LESSONS LEARNED FROM COMPLIANCE REVIEWS AT THE ASIAN DEVELOPMENT BANK (2004–2020)

Sustainable Urban Transport Investment Program—Tranche 3 in Georgia
The Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020) series endeavors to provide lessons and institutional knowledge for strengthening the development effectiveness of ADB. The lessons shared through this series provide opportunities for improved project design and implementation and a strengthened compliance review function. Should discrepancies arise between this document, ADB operational policies, and the Accountability Mechanism Policies 2003 and 2012, the respective policies will prevail.

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Notes:
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All photos are from ADB.

Cover design by Noelito Francisco E. Trivino, Jr.

On the cover: Many steps, one process. The cover highlights the different processes involved in the compliance review of a project—including field visits, consultations, and discussions—which comprise ADB’s Accountability Mechanism, symbolized by the gear working toward a unified goal.
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ACKNOWLEDGMENTS

The *Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020)* series was developed by the Asian Development Bank (ADB) Office of the Compliance Review Panel (OCRP), under the leadership of Elisea Gozun, Compliance Review Panel (CRP) chair and OCRP head, with the support of team members Irum Ahsan, advisor; Josefina Miranda, senior compliance review officer; and Julie Anne B. Mapilisan-Villanueva, associate compliance review coordinator.

The OCRP prepared this publication with inputs from CRP members Halina Ward and Ajay Deshpande. This report was made possible by the generous sharing of insights from ADB Management, current and former ADB staff, project consultants, NGO staff, as well as members of the implementing agency; current and former CRP members; and OCRP staff who were involved in the Georgia Sustainable Urban Transport Investment Program—Tranche 3.

ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>CRP</td>
<td>Compliance Review Panel</td>
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<td>CWRD</td>
<td>Central and West Asia Department</td>
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<tr>
<td>GRM</td>
<td>Georgia Resident Mission</td>
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<tr>
<td>IEE</td>
<td>initial environmental examination</td>
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<td>MDF</td>
<td>Municipal Development Fund of Georgia</td>
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<td>OCRP</td>
<td>Office of the Compliance Review Panel</td>
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<tr>
<td>RAP</td>
<td>remedial action plan</td>
</tr>
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<td>RAP-FS</td>
<td>RAP–Final Solutions</td>
</tr>
<tr>
<td>SPS</td>
<td>Safeguard Policy Statement</td>
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The Georgia Sustainable Urban Transport Investment Program—Tranche 3 (Georgia SUTIP-T3) is a project supported by the Asian Development Bank (ADB) that was the subject of a compliance review process under the 2012 Accountability Mechanism Policy. The compliance review function of the 2012 Accountability Mechanism Policy investigates alleged noncompliance by ADB with its operational policies and procedures where these may have directly, materially, and adversely affected complainants during the formulation, processing, or implementation of an ADB-assisted project.

This is the eighth in the Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020) series of publications prepared by the Office of the Compliance Review Panel (OCRP). The series examines the completed compliance reviews of eight ADB-assisted projects that were the subject of complaints submitted to the Compliance Review Panel (CRP) over the period 2004–2020.

The series explores the challenges, gaps, and good practices in each project as highlighted through the compliance review process. The insights presented in this report were gathered through a comprehensive review of documents, as well as by means of a survey of previous personnel of the borrower, staff of nongovernment organizations (NGOs) who assisted the complainants, current and former CRP members, and former and current ADB project staff from ADB headquarters and the resident mission in Georgia. Though the series is prepared by OCRP, it does not reflect OCRP’s opinion unless expressly specified.

This series provides practical insights for development practitioners, safeguard specialists, NGOs, civil society organizations, government personnel, project beneficiaries, and ADB Management and staff seeking to learn more about project design, implementation, and the process of compliance review. It aims to contribute to capacity development on project management and good institutional governance.

SNAPSHOT

<table>
<thead>
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<th>Project</th>
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<tr>
<td><strong>Project Title:</strong> Georgia Sustainable Urban Transport Investment Program—Tranche 3</td>
</tr>
<tr>
<td><strong>Country of Implementation:</strong> Georgia</td>
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<tr>
<td><strong>ADB Financing:</strong></td>
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<td><strong>Approval dates:</strong></td>
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<td><strong>Loan Closing Dates:</strong></td>
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<td><strong>Project Impact Categorization:</strong></td>
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<table>
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<tr>
<th>Complaint</th>
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<tbody>
<tr>
<td><strong>Date of request for compliance review:</strong></td>
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<tr>
<td><strong>Complaint Status:</strong></td>
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Site visit. The Compliance Review Panel during its project site visit in May 2016 for the compliance review of Georgia: Sustainable Urban Transport Investment Program - Tranche 3.
1 KEY LESSONS

The compliance review of the Georgia SUTIP-T3 project demonstrated several important lessons. It also highlighted various challenges as well as opportunities to improve project management and compliance review processes in the future. Following are the significant lessons learned from the compliance review.

1.1 Consultation should be inclusive and mindful of the needs of disadvantaged groups.

Inclusive and early consultations lead to a more relevant and tailored project design, provide a better view of project impacts necessary for designing mitigation measures and their costs, increase buy-in of project activities among affected people, and ensure smooth implementation and project success in the long run.

1.2 The Compliance Review Panel monitoring adds value to project implementation.

Inputs offered by the CRP during the preparation of the studies and annual monitoring reports provide useful guidance to the development and specificity of the remedial action plan (RAP). Despite the partial implementation of the RAP, the project benefited from guidance and feedback from CRP during its monitoring period. Thus, CRP monitoring ensured the completion of actions remaining after loan closure.

1.3 Environmental impact assessment and mitigation measures should also consider need-specific impacts on people.

The daily lives of visually impaired and elderly residents of the buildings near the construction site are largely dependent on the quality of light, noise, and vibration in the locality. Since such individuals navigate with the help of these factors, their lives are likely to be affected by the obstructed light and increased noise and vibration levels. Needs-specific mitigation measures should have been considered after explaining the project’s impacts to these people and after seeking their suggestions.

1.4 Application of a corridor approach to road construction projects enhances development effectiveness.

In addition to developing the infrastructure, a more holistic and integrated approach to road construction strengthens project sustainability and support by project stakeholders, and as a result, enhances development effectiveness. The project should have considered facilitating the lives of people and stakeholders, especially the ones who will be using the road.

1.5 Precautionary approach to environmental categorization facilitates better impact assessment and mitigation measures.

To ensure that projects are given the required attention during preparation and implementation, it is best to categorize borderline category B projects to category A. In addition, the cost spent on preparing for a higher category project will be significantly lower than the cost of implementing remedial action plans. A higher categorization would have provided for more stringent scrutiny during project preparation and more frequent monitoring during project implementation.

Inclusive and early consultations lead to a more relevant and tailored project design; provide a better view of project impacts necessary for designing mitigation measures and their costs...
2 BACKGROUND

2.1 Brief Project Description

The Georgia Sustainable Urban Transport Investment Program—Tranche 3 (Georgia SUTIP-T3) is part of a $1.1 billion investment program for implementation in 2010–2020 by the Government of Georgia to improve the reach, quality, and continuity of urban transport in Georgia. ADB partly funded the program through a multitranche financing facility and $300 million in commitment. Of this, Loan 3063, amounting to $73 million, was third of the five tranches. Specifically, the complaint pertains to subproject 1: Tbilisi–Rustavi Urban Road Link (section 2) of the project, which involves modernization of an existing road and construction of a new road from Ponichala to Rustavi. The new road was planned to be built near the residential buildings in Ponichala, with a portion to be constructed over the Mtkvari River, which flows from Türkiye to Azerbaijan through Georgia.

The borrower is the Government of Georgia through its Ministry of Finance. The Municipal Fund of Georgia (MDF) implemented the project and the Transport Division of the Central and West Asia Department (CWRD) was the unit responsible for project implementation in ADB.

The project was categorized as B for environmental impacts and a draft initial environmental examination (IEE) was prepared by MDF and posted on the ADB website in September 2013. This was later revised with the addition of vibration and noise impact studies (including impact modeling). An updated version was posted in December 2015. As section 2 of the project will approximately impact 549 individuals residing and/or working in industrial areas in Ponichala, it was categorized A for involuntary resettlement impacts. A land acquisition and resettlement plan was thus prepared by MDF and implemented beginning October 2016. Civil works began in 2017.

2.2 Summary of the Complaints

Phases II and III of section 2 of the project was to construct a new road that was to be part of the Tbilisi–Rustavi Urban Road Link in an area along the Mtkvari River. This portion of the project site was near

![Figure 1: Compliance Review Timeline](image-url)
a cluster of 10 dilapidated apartment buildings built around the mid-1960s as a residential community for visually impaired people. In this relatively poor neighborhood, one of the 10 buildings was to be demolished and nine were to remain but would be affected by increased noise and vibration impacts during road construction and operation.

This project is unique as the CRP received four complaints, with the first three sharing issues relating to noise, and vibration impacts on complainants and their poorly constructed and maintained residential buildings; and the fourth, on compensation. Overall, the complaints involved a total of 201 individual complainants, with the first two complainant groups assisted by a staff of Green Alternative, a local NGO in Georgia. The first complaint was received by the CRP in March 2016 while the second came in November 2016 during the 45-day comment period by major stakeholders on the draft compliance review report. The third complaint was received by the CRP in June 2018 during the implementation of the Management’s Remedial Action Plan and the second year of monitoring by the CRP. The compliance review timeline in Figure 1 shows the important events in the complaint processing and monitoring by the CRP for this project.

The first complaint was received by the CRP on 14 March 2016 and filed by 81 residents of the 9-storey apartment building 12v/g, which has 90 residential units. A staff of the local NGO, Green Alternative assisted the complainants in completing the complaint form that was sent to the ADB Accountability Mechanism’s Complaint Receiving Officer. At least two complainant-residents facilitated the CRP’s communication with the rest of the complainants. By being less than 20 meters away from the proposed road, the complainants were concerned that the vibration during road construction and operation will further damage their dilapidated residential building and negatively affect the daily living activities of the visually impaired, disabled, and elderly residents. The complaint narrated the complainants’ participation in the project information sessions and consultations, including their open expression of discontent at the current noise mitigation measures and road design. The complainants claimed MDF had not listened to their concerns, so they held three protest rallies in 2015, talked with government authorities, and approached the ADB Georgia Resident Mission before sending their complaint to the CRP through the Complaint Receiving Officer.

After receiving Management’s Response and meeting the ADB project team, the CRP visited the project site and had meetings with MDF, including some of its consultants, other relevant government agencies, the complainants, other affected people, and NGOs (Green Alternative and Union of the Blind). In the end, the CRP deemed the first complaint eligible for compliance review and prepared a terms of reference of the review after being authorized by the Board. Starting from the last week of June 2016, the CRP reviewed documents, met with relevant stakeholders, and conducted two fact-finding and investigation missions (one full mission with the three-member CRP and one technical mission with the CRP lead reviewer and two international experts, one for noise and vibration and another, a structural engineer). The draft of the compliance review of the project was then sent to the borrower, complainants, ADB Management, and BCRC around mid-November 2016.

The second complaint, filed by 72 residents of the 5-storey apartment building 16a/b, reached the CRP on 10 November 2016 when the compliance review of the first complaint was essentially completed. Following the procedures for eligibility determination, the second complaint was deemed ineligible for compliance review as the issues raised in this complaint were almost the same as those raised in the first complaint and can thus be consolidated with the first compliance review. As such, the final CRP report on the first complaint also discussed the vibration-related concerns of the second group of complainants.

The third complaint was submitted by 30 residents of another 5-storey apartment building 28a. It also raised noise and vibration issues, particularly because their building was near the area “where there will be cutting of cliff to adjust the level of the road to its other sections.” While the complaint presented issues that were considered in an earlier compliance review, the CRP deemed the complaint eligible as it presented new evidence not yet addressed by the RAP and the RAP–Final Solutions (RAP–FS), although CRP added that it did not merit another compliance review.

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2 This excludes complaints on the project that were submitted to the Office of the Special Project Facilitator.
5 Footnote 4, paras. 33–34.
The fourth complaint was substantially different from the first three complaints. The complainants comprised 18 individuals from four households on Marneuli Street, who sent a complaint to the CRP on 11 October 2018 as a last resort to avoid imminent eviction from their properties because of a court order for expropriation. Negotiations for the acquisition of the properties of the complainants began in 2014 after a property valuation undertaken by a licensed audit firm for MDF. Negotiations and offers ensued thereafter until the meeting of the MDF Complaints Review Commission in January 2016, which failed to satisfy the complainants. Seemingly pushed to a deadlock and following government procedures, MDF applied for expropriation of the properties, which was subsequently granted by the Tbilisi City Court in separate decisions in May 2016 and February 2017. As documented in the public land register, ownership of the properties changed from the complainants to the state, and complainants were informed of the availability of their compensation, which was deposited by MDF in a special deposit account. By mid-2018, MDF received the court orders granting it the right to evict the complainants but MDF did not immediately act on it. At this point, the complainants sent a complaint letter dated 31 July 2018 and received by the ADB Georgia Resident Mission (GRM) on 27 August 2018.

To address the complaint, GRM communicated with the complainants, gathered and translated relevant documents, hired an independent property valuation expert to review the property assessment of the complainants’ properties, and secured MDF’s assurance that forced eviction will not be done. At the end of its eligibility determination, the fourth complaint was deemed ineligible for compliance review because Management and the complainants were still working toward the resolution of the issues of the complaint. In the conclusion of its eligibility report, Management was requested to submit a quarterly update on the progress of complaint resolution and a report to the CRP when the complaint has been resolved. The CWRD and GRM continued the communication with the complainants. The CWRD-initiated property valuation was completed; compared with the valuation done by MDF in 2013; and became the basis for additional property compensation for the complainants, in accordance with ADB’s Safeguard Policy Statement (SPS). With the additional compensation deposited by MDF in an escrow account, the complainants were notified again. Three of the four households were satisfied, took the additional compensation, and voluntarily vacated their previous properties. In its fifth and last quarterly update dated 24 March 2021, CWRD stated that the last household still had not accepted the additional compensation.

The issues raised in the three complaints above were substantially covered by the CRP investigation of the first complaint, the RAP, and the RAP-FS. Although not all the actions on the RAP were implemented, the CRP and ADB project team ensured that remaining relevant actions were completed prior to submitting its final monitoring report to the Board. With the ADB loan closed, the complainants articulated their concern on the possibility that the government might construct the originally planned new road segment without ADB’s involvement and safeguards.

### Table 1: Compliance Review Eligibility Determination of the Four Complaints

<table>
<thead>
<tr>
<th>Complaint No. and Date of Receipt</th>
<th>Issue</th>
<th>Complainants</th>
<th>Eligibility/Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint 1 14 March 2016</td>
<td>Environment-noise and vibration</td>
<td>81 residents of building 12 v/g (Rustavi St.)</td>
<td>Eligible, went through full compliance review and monitoring</td>
</tr>
<tr>
<td>Complaint 2 10 November 2016</td>
<td>Environment-noise and vibration</td>
<td>72 residents of building 16 a/b (Rustavi St.)</td>
<td>Ineligible, merged with first complaint</td>
</tr>
<tr>
<td>Complaint 3 21 June 2018</td>
<td>Environment-noise and vibration</td>
<td>30 residents of building 28 (Rustavi St.)</td>
<td>Eligible, but did not warrant separate compliance review</td>
</tr>
<tr>
<td>Complaint 4 11 October 2018</td>
<td>Resettlement compensation</td>
<td>18 residents from Marneuli St.</td>
<td>Ineligible (CWRD still addressing the complaint)</td>
</tr>
</tbody>
</table>

CWRD = Central and West Asia Department.

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2.3 Compliance Review Process and Results

The compliance review process assessed ADB’s compliance with the following policies:

(i) Safeguard Policy Statement (2009);
(ii) Public Communications Policy (2011);
(iii) Operations Manual (OM) Section F1 (Safeguard Policy Statement), issued on 1 October 2013;
(iv) OM Section C3 (Incorporation of Social Dimensions into ADB Operations), issued on 6 December 2010; and
(v) OM Section L3 (Public Communications), issued on 2 April 2012.

The CRP’s investigation proceeded through a review of relevant project documentation and individual consultation meetings with staff at ADB headquarters and at Georgia Resident Mission. Additionally, the CRP conducted two compliance review missions to Tbilisi:

(i) The first mission (11–14 September 2016) involved meetings with the complainants; other affected people; and key government officials from agencies directly related to the project, including the Minister for Regional Development and Infrastructure of Georgia.

(ii) The second mission (10–13 October 2016) was a technical mission in which the CRP engaged two international consultants to validate measurements in the IEE, particularly the noise and vibration impact assessments and assessments of additional environmental impacts.

The CRP determined that ADB had not complied with the Environmental Safeguard Requirements of SPS by not adequately performing its due diligence and its failure to guide the borrower to comply with SPS requirements as indicated by the following:

(i) incorrect application and selection of noise standards thereby not assuring adherence by the project to appropriate noise standards in assessing and mitigating projected noise level during construction and operation;
(ii) inadequate assessment of vibration impacts to each of apartment building by using assumed instead of actual data and excluding voluntary annexes to the building in the assessment;
(iii) absence of assessment of project impacts to vulnerable groups, particularly to the visually impaired persons;
(iv) absence of baseline data and ecological assessment for the Mtkvari River;
(v) lack of consultations tailored to the needs of vulnerable groups; and
(vi) inappropriately classifying the project as “A” for environmental impacts.

To address these noncompliance issues, the RAP submitted to the Board in June 2017 had included conduct of additional studies and consultations pertaining to the noncompliances cited in the CRP report. After completing the relevant studies and consultations, Management submitted a RAP Final Solutions (RAP-FS) in May 2018 to the Board after obtaining executing agency’s concurrence. This RAP-FS included specific remedial actions, analysis of mitigation options, updated cost estimate, and status of earlier actions.

Another interesting feature of this complaint was that during CRP’s monitoring of the remedial actions, the project loan closed on 18 July 2020 without the construction of the new section of the road. In April 2019, the Ministry of Finance of Georgia requested ADB to remove the works relating to the construction of the new road near the complainants’ apartment buildings and to use the existing Ponichala road to connect to the portions of the Tbilisi–Rustavi Urban Road Link improved under phase I of the project. Due to this, full implementation of RAP became irrelevant and hence the remaining relevant actions in the RAP dealt with removing the mound of construction materials near building 28a, restoring the Mtkvari River to its preproject condition, and ensuring tree plantation to replace trees cut down for the project. These activities were completed in December 2020. The CRP submitted its third and final monitoring report on the implementation of the RAP to the Board on 1 February 2021.

Although the CRP’s involvement in the project lasted for only 4 years, its engagement with CWRD and the project implementers was considered the most extensive among the compliance review cases so far, with each party learning extensively in the process.
3 KEY COMPLIANCE REVIEW PROCESS SUCCESSES AND CHALLENGES

Table 2 summarizes significant successes, gaps, and challenges faced during the compliance review of ADB’s role in the Georgia SUTIP-T3 Project, as identified by the survey respondents. Each point is further discussed in section 4.

Table 2: Overview of Positive Outcomes, Gaps, and Challenges Identified during the Compliance Review of the Georgia Sustainable Urban Transport Investment Program—Tranche 3 Project

<table>
<thead>
<tr>
<th>Positive Outcomes of the Compliance Review Process</th>
<th>Process Gaps and Challenges Identified through the Compliance Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Better appreciation and understanding of meaningful consultation within ADB and the implementing agency. (More information can be found in section 4.1)</td>
<td>Shortcoming in identifying vulnerable groups of affected people. (More information can be found in section 4.1)</td>
</tr>
<tr>
<td>Gaining project partner’s trust and productive collaboration with them during compliance review. (More information can be found in section 4.2)</td>
<td>Lack of meaningful consultation with vulnerable groups of people affected by the project. (More information can be found in section 4.1)</td>
</tr>
<tr>
<td>Realization of the advantage of categorizing a project that is borderline category B for environment to category A. (More information can be found in section 4.5)</td>
<td>Inadequate appreciation, understanding, and assessment of social impacts relating to environmental mitigation measures. (More information can be found in section 4.3)</td>
</tr>
<tr>
<td>Mitigation measures customized for specific needs of special groups of affected people. (More information can be found in section 4.3)</td>
<td>Need for more guidance on project categorization from ADB to ensure that projects are categorized appropriately and/or not undercategorized, and that appropriate level, detail, and attention to assessment is given. (More information can be found in section 4.5)</td>
</tr>
<tr>
<td>Importance of preparing a stakeholder engagement plan, particularly for projects that may encounter resistance from affected people. (More information can be found in section 4.3)</td>
<td>Challenge of completing relevant remedial actions after project loan closing. (More information can be found in section 4.2)</td>
</tr>
<tr>
<td>Reflection that a phased approach to RAP implementation and monitoring could have provided the CRP an opportunity to give actual and practical feedback to ADB Management on RAP implementation. (More information can be found in section 4.2)</td>
<td>Challenges presented by borrower not using the ADB funding to connect the portions of the road improved under the ADB project. (More information can be found in section 4.2)</td>
</tr>
<tr>
<td></td>
<td>Lack of consideration of ecological impacts on Mtkvari River due to the road construction. (More information can be found in section 4.4)</td>
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Note: These observations are based on the comprehensive analysis of ADB Compliance Review reports, project documents, and harvesting of lessons learned through interviews and survey responses for the Lessons Learned from Compliance Reviews of the Asian Development Bank (2004–2020) report for the Georgia Sustainable Urban Transport Investment Program—Tranche 3 Project.

4 LESSONS LEARNED AND RECOMMENDATIONS

The compliance review process of ADB’s Accountability Mechanism Policy follows a series of sequential steps: (i) eligibility determination,7 (ii) compliance review,8 (iii) RAP and Management Action Plan,9 and (iv) monitoring.10 This section identifies lessons from the compliance review process and highlights their implications both for ADB’s processes of project design and implementation, and for future compliance reviews.

4.1. Consultation should be inclusive and mindful of the needs of disadvantaged groups.

ADB’s Safeguard Policy Statement (2009) highlights that meaningful consultation should not only be timely, comprehensive, relevant, and free from intimidation but must also be “…tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.”11 In this project, while consultations took place, the voices of the affected people, notably the visually impaired, elderly, poor, and differently abled individuals in the community seem to have been lost. Very few of these people could attend project consultation meetings. As a result, project design and mitigation measures for negative impacts failed to address their specific needs.

There were several ways by which this project could have benefited from consulting with disadvantaged and vulnerable affected people. First, inclusive consultations result in more relevant and tailored project design. The design (e.g., type, height, and material) of the noise barrier could have considered transparency or entry of light in the buildings to address needs of the visually impaired people.

Alternative residential arrangements during construction or permanent relocation should have been considered in project planning and cost calculation. Moving the alignment to the other side of Mtkvari River that was relatively sparsely populated could have been an option to avoid negative impacts to the visually impaired, other differently abled, and elderly residents in the apartment buildings.

Second, better options that were more financially viable for the project and acceptable to affected people could have been chosen to complete the road segment if project consultations were included and voices of the affected people heard. A selective resettlement approach could have been designed with households that would be affected, then implemented following the current road alignment.

Third, inclusive consultations could have increased project buy-in among the community members. Meaningful consultations and acting on issues raised in consultations build trust. If the affected people had been heard, then there would have been no protests and project contractors would have been allowed entry to the apartment units to assess construction impacts and design appropriate mitigation measures. The road construction could have progressed despite delays.

Although the ADB loan closed without the new segment of the road being built, the value of meaningful consultations was appreciated by all stakeholders. Several safety features were earlier suggested by the affected people for the existing road in Ponichala (which was not part of the project). These safety features included clear marking of pedestrian crossings and installation of additional traffic lights and audible signals for visually impaired persons. Meaningful consultation inputs made those improvements possible.

7 Eligibility determination is steps 1–3 of the compliance review process under the 2012 Accountability Mechanism Policy, including requesting management’s response, determining eligibility, and Board authorization of compliance review.
8 Compliance review (fact-finding) is steps 4–7 of the compliance review process under the 2012 Accountability Mechanism Policy including conducting compliance review, CRP’s draft report, CRP’s final report, and Board consideration of the Compliance Review Panel Report.
9 The RAP is steps 8–9 of the compliance review process under the 2012 Accountability Mechanism Policy, including Management’s remedial actions and Board’s decision.
10 The compliance review steps under the 2003 Accountability Mechanism Policy did not include monitoring as one of the steps, but included it as a separate stage. In comparison, the 2012 Accountability Mechanism Policy provides 10 compliance review steps that already include monitoring.
4.2 The Compliance Review Panel monitoring adds value to project implementation.

The CRP was practically involved in the project for 4 years, i.e., from receipt of the first complaint, to compliance review, to implementation of remedial actions. The first 2 years were spent by the project team on implementation of the RAP, which mainly consisted of conducting studies to reassess the noise, vibration, and river ecology impacts together with additional meaningful consultations with groups of affected people. As a result of these studies, the specific remedial actions were then designed by the project team in the RAP-Final Solution (RAP-FS). This way the CRP spent the initial 2 years on merely monitoring the studies, and in effect started monitoring of the actual remedial actions in the third year, when the coronavirus disease (COVID-19) pandemic had already restricted implementation of the said remedial actions. The lesson that we learn from this case is that when a phased approach toward RAP is required, i.e., when additional studies are required to design relevant and specific remedial actions, then CRP’s monitoring should start once the implementation of those specific actions begin.

In the second monitoring report in November 2019, the CRP recorded government’s request to drop construction of the new segment of the road. Due to nonconstruction of the new road, several actions in the RAP and RAP-FS were no longer relevant and were likewise dropped.Remaining actions in the RAP that required monitoring by the CRP included riverbank restoration (including removing the metal rods protruding from the retaining wall foundation in Mtkvari River), removal and/or leveling of piles of construction material near building 28a, and completion of tree planting. Implementation of these remaining remedial actions was challenging for the MDF due to allocation of government funds, tendering of civil works bids, and restrictions imposed by COVID-19 protocols in Georgia. It was also a challenge for CWRD to ensure that MDF implements these actions in a manner that ensures clean exit from the project even after loan closing. These challenges required additional implementation time.

In view of the COVID-19 restrictions and challenges noted above, the CRP requested the BCRC for an extension to submit its third and final monitoring report in 2021 instead of 2020. This extension provided CRP an opportunity to monitor completion of the remaining relevant actions in the RAP. The CRP’s monitoring facilitated implementation of these actions despite the loan closing. However, the CRP was not in a position to respond to complainants’ questions regarding the fate of the complainants’ issues if the government subsequently decides to construct the dropped portion of the road using other sources of funding.

In 4 years of engagement with the project stakeholders, the CRP was able to provide continuous guidance to the project team and its implementing partners by monitoring feedback. The project team had several opportunities to informally consult with the CRP on the formulation of the RAP, particularly the RAP-FS and on the required due diligence during the preparation of the project scope change, which eventually did not push through due to the loan closure.

Moreover, engagement between the CRP, ADB project team, project implementers, complainants, and the NGO (Green Alternative) was productive due to the openness and willingness of the stakeholders. Trust had been established, which enabled CRP to conduct a full virtual monitoring of the project in 2020, and even meet with the complainants of the fourth complaint after deeming their complaint ineligible in 2019. In a way, the CRP had been a positive conduit of information and sentiments from complainants to MDF and the project team. Eventually, as the compliance review and monitoring progressed, the CRP was perceived as a constructive partner of the project implementer and ADB project team. A former MDF project consultant who is now an ADB staff stated that the experience and knowledge gained in the process can benefit project preparation and implementation of other ADB projects. Inputs offered by the CRP during the preparation of the studies, direct feedback during monitoring meetings, and annual monitoring reports provided useful guidance to the development and specificity of the action plan.

4.3 Environmental impact assessment and mitigation measures should also consider need-specific impacts on people.

In this project, one element was the negative environmental impacts caused by the project and the other important element was the disproportionate effect of such impacts on vulnerable people. For instance, initially planned mitigation measures to address noise impacts created obstacles for the visually impaired people in everyday navigation as the
height of the noise barrier wall obstructed light. This proved that not only should the impact assessments be mindful of the needs of the vulnerable group of affected people but the mitigation measures should also be customized to the needs of these vulnerable people.

In addition to the above-discussed noise and light issues, there were also likely negative impacts of the vibration caused by the project. The CRP and MDF expert consultants concluded that the vibration impacts of the project will not harm the core structure of the very dilapidated residential buildings. However, the project did not consider the likely harm caused by falling and/or collapsing of the structural additions that had been voluntarily made by the residents to these buildings. A robust due diligence would have considered these factors and compared the cost of strengthening these voluntary structural additions and the reputational risk caused by collapse of such additional structures against the cost of temporary or permanent relocation. In addition, adequate consultations and impact assessments of the project options or alignment alternatives could have helped the project more broadly. As an ADB director mentioned, “...a solution to mitigate resettlement impact actually increased the environment impact of the Project, which was not fully reflected and addressed during project preparation.” It was too late for the project to reroute the alignment to a less populated area or to an area where opposition by would-be affected people was lesser than in Ponichala.

Indisputably, after compliance review, the costs of remedial actions, in terms of time spent for additional consultations, cost of additional studies, and choice of alternative actions and/or mitigation measures escalate as those are stopgap or reactionary measures. Added to this are the costs of restoring the riverbank and leveling the construction materials to reinstate the preproject condition of the area where the new road should have been built. These costs could have been significantly avoided had there been a more thorough baseline assessment of social and environmental conditions of alternative alignments and in-depth consultations with would-be affected people.

It was suggested by an ADB project staff that a stakeholder engagement plan should be required for projects such as this to prevent complaints. The project also demonstrated the need for local champions, advocates, and promoters of the project among those who will be affected by it.

4.4 Application of a corridor approach to road construction projects enhances development effectiveness.

A more holistic and integrated approach to road construction, which does not solely focus on the building of the infrastructure itself, results in better development outcomes. A road project that inherently considers facilitation of movement of people and goods together with the needs of and impact on the affected communities strengthens project sustainability and gathers support from the project stakeholders, especially the road users.

If this approach had been used, the project might have been completed on time without the need for cancellation of one part and with the support of affected people. As articulated by an ADB project staff, “Sticking dogmatically to focus solely on the road resulted in a project where locals never really benefited directly from the road other than improved connectivity to Rustavi and Tbilisi, which was a missed opportunity.” Who else would know their communities and aspirations better than the vulnerable people themselves? The environmental and resettlement impact assessments could have considered the voluntary structural additions to the already dilapidated residential buildings and the vulnerabilities and special needs of the residents of these buildings. Identification of special needs was an obvious lapse because historically, these buildings were settlements for visually impaired people and this fact alone, if checked, should have raised red flags during the assessments.

In addition, the significance of Mtkvari River and its ecology would have been highlighted in the holistic assessments and baseline surveys assessing ecological impacts of the project. Due to the lack of ecology studies, the impacts of the project on the water and river ecology were missed. Therefore, the remedial actions required revision of the design of the stormwater drainage to protect the river water in case of traffic accidents. Moreover, contingency plans would have been prepared as part of the site-specific environmental management plan. A stormwater retention basin with oil separator was required, which needed a capacity that was enough for a truck’s full tank volume.

This project is an excellent example of the importance of a holistic approach to road projects. This approach includes meaningful consultation with each affected group, not just on the design of roads but also on the
use of the roads; the socioeconomic and ancillary activities and opportunities, which can be spurred by the road development along its corridor; and the assessment of ecological impacts of road projects that are to be constructed along a river.

4.5 Precautionary approach to environmental categorization facilitates better impact assessment and mitigation measures.

The project was categorized as B for environmental impacts. However, the CRP’s Final Compliance Review Report considered that the “project should have been categorized as A for environmental impacts, because “there are significant adverse environmental impacts that are irreversible and diverse and affect an area larger than the sites or facilities subject to physical works.”

In the CRP’s analysis, the most significant consequence of underrating the project’s risks by not classifying it as A for its environmental impacts was that it did not receive guidance from the Regional and Sustainable Development Department (RSDD, now the Sustainable Development and Climate Change Department or SDCC), nor peer review by a wider group of ADB’s environment specialists beyond the regional department level. Category B projects only require preparation of an IEE, rather than a more comprehensive environmental impact assessment (EIA) that is reviewed by SDCC staff. Category B projects only require peer review internally by the department without any guidelines or procedures on the conduct of such internal review. More consultations in the EIA review process for environment category A projects could have comprehensively identified and calculated the project risks, e.g., lack of support from the affected people and strong perception that apartment buildings will be damaged. At the onset, ADB could have advised MDF to pay special attention to visually impaired and other vulnerable people in the communities adjacent to the new road alignment. Subsequently, the RAP called for the preparation of studies on the noise impacts of the project, and the RAP-FS proposed mitigation measures that should have been part of the project impact assessment and baseline survey.

The more scrutiny a project gets at the design and due diligence stage, the better. The SPS requires both category A and B projects to have environmental assessment reports substantially following the same outline as provided in the SPS. Although narrower in scope, the IEE that is required for environment category B projects covers the same environmental aspects as what a full EIA covers. As such, it is better for borderline category B projects to adopt the higher A category. Further, projects could also benefit from in-depth consultations (as required by category A projects) with affected groups by giving them an opportunity to raise concerns and share their views meaningfully on the project design, and by disclosure of project information to vulnerable people in a timely manner so they can provide informed suggestions. More frequent monitoring visits and loan review missions by project teams also ensure that issues are made known to ADB and discussed with project partners at an early stage.

The compliance review had a positive impact on internal practice within CWRD on project categorization. In the RAP, although the project had not been recategorized to A, project monitoring followed category A requirements. In the survey, an ADB staff remarked that CWRD has become more vigilant in categorizing projects after going through the compliance review of this project. In instances where there is uncertainty about environmental impacts of a project, the tendency is now for the project to be classified as category A for environmental impacts. Respondents from both ADB staff and the government reflected that they had gained knowledge from the compliance review, and that this would be useful in doing impact assessments of future projects at the loan preparation stage and diligent monitoring during project implementation.

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REFERENCES


Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020)
Sustainable Urban Transport Investment Program—Tranche 3 in Georgia

Lessons Learned from Compliance Reviews at the Asian Development Bank 2004–2020 is a series of publications prepared by the Office of the Compliance Review Panel. It examines compliance reviews for eight projects with ADB assistance that were the subjects of complaints submitted to the ADB Compliance Review Panel in 2004–2020. This 8th title in the series focuses on the Georgia Sustainable Urban Transport Investment Program—Tranche 3, which was the subject of compliance review under the 2012 Accountability Mechanism Policy. It highlights the importance of understanding the context along with developing strong and transparent stakeholder engagement to build trust and confidence in the compliance review.

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