthening measures through the preparation, adoption, and implementation of the SPM, would be adequate to manage LAR risks for the STIIP. The next section summarizes the key actions for LAR safeguards.

### **E. Program Safeguard Actions**

60. Once the CPIU safeguards team was properly organized, the consistency and quality of safeguard implementation gradually improved. CPIU–MID developed various good practices that were applied to projects and gradually evolved into the EMS and LAR procedures of the CPIU. The STIIP has the opportunity to build on this positive experience, not only to ensure that STIIP activities are successfully implemented in compliance with both CSS and SPS, but also to promote good safeguard practices for all projects under MID.

61. The PSS assessment has identified some gaps, and measures to fill these gaps (discussed in the preceding sections). To comply fully with relevant SPS principles, the STIIP needs to implement the following key actions:

- (i) MID's adoption of the SPM as part of the NTP. The SPM brings together all PSS requirements including EMS, LAR process, guidelines for implementing tier 1–3 activities, Climate Change Manual, CAC guidelines, and the Sourcing Road Construction Materials Guidelines. The SPM also specifies measures to remedy gaps in current EMS and LAR processes, as described in the diagnostic above.
- (ii) All civil works contracts to require contractors to comply with relevant provisions of the SPM.
- (iii) CPIU–MID to strengthen enforcement of compliance during implementation and to prepare periodic safeguard monitoring reports (at least half-yearly for tier 3 and annually for tiers 1 and 2).
- (iv) Provision of a full-time CPIU–MID safeguards team, comprising specialists on environment, social and LAR safeguards, community facilitation, and gender. Intermittent inputs of international safeguard specialists to support the safeguards team.
- (v) Implementation of the CCP during planning and implementation of projects.
- (vi) Training to all MID engineers, job managers, and safeguards personnel involved in program planning on the scope and procedures set out in the SPM.
- (vii) Training to contractors, focusing on their key safeguard responsibilities to the PSS.
- (viii) Training and capacity building of CACs regarding their role, particularly in relation to the supervision of contractor agreements with groups and individuals, and to providing feedback on contractor performance.
- (ix) Coordination with the CSS TA team, which will be working with MID, ECD, and the MLHS to implement recommendations of the Strengthening Country Safeguards TA.