



Independent  
Project  
Accountability  
Mechanism

## **Compliance Assessment Report**

**Ulaanbaatar Darkhan Road**


**EBRD Project Number: 50766**

**Case 2022/01**

**April 2023**

The Independent Project Accountability Mechanism (IPAM) is the accountability mechanism of the EBRD. It receives and reviews concerns raised by Project-affected people and civil society organisations about Bank-financed Projects, which are believed to have caused harm. IPAM may address Requests through two functions: Compliance Review, which seeks to determine whether or not the EBRD has complied with its Environmental and Social Policy and/or the Project-specific provisions of the Public Information Policy; and Problem-Solving, which has the objective of restoring dialogue between the Requester and the Client to resolve the issue(s) underlying a Request without attributing blame or fault. Affected Parties can request one or both of these functions.

For more information about IPAM, contact us or visit <https://www.ebrd.com/project-finance/ipam.html>

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*Unless otherwise indicated capitalised terms used in this report are those as set forth in the 2019 IPAM Project Accountability Policy.*

## List of Abbreviations

<b>ADB</b>	Asian Development Bank
<b>AIP</b>	EBRD Access to Information Policy
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>EPC</b>	Engineering, Procurement and Construction
<b>ESAP</b>	Environmental and Social Action Plan
<b>ESIA</b>	Environmental and Social Impact Assessment
<b>ESMP</b>	Environmental and Social Management Plan
<b>ESP</b>	Environmental and Social Policy
<b>GIP</b>	Good International Practice
<b>IPAM</b>	Independent Project Accountability Mechanism
<b>km</b>	kilometre
<b>LARF</b>	Land Acquisition and Resettlement Framework
<b>LARP</b>	Land Acquisition and Resettlement Plan
<b>LLC</b>	Limited Liability Company
<b>MAP</b>	Management Action Plan
<b>MRTD</b>	Ministry of Road and Transport Development
<b>PAP</b>	2019 Project Accountability Policy
<b>PIU</b>	Project Implementation Unit
<b>PR</b>	Environmental and Social Policy Performance Requirement
<b>PSD</b>	Project Summary Document
<b>SEP</b>	Stakeholder Engagement Plan
<b>UBDR</b>	Ulaanbaatar to Darkhan Road

## Executive Summary

### The Request

The [Independent Project Accountability Mechanism](#) (IPAM) received a [Request](#) on 31 March 2022 from Lkhanaajav Burentugs, the Requester and owner of the Dugan Khad resort (the resort) located on the 108 km of the Ulaanbaatar and Darkhan City Road in the Tuv province of Mongolia. She alleges that the EBRD's [Ulaanbaatar Darkhan Road \(50766\)](#) is generating adverse impacts to (i) her business as this road is the only access to the resort and has been closed since August 2019 due to road expansion works as well as (ii) the safety of local communities who are suffering from the incomplete road and the accidents caused by the inadequate temporary road. In the Request, it is stressed that EBRD is not working on the environmental and social impacts of the Project and that it has failed to address the harm the Project has caused to the Requester and their community. A similar complaint has been sent to the accountability mechanism of the Asian Development Bank.

### The Project

The [Ulaanbaatar Darkhan Road \(50766\)](#) involves the expansion of a 202 km road in the north of Mongolia from Ulaanbaatar to Darkhan, the country's second-largest city, an important artery of the Mongolian road network and part of the China - Mongolia - Russia economic corridor. As stated in the Project Summary Document, the EBRD Project constitutes Phase II of the reconstruction works covering the widening of the road to four lanes. Phase I is funded by the Asian Development Bank and comprises the reconstruction of the existing two-lane road. The Project is implemented by the Mongolian Ministry of Transport and Roads Development (the Client). The Project comprises two loans: an original one for up to USD 137 million approved by the EBRD Board of Directors on 11 December 2019, and a second loan of up to USD 20 million approved by the Board on 23 February 2022 to finance the additional costs, stemming from the need to structurally align Phases I and II of the Project. The goal of the Project is to increase the road capacity to be able to accommodate demand for both domestic and international journeys, improve road safety and climate resilience. The loan status is approved.

### The Compliance Assessment stage

At the Compliance Assessment stage IPAM performs a preliminary review to determine if the criteria to move forward with a Compliance Review are met or not. In this case IPAM undertook an assessment from 22 September 2022 until the 29 December 2022. A draft version was shared with the Requester, Management and the Client for comments on the Terms of Reference. IPAM received comments from the first two but not from the Client.

The final version has considered the comments made to the extent relevant and presents IPAM's preliminary findings from the Compliance Assessment stage.

### Conclusions

As per the Compliance Assessment provisions outlined in Section 2.6 (b) of the 2019 Project Accountability Policy, **IPAM considers that [Case 2022/01](#) meets the criteria established** because:

- i. upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requester (or, if different, the relevant Project-affected People); and

- ii. there is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor Client commitments); or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

Therefore, **IPAM recommends proceeding with a compliance review within the framework of the proposed terms of reference** in Annex 1.

The scope of the investigation will be to review the compliance by EBRD with the 2014 ESP general provisions and Performance Requirements 1, 4 and 10 regarding the allegations raised of economic displacement due to the closure of the road and unsafe conditions of temporary roads. IPAM's investigative scope regarding Phase 1 is limited to the obligations set in the 2014 ESP for associated facilities.

IPAM wishes to thank the Parties for their involvement in this stage and will continue engaging with them all during the Compliance Review process.

### **Next Steps**

This Compliance Assessment Report, including the Terms of Reference for the Compliance Review presented in Annex 1, will be submitted to the Board and the President for information, shared with all Parties and disclosed in the [IPAM Case Registry](#) in English and Mongolian in the virtual file for [Case 2020/01](#).

As per the Terms of Reference, the Compliance Review will initiate immediately after the disclosure of this Report.

At this point in time IPAM is unable to provide an estimated timeframe for completion of the Draft Compliance Review Report given the current workload of the compliance team and the time required for translation of relevant documentation. Every effort will be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit. All Parties to the Case will be updated regularly on the status of the investigation and once the team has an estimated time of completion of the draft report.

# 1. Background

## 1.1. The Request

On 31 March 2022 Ms. Lkhanaajav Burentugs (the Requester), owner of the Dugan Khad resort located at the 108 kilometer of the Ulaanbaatar and Darkhan City Road in the Tuv province of Mongolia, filed a Request with IPAM. She alleges that the EBRD's [Ulaanbaatar Darkhan Road \(50766\)](#) is generating adverse impacts to (i) her business as this road is the only access to the resort and has been closed since August 2019 due to road expansion works as well as (ii) the safety of local communities who are suffering from the incomplete road and the accidents caused by the inadequate temporary road. As a result, she has experienced a sharp decrease in hotel bookings and loss of revenue leading to a mounting debt.

Furthermore, the Requester alleges that the works are severely delayed, and no information has been provided on progress or completion dates. According to the Request, if the works continue for much longer and the road remains closed, the resort will cease to operate completely.

Finally, the Requester also claims that other local businesses and households are being negatively impacted by the road works, amongst them 30 tourist camps, six livestock farms, six restaurants, one zoo, more than 100 agricultural companies and thousands of households located along the road. The Requester explained that she contacted both the Ministry of Roads and Transport Development and the EBRD but received no response.

A similar complaint has been sent by the same Requester to the accountability mechanism of the Asian Development Bank. In their communication to IPAM, the Requester expressed an interest in Problem Solving and Compliance.

## 1.2. The Project and Current Status

The [Ulaanbaatar Darkhan Road \(50766\)](#) involves the expansion of a 202 km road in the north of Mongolia from Ulaanbaatar to Darkhan, the country's second-largest city. The road is an important artery of the Mongolian road network and part of the China – Mongolia - Russia economic corridor. The current road is narrow, patchy and does not allow for the necessary traffic throughput. The goal of the Project is to increase the road capacity to be able to accommodate demand for both domestic and international journeys and improve road safety and climate resilience.

According to the [Project Summary Document \(PSD\)](#), the EBRD Project constitutes Phase II of the reconstruction works covering the widening of the road to four lanes. Phase I is funded by the Asian Development Bank and comprises the reconstruction of the existing two-lane road. The Project is implemented by the Mongolian Ministry of Transport and Roads Development.

The Ulaanbaatar Darkhan Road (50766) Project comprises two loans: an original one for up to USD 137 million approved by the EBRD Board of Directors on 11 December 2019, and a second loan of up to USD 20 million approved by the Board on 23 February 2022 to finance the additional costs, stemming from the need to structurally align Phases I and II of the Project.

The Project was categorized as A under the 2014 Environmental and Social Policy requiring a comprehensive Environmental and Social Impact Assessment, including public consultation and EBRD disclosure 120 days prior to Board approval.

According to Project documents, the Project activities would result in some economic displacement and loss of structures, but no impacts on residential properties. A separate Land Acquisition and Resettlement Framework was prepared to manage land and livelihood impacts that were included in the Environmental and Social Impact Assessment disclosure package to ensure the Project is structured to meet EBRD Performance Requirements<sup>1</sup>.

### 1.3. IPAM Processing to Date

#### 1.3.1. Registration of the Request

The Request was registered on 17 May 2022 as it met the criteria for Registration established in Section 2.2 (b) of the PAP, and none of the exclusions set out in Section 2.2 (c) of the PAP applied at that stage. The registration of a Request is an administrative step establishing that the following criteria have been met:

- all mandatory information has been provided;
- issues raised relate to specific obligations of the Bank under the Environmental and Social Policy and/or the project-specific provisions of the Access to Information Policy; and
- it relates to a Project that the Bank has approved, where the Request has been submitted within 24 months of the date in which the Bank has ceased to have a financial interest in the Project.

#### 1.3.2. Assessment

During the Assessment stage, as required by the PAP, IPAM worked on developing a better and clearer understanding of the issues raised in the Request and assessing the Parties willingness to engage in either Problem Solving or Compliance.

During this stage IPAM reviewed the documents shared by the Requester, Bank management and the Client, met in person with the Ministry Officials and the Requester.

After the engagement with Bank management, the Client and the Requester, IPAM considered that a Problem Solving initiative was not feasible and transferred the Case to Compliance Assessment.

The Assessment Report, issued on 23 September 2022, informed the Parties of the decision and the rationale for it<sup>2</sup> and the Request was transferred to Compliance to determine its eligibility.

#### 1.3.3. Compliance Assessment

The Compliance Assessment process has the objective of determining whether a Request is eligible for a Compliance Review. The determination is based on the case meeting the established criteria to initiate an investigation. Therefore, for Case 2022/01, IPAM initiated its assessment of the Request vis-à-vis the Project to determine if:

- i. upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and

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<sup>1</sup> [LARF Final](#). Accessed 12 April 2023

<sup>2</sup> [IPAM case registry](#). Accessed 12 April 2023



- ii. there is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor Client commitments); or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

The Compliance Assessment stage has a standard duration of 60 business days from the date of issuance of the Assessment Report. This period may be extended to ensure robust processing or if translation of documents is required. At the end of this stage, a Compliance Assessment Report is prepared containing the findings made by IPAM and its determination on the eligibility of the case from within two alternative outcomes:

- recommend proceeding to a Compliance Review, having determined that the criteria set out in para. 2.6 (b) are met. In this case, the Compliance Assessment Report is submitted for information to the Board and the President with Terms of Reference for a compliance review.
- recommend closing the case, having determined that the criteria set out in para. 2.6 (b) are not met. In this Case, the Compliance Assessment Report is submitted to the Board for approval on a no objection basis.

The Compliance Assessment was initiated on 23 September 2022, and required an extension of four weeks to allow for translation of additional documentation and to take into account the end of the year holiday period in the EBRD's headquarters. This Compliance Assessment Report was circulated to the Parties on 10 February 2023, for them to provide comments on the proposed Terms of Reference within a 10-business day period. At the request of Management, the period for comment was extended an additional 10 business days.

IPAM reviewed the comments received from Management and the Requesters<sup>3</sup>, and finalised the report giving due consideration to all of them.

The final version was sent to the Board and the President for information prior to disclosure in the IPAM public registry.

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<sup>3</sup> No comments were received from the Client

## 2. EBRD Management Response

Management provided their views of the Request in the bilateral meetings during the Assessment stage. These views were then summarised in writing by IPAM and sent to Management for confirmation.

Bank management emphasises the fact that there are two separate projects being implemented along the same alignment, one financed by the ADB (Phase I) and the other by the EBRD (Phase II). Phase I involves the rehabilitation of the existing two-lane road between Ulaanbaatar and Darkhan along its entire length. Phase II consists of the expansion of the existing two-lane road by adding two new lanes over the same 202 km from Ulaanbaatar to Darkhan. It includes the construction of 2 new lanes, roundabouts, U-turns and stopping areas; provision of road furniture (barriers, lights, pedestrian crossings, etc.), as well as the construction of crossings over eight railways; construction and rehabilitation of bridges and culverts and rehabilitation of toll booths.

According to them, the EBRD loan was signed in January 2020 and construction works for Phase II started in March 2021. They commented that any road closures were due to the rehabilitation works undertaken in Phase I, and not related to Phase II, which did not require any road closures.

The project team commented that the two lenders (ADB and EBRD) had agreed with the Client that Phase II works would only start after rehabilitation of the two existing lanes as parallel construction would have been challenging due to terrain constraints. Once the works were completed, the existing rehabilitated two-lane road (Phase I) would be used as access road for the construction works of Phase II. They mentioned that there was a clear delimitation of responsibilities between the two lenders and different contractors were hired under Phase I and II, under the overall responsibility of the Client.

Due to delays during construction, Covid-19 restrictions and other factors, Phase I works expected to end in 2019 were delayed and were still ongoing when EBRD-funded works started.

During the appraisal stage, the project team estimated that the land required for the Project activities would result in limited economic displacement and loss of structures. Engagement with asset owners located within the footprint of this land take along the road corridor was conducted by the Client in order to agree on compensation procedures for the relocation of affected structures.

A Land Acquisition and Resettlement Plan (LARP) was prepared by a qualified team of resettlement experts to help the Client manage land and livelihood impacts along the road corridor. The LARP did not cover the Requester's resort, located 8 km away from the road,

The project team considers that the EBRD Project had no direct relation to the economic hardship raised by the Requester. It is their consideration that road closures under Phase I, starting in 2019, could constitute a factor, in addition to the effects of the restrictions imposed during the Covid-19 pandemic that had a significant impact on the tourism sector in Mongolia from early 2020. According to World Bank data<sup>4</sup>, the sector declined by around 90% from 2019 to 2020. They also added that Mongolian tourism was mainly dependent on international tourism, which was banned from February 2020 and just recently reinitiated in February 2022.

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<sup>4</sup> See International tourism, [number of arrivals-Mongolia](#). Accessed 12 April 2023

They also explained that the Stakeholder Engagement Plan (SEP) considered the establishment of a project grievance mechanism by the Client. Furthermore, the SEP detailed the roles and responsibilities of both the Client and the EPC contractors for each of the sections.

In addition, they stated that both EBRD and ADB made sure that local communities were aware of the Project and that several engagement activities (interviews, surveys, community consultations, etc.) were undertaken from 2017 to 2019 as per the SEP. They cited meetings in Bornuur Soum, where the Requester is located as follows: one Bornuur soum Khural meeting in March 2019 and three public Bagh meetings in February-March 2019. The number of Bagh meeting participants is not specified. In addition, similar soum Khural and Bagh consultation meetings were also held in Jargalant soum, which is located closer to the complainant's resort, in March 2019. In May 2019, further stakeholder engagement at the Bornuur and Jargalant soum levels were held as part of the development of the social and environmental assessment carried out for the EBRD-financed project.

### 3. Compliance Assessment Findings

In order to determine whether the case is eligible for a Compliance Review, following the approach established in the PAP, IPAM appraised Case 2022/01<sup>5</sup> considering the documentation and information collected in earlier stages, and other Project and publicly available information gathered from September 2022 to the date of completion of this Compliance Assessment Report.

Given that the purpose of this assessment is to determine whether to move forward with a Compliance Review or not, the findings are only of a preliminary nature to determine if the criteria set in the PAP are met. They should not be considered as a determination by IPAM of the state of compliance of the Project vis-à-vis the EBRD's 2014 Environmental and Social Policy or the Project-specific provisions of the Access to Information Policy.

The Requester claims that <sup>6</sup> the Ulaanbaatar-Darkhan road was closed during the summer of 2019 and remained closed until the end of 2022. According to her, this had an immediate impact on resort bookings, with guests immediately cancelling their stays as they could not access the resort.

According to the Project public documents, "in 2017 the Government sponsored a feasibility study for rehabilitation of the road between Ulaanbaatar and Darkhan; and a Government resolution for the proposed works was approved by the Government of Mongolia on 5 September 2018. The proposed works were split into two phases: Phase I - rehabilitation of the existing road; and Phase II - expansion by construction of a further 2-lane road.

Phase I is being financed by the ADB and covers reconstruction of the 2-lane road and improvements to road safety. Requests for tenders for the construction of the Phase I project were issued at the end of April 2019, and construction works [were] anticipated to start in summer 2019.

Phase II works comprise the widening of the road to a 4-lane highway, which EBRD is considering funding. It [was] anticipated that work will be carried out between autumn 2019 and summer 2020."<sup>7</sup>

The Project starts from the roundabout junction of Darkhan-Emeelt outside Ulaanbaatar, running through the territory of the 21<sup>st</sup> and 32<sup>nd</sup> Khoroos of Songino-Khairkhan district of Ulaanbaatar city and passes through three aimags (provinces)<sup>8</sup> and six soums<sup>9</sup> as follows: the soums of Bayanchandmani and Bornuur in Tuv aimag, the soums of Bayangol and Mangal in Selenge aimag, and Khongor soum, finishing in the south of Darkhan City, both in Darkhan-Uul aimag.

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<sup>5</sup> [IPAM case registry](#). Accessed 12 April 2023

<sup>6</sup> During the IPAM visit in July 2022, the Client confirmed that the road had been closed since the summer of 2019 and that the road from Ulaanbaatar to the area where the resort is located had been divided into two lots, with lot 1 already completed. However, lot 2 had faced several delays and was still closed then with traffic being diverted to temporary dust roads.

<sup>7</sup> [Non-Technical Summary \(NTS\)](#) page 6. Accessed 12 April 2023

<sup>8</sup> An aimag (or province) is the first-level administrative subdivision.

<sup>9</sup> A soum is the second level administrative subdivision below the aimag.

The Project was been divided into five sections or “lots” as described in the table below:

### Project sections

Section/ Lot	Description	Length (m)	Project Chainage- From m	Project Chainage- To m	KM Post From	KM Post To
I	Starting at roundabout junction of Darkhan-Emeelt to north of Khar Modot Pass (52 <sup>nd</sup> pass)	37,281.77	0	37,281.77	18.9	56.18
II	North of Khar Modot Pass to south of Tais Pass	45,500.17	37,281.77	82,781.94	56.18	101.68
III	Vicinity of Urikhan diner to road junction of Sumber soum, Tuv Province or Bor Tolgoi	45,753.06	82,781.94	128,535.00	101.68	147.44
IV	Bor Tolgoi or road junction of Sumber soum, Tuv Province to Tsaidam Valley	45,050.56	128,535.00	173,585.56	147.44	192.49
V	Tsaidam Valley to roundabout junction in Darkhan	28,840.00	173,585.56	202,425.56	192.49	221.33

Source: MCPC (21 May 2019), *Engineering Explanatory Report – Part 1*.

IPAM has preliminarily reviewed Project documentation and engaged with the Requester, Management and the Client to determine if:

- Upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requester (or, if different, the relevant Project-affected People); and
- There is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor Client commitments); or the Project-specific provisions of the Access to Information Policy, in force at the time of Project approval.

The following sections provide the analysis and determinations made.

### 3.1 About the alleged harm and its potential linkage with the Ulaanbaatar Darkhan Road Project

The Requester alleges that the economic displacement issues commenced in the summer of 2019 when the section of the road was closed for rehabilitation and that the bad condition of the alternative roads have generated numerous accidents. According to the Requester, this has adversely impacted the income of the resort as guests cancelled their bookings at the time of the closure and have not returned, with the ensuing impacts on the resort balance sheet and the families whose livelihoods depend on it.

The road closure took place in August 2019, *i.e.* toward the end of the summer high season and continued, to IPAM’s knowledge, until the end of October 2022<sup>10</sup>. Added to this, Covid-19 related restrictions came into effect in Mongolia in March 2020 and began to be lifted at the end of 2021 (as far as international travel is concerned) and (as far as the state of emergency is concerned) on the 14th of February 2022<sup>11</sup>. During IPAM’s visit to Mongolia in July 2022, the Requester

<sup>10</sup> IPAM was recently informed that the road had re-opened in October 2022.

<sup>11</sup> [Stonehorse Mongolia travel website](#) Accessed 12 April 2023; [Governmental decree](#) Accessed 12 April 2023.

commented that notwithstanding the lifting of the internal Covid-related restrictions, the bookings had not returned to the pre-road closure levels.

During the compliance assessment stage IPAM held additional interviews with the Requester and reviewed additional material in the form of letters, videos and media articles. At that time, it also reviewed the resort's tax returns for the years 2018 through 2021<sup>12</sup>.

According to the latter, business revenues declined in 2020 by approximately 75% compared to the previous year and remained in the same region in 2021<sup>13</sup>.

The returns show that there was a reduction in business activities. It is IPAM's consideration that in addition to the impact generated by Covid-19, the road closures could also have been a contributing factor. At this stage, IPAM is not able to identify how much the alleged lack of access contributed to the decrease in business activity and will need to look further into it during the investigation.

This is when, according to the Requester, the resort dismissed most of its staff (IPAM was told it used to employ between 20 (in the winter) and 34 (in the summer) employees). Additionally, she mentioned that because of the closure, the value of the property decreased so much that she could not sell the resort.

Regarding the post-Covid impact, IPAM had access to a letter dated June 6, 2022, addressed to the resort by a large company that had originally booked for a staff retreat at the end of June 2022. In the letter, the company's representative informs the resort of their intention to cancel the reservation and requests the return of the deposit due to, among other reasons, "the staff safety risk during the trip to and from the camp, which is due to the Darkhan road rehabilitation work".

The safety concerns were also publicised in several media articles and news coverage, highlighting the volume of fatal road accidents and the worry of the population regarding the condition of the alternative roads. In this regard a lawsuit initiated by the victims of the Darkhan road was covered in the news, whereby the allegation was that "many citizens have suffered health, life and property damage due to the delays of Darkhan UB road rehabilitation completion". In the lawsuit, filed by one claimant, there are references of "over 200 registered victims [now]"<sup>14</sup>. In addition, according to the news, the National Audit Office was reported to have conducted a review and inspection of the project and confirmed the poor condition of the road"<sup>15</sup>.

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<sup>12</sup> The tax returns were in Mongolian and had to be translated to English.

<sup>13</sup> Profits already decreased substantially in 2019 although it seems to be only in 2020 when revenues take a plunge, at least on an annual basis. Requester maintains that a sharp decrease in revenues takes place suddenly starting from August 2019 when the road was closed without prior notice. While it is difficult to assess that in a definitive way due to the annual nature of the returns, IPAM did note a significant decrease in profits already for the pre-pandemic 2019 financial year.

<sup>14</sup> The civil case hearing took place on 21 October 2020 in Sukhbaatar district civil court according to news footage viewed by IPAM. The claimant is a citizen who sued the Ministry of Road and Transportation on the basis that he/she has suffered property damage on Darkhan Road in four separate instances where the tires of the truck trailer were blown on an unfinished Darkhan road. The legal representative of the claimant notes that this is not a case of one person, as "there are over 200 other incidents where the citizens have been injured, suffered property damages and/or died (estimated to be over 40 cases) due to poor road conditions of Darkhan Road". Also, he notes that "people should more aware that the poor road conditions on Darkhan Road is one of the main causes of the accidents". See links below, last accessed on 17 January 2023:

- [Дарханы замд хохирсон иргэний шүүх хурал 11-р сар хүртэл хойшиллоо | #C1NEWS Дарханы замд хохирсон иргэний шүүх хурал 11-р сар хүртэл хойшиллоо #C1TELEVISION | By C1 NEWS | Facebook](#)
- [Дарханы замд хохирсон иргэдийн шүүх хурал хойшиллоо](#)

<sup>15</sup> All these concerns are confirmed also by the evidence gathered by IPAM during its site visit See footnote 17.

In summary, the concerns raised by the Requester regarding the additional travel time required and safety issues, appear to be of general concern. Moreover, the condition of the temporary roads and the number of accidents seems to have discouraged travelling<sup>16</sup>.

All of this material, combined with the evidence collected previously, including the information gathered during the site visit<sup>17</sup>, support the allegations raised by the Requester whereby the road rehabilitation and expansion might appear to be generating certain adverse impacts that could, at least in part, contribute to the economic displacement experienced.

However, EBRD Management states that the EBRD-funded Project, i.e. Phase II, is not responsible for the allegations raised in the Request and further comments that any potential linkage would be limited to Phase I (the ADB-funded component), as actual construction works under the EBRD-funded project started in **March 2021**. Furthermore, they underscore that the scope of the EBRD-funded project is to **expand** the current Ulaanbaatar-Darkhan Road (UBDR) **by building two new lanes** not related to “rehabilitation” of the current UBDR.

Understanding the arguments presented by Management and agreeing with their statement that Phase I activities commenced in 2019, while Phase II activities initiated later, IPAM is to consider the ESP Policy requirements to determine whether the EBRD-funded Project “may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters”.

In its review, IPAM found that the genesis of the project indicates that this undertaking started off as one project with a single feasibility study which was prepared in 2017 by the Mongolian Construction Project Consultants Group LLC. That feasibility study argues in favour of rehabilitation *and* expansion of the existing 2-lane road to a 4-lane road based on a technical, socio-economic and environmental analysis. The project was split into two phases and in this preliminary review it is not clear to IPAM whether the two institutions (EBRD and ADB) worked together in any way, nor if EBRD took into account Phase I in its risk assessment.

According to the supplementary ESIA the “main associated facility for this Project [the EBRD-funded Phase II] is the Phase I ADB project which involves reconstruction of the existing 2-lane road, including the temporary roads required during these Phase I works.”<sup>18</sup>

The 2014 ESP establishes that (section 30) “the EBRD’s environmental and social appraisal includes consideration of three key elements: (i) the environmental and social impacts and issues associated with the project; (ii) the capacity and commitment of the client to implement the project in accordance with the PRs; and (iii) to the extent appropriate, **the facilities that are associated with the project, but are not financed by the EBRD**” and (section 37 on Performance Requirements) “in addition, the EBRD will work with its clients to manage the environmental and social risks consistent with the PRs in their operations that are associated but not part of the project”, and finally (PR1.9), as paraphrased in the ESIA: “the environmental and social assessment process

<sup>16</sup> In a letter sent to the Ministry of Road and Transport Development in July 2021, of which IPAM has seen a translation, the Requester herself raised, among others, the issue of “numerous traffic accidents happening as a result of the removal of the road’s top paved layer”.

<sup>17</sup> The IPAM team drove to the resort from Ulaanbaatar and confirmed that travel time was three hours and that the condition of the temporary roads was extremely poor, with no signalling in the alignment. The IPAM team had also noted that the dust roads were in quite bad condition with no signalling and vehicle going through the fields in makeshift alignments where livestock is grazing. Finally, IPAM also heard from different stakeholders that several accidents had taken place and that complaints from residents and travellers had been raised due to these accidents and other impacts generated by the road.

<sup>18</sup> IPPF SIW - Mongolia: Ulaanbaatar to Darkhan Road Environmental and Social Assessment (ESA), Supplementary Document: Environmental & Social Impact Assessment (ESIA), SNC Lavalin, July 2019, page 15.



also typically seeks to identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which are not part of the project, but which may be directly or indirectly influenced by the project, exist solely because of the project or could present a risk to the project. These associated activities or facilities may be essential for the viability of the project and may either be under the control of the client or carried out by, or belong to, third parties.”<sup>19</sup>

In line with this, there are several instances in the Project’s documentation that confirm that the Bank considered Phase I and Phase II jointly in its due diligence and appraisal stages.

- For stakeholder engagement purposes the Client and the Lenders have determined that the project is one.
- The LARF states that affected people of Phase I and Phase II “have been identified at the same time”<sup>20</sup>.
- While certain initial stakeholder engagement activities were conducted separately for each Phase, the SEP prepared by the independent consultant to EBRD addresses both Phase I and Phase II due to the fact that the EBRD-financed works are “proposed along the same road”<sup>21</sup>.
- It is understood that the ADB and EBRD phases of the project will be developed broadly in parallel and implemented in sequence, as follows:
  - Phase 1 – rehabilitation/improvement of the existing road infrastructure (to be funded by ADB); and
  - Phase 2 – widening of the road to provide a dual carriageway (to be funded by EBRD).

Works for the ADB project will commence first, however works will be undertaken simultaneously once the EBRD contracts are in place.<sup>22</sup>

- The due diligence documents state that one single formal community grievance mechanism was to be implemented to cover both Phase I and Phase II, to avoid duplication of complaints or confusion; and to ensure that there is a central approach and record of grievances.<sup>23</sup>
- The SEP includes a provision on communication recommending “effective communication between the PIU, MRTD, EBRD, ADB and construction constructors on general project related issues and [to] ensure these partners are regularly updated on the status and activities of the Project” thereby recognising the key reality of a wider project under which each component does not live in a vacuum and therefore cannot be analysed in isolation.

During the Compliance Assessment stage IPAM was also able to carry out a preliminary review of certain internal documents including correspondence between the lenders. In an email communication dated July 2019 between the lenders the proposed approach is justified based on “the ADB and the EBRD projects being effectively part of the single project”.

**Based on the above, IPAM deems that upon preliminary consideration, it appears that the Project may have caused, direct or indirect harm to the Requester. Therefore, one of the criterion set in section 2.6 (b) of the PAP for determining the eligibility of the Request for a Compliance Review is met.**

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<sup>19</sup> ESIA, page 15.

<sup>20</sup> See LARF Final, page 63. [EBRD website](#)

<sup>21</sup> See SEP Final, section 4.1, page 20. [EBRD website](#)

<sup>22</sup> According to internal documentation reviewed by IPAM.

<sup>23</sup> See LARF Final, page 74. [EBRD website](#)



### 3.2 Regarding economic displacement

The Requester raised allegations of economic displacement due to the extended closure of the Project Road section that leads to her resort and the poor condition of the alternative roads. In the Request she commented that the resort experienced a drastic reduction in bookings with the ensuing fall in income forcing her to fire some of the employees, sell property and consider bankruptcy.

IPAM's preliminary review of Project documentation was focused on finding how the Bank had considered the issue of access. This required to first understand what the environmental and social footprint of the Project was and whether the Bank had identified economic displacement (temporary or permanent), as one of the potential impacts and therefore established mitigation measures for it during the appraisal phase.

In the preliminary review of the ESIA, IPAM found that the identified area of impacts does not include the resort, nor does public Project documentation appear to include any assessment of impacts to businesses in that area that make use the road to access their facilities, although there is consideration of temporary roads and certain technical requirements related to them.

Management accepts that road closures under Phase I, starting in 2019, may have constituted one of the contributing factors for the issues raised in the Request, and also states that Covid-19 travel restrictions had a significant impact on the tourism sector in Mongolia from early 2020. It also acknowledges that Phase I works were expected to end in 2019 but had faced delays and were still ongoing when the EBRD-funded works started. However, no comments are made on how, if at all, the Bank reacted to the delays and whether any measures were taken in response to the delays.

Considering Phase I as an associated facility, the 2014 ESP establishes that for a category A project, "the environmental and social assessment process will also identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which are not part of the project but which may be directly or indirectly influenced by the project, exist solely because of the project or could present a risk to the project"

At this stage IPAM is not in a position to come to any definitive conclusions, but based on the preliminary review it would be relevant to investigate whether the Bank considered in its appraisal environmental and/or social issues related to Phase I and, even if it did not do so then, if once informed of the delays and extended closure of the main road, if any assessment was done at a later stage.

The 2014 ESP and Good International Practice establish provisions for identification of temporary economic displacement issues and the need for mitigation measures.

A key question in this respect with a view to establishing EBRD's compliance with the 2014 ESP is how the project area of influence was determined for purposes of assessing the direct and indirect impacts generated by the Project and its associated facilities/activities and whether limitations in access were considered during the appraisal.

### 3.3 Regarding the ongoing management of environmental and social issues and monitoring

The issues referred to in the Request are relevant also from different angles and one of them, to remain within the remit of PR1, is that of monitoring and managing environmental and social issues in connection with the Project.

Good international practice<sup>24</sup> would be for Project monitoring to capture unanticipated impacts and determine how best to address them.

The road closure and the associated issues (such as road accidents) cover a time window of at least three years, which translated into at least three summer seasons that were “lost” for the Requester’s business (the closure first takes place mid-August and lasts, based on the information at IPAM’s disposal, until October 2022).

Among other provisions, according to paragraph 29 of PR1 of the 2014 ESP “the Client must promptly notify the EBRD of (i) any environmental or social incident or accident relating to the client or the project which has or is likely to have a significant adverse effect and (ii) any changes to the projects scope, design, or operation that is likely to materially change its environmental or social impacts and issues”. The protracted road closure constituted a material change of the operation in respect of a key facility associated with the Project and one that could have a significant impact on Phase 2 too. Under those circumstances “the client will carry out any additional assessment and stakeholder engagement in accordance with the PRs and amend the ESMP or ESAP in accordance with the findings, as agreed with EBRD”.

As also noted above, paragraph 37 of the 2014 ESP states that “the EBRD will work with its clients to manage the environmental and social risks consistent with the PRs in their operations that are associated but not part of the project”.

Accordingly, a key aspect when it comes to monitoring the Project and its associated facilities is the need to establish whether and when EBRD was informed of the issues which were ongoing in respect of Phase I and what actions the institution decided to take, if any, and/or to request the Client to take in that regard to try and remedy the situation and the harm that was originating from those issues on the ground and to ultimately preserve the feasibility and sustainability of the project as a whole.

IPAM does not have all elements at the moment to properly assess this aspect and considers it essential for the Compliance Review to properly establish and thoroughly analyse the sequence of events and actions taken by EBRD, alone or in consultation with the ADB, in respect of the issues of road closure and accidents.

### 3.4 Regarding stakeholder engagement

The Requester comments that she was not privy to consultations nor received information regarding the closures.

The 2014 ESP paragraph 34 establishes that the “EBRD’s appraisal requires the clients to identify stakeholders potentially affected by, and/or, interested in the projects, disclose sufficient

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<sup>24</sup> Good international practice is defined in the 2014 ESP as “the exercise of professional skill, diligence, prudence and foresight that would reasonable be expected from skilled and experience professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.”

information about the impacts and issues arising from the projects and consult with stakeholders in a meaningful and culturally appropriate manner. In particular, the EBRD requires its clients to engage with relevant stakeholders, in proportion to the potential impacts associated with the project and level of concern". Furthermore, PR1 establishes for Category A projects that the ESIA process will include a public disclosure and consultation process as specified in PR10.

During due diligence, the consultants found that whilst engagement has met national standards, there were several gaps in the stakeholder engagement process to meet EBRD requirements. Therefore, a suggested stakeholder list was included in the SEP that would have to be reviewed regularly and updated. Within that list, there is consideration of local business owners within the project area of influence who could face potential loss of revenue and jobs, and road users (individuals and businesses) who might face access restrictions at tie to the existing road during constructions.

At this point in time IPAM cannot determine whether the Requester and her customers have been considered within these groups and were not only informed but also consulted during the project appraisal stage. Considering Management's response regarding the issues raised in the Request, it would be useful to look in greater depth into how stakeholder engagement has taken place through the project cycle and how the Client considered the feedback received to address the impacts regarding access and safety.

The SEP also lists a series of communication methods that could be used as the project moves forward. However, during IPAM's meeting with the Client, the officials only mentioned the use of television newscasts to inform of the issues during construction.

Regarding road safety, the SEP mentions the need for road signage. However, during the IPAM site visit, the team could not find any signage.

Under paragraph 27 of PR10 in the 2014 ESP it is stated that; "if there are material changes to the project which result in additional adverse impacts or issues of concern to the affected communities, the client will inform them how these impacts and issues are being addressed and disclose an updated ESMP in accordance with the SEP. If these additional adverse impacts on affected communities are significant, the client may, on a case-by-case basis, be required to carry out additional information disclosure and consultation in line with paragraphs 16 to 20".

It is undeniable that the road closure and the accidents in respect of Phase I constituted both for gravity and duration a significant, albeit involuntary, material change to the Project and also that such change created additional impacts to the affected communities.

In this context it becomes important to establish when EBRD became aware of the situation and whether it took any action and/or requested the Client to take any actions also in terms of possible additional disclosures and consultation. An unexpected road closure that lasts for over three years, associated with temporary roads in poor condition and no signage would in IPAM's consideration warrant increased engagement.

In its review, IPAM will look into how stakeholder engagement was carried out both at inception and after/during road closure, particularly related to the relevant stakeholders and issues raised in the Request. In this respect, IPAM considers it relevant to look into the operation of the grievance mechanism

In this context, in IPAM's view, it would be important to understand whether the grievance mechanism was used in this case, whether it was available and functional at all, and if a grievance

was at any point formulated by the business, whether the authorities in charge deemed it acceptable for processing as a grievance or simply dismissed it without further ado.

### 3.5 Regarding health and safety of affected communities

The Requester expresses her concerns regarding the Client's operations' negative impact on livelihood but also on the health and safety of the local communities when referring in the Request to "lots of lives suffering from the incomplete road".

The footages, articles, letters and other documents that IPAM reviewed during Compliance Assessment, combined with the elements gathered during previous stages and, importantly, in the context of IPAM's site visit in July 2022 all point to a particularly serious and dangerous situation affecting the health and safety of everyone wanting or needing to use the Darkhan road for a significant period (August 2019-end of October 2022)<sup>25</sup>.

One of the objectives of PR4 under the 2014 ESP is to "anticipate, assess, and prevent or minimise adverse impacts on the health and safety of project-affected communities and consumers during the project life cycle from both routine and non-routine circumstances".

The protracted road closure and the safety issues associated with the temporary road could constitute a significant adverse impact on the health and safety of the community. The Client would be expected to ensure that temporary roads are safe to use<sup>26</sup>. A key question is whether this was addressed from the start. Moreover, the fact that the road closure was protracted increased the need to make sure that the temporary roads were in good condition and the question is whether these aspects were monitored.

IPAM notes that the analysis of the health and safety of local communities, similarly to the one on economic displacement, is going to be particularly complex given the circumstances of the Case including the fact that the danger and harm caused to local communities from the temporary road were not anticipated at the time of Project appraisal and originate from an associated facility. Nevertheless, it considers that a proper analysis and investigation are warranted.

In this context, IPAM also notes that the issues referred to in this sub-paragraph are related to other issues identified under different sections of this Report. As noted in the attached Terms of Reference, potential inter-linkages between the different PRs will need to be analysed during Compliance Review.

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<sup>25</sup> As of the date of this Report, IPAM has no knowledge of any improvements regarding the safety situation although it notes that only a quite limited period of time has passed since the reopening of the road.

<sup>26</sup> According to section 29 of PR 4 "[t]he client will identify, evaluate and monitor potential traffic and road safety risks to workers and potentially affected communities throughout the project life cycle"

## Annex 1. Compliance Review Terms of Reference

### Introduction

EBRD is committed to promoting sustainable development in all its investments, as a key contributor to economic transition. To ensure that the environmental and social practices of the Bank's Projects meet EBRD standards, the Bank requires that Projects comply with its ESP. In addition, the Bank is required to disclose certain Project information to the public in accordance with its Access to Information Policy (AIP), to enhance transparency and accountability, improve discourse with affected stakeholders, and foster good governance.

The 2019 PAP establishes that the purpose of IPAM is to facilitate the resolution of social, environmental and public disclosure issues among Project stakeholders, to determine whether the Bank has complied with its ESP and the AIP; and where applicable to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank. The IPAM Compliance Review does **not** assess the compliance of the Client.

### Accountabilities

The Compliance Review is undertaken by the IPAM team in line with the mandate established in the PAP and guided by the principles of independence, impartiality, transparency, predictability, and equitability. IPAM may engage consultants on technical matters as needed but the responsibility to produce the Compliance Review Report remains with IPAM and any determinations of compliance or non-compliance are to be made by the Chief Accountability Officer based on the Compliance Review findings.

### Scope

These Terms of Reference are prepared on the basis of the issues raised in the Request for **Case 2022/01** and apply to any inquiry, action or review process undertaken by IPAM as part of the Compliance Review, with a view toward determining, as per paragraph 2.7 (a) of the 2019 PAP, whether the Bank, through its actions or inactions, has failed to comply with the 2014 ESP, in respect of **Ulaanbaatar Darkhan Road (50766)**.

The Compliance Review scope is outlined below and although it refers to specific PRs, it will also consider (and does not further preclude) potential inter-linkages between the different PRs.

The scope of the investigation will be to review the compliance by EBRD with the 2014 ESP obligations as set in the provisions of Performance Requirements 1, 4 and 10 regarding the allegations raised of economic displacement due to the closure of the road and unsafe conditions of temporary roads. IPAM's investigative scope regarding Phase 1 is limited to the obligations set in the 2014 ESP for associated facilities.

### General

Did the EBRD seek to ensure through the environmental and social appraisal and monitoring process that the project was designed and implemented in compliance with applicable regulatory requirements and good international practice (GIP)?

To what extent, if any, did the EBRD seek to cooperate with the ADB to agree on a common approach to project appraisal, project requirements and monitoring? (par. 16 of the 2014 ESP).

Did the EBRD's environmental and social appraisal include consideration, to the extent appropriate, the facilities and activities that are associated with the project, but are not financed by the EBRD? (par. 30 of 2014 ESP)

**PR1: Assessment and Management of Environmental and Social Impacts and Issues :**

- Did the environmental and social assessment process identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which were not part of the Project, but which may be directly or indirectly influenced by the Project, exist solely because of the Project or could present a risk to the Project (that is the Phase I associated facilities)?
- How did EBRD work with the Client to manage the environmental and social risks consistent with the PRs and GIP in their operations that are associated but not part of the Project both at inception/appraisal and once the concerns raised in the Request became known to it?
- Did the Bank assess the significance of the extended closure and poor condition of the temporary roads on stakeholders during its monitoring? If so, did the Bank require the Client to establish any measures to prevent, mitigate or compensate the impact?
- Did at any point EBRD consider that there could be issues of access for businesses in the area and risk of temporary economic displacement?

**PR4: Health and safety**

- Was the Client required to identify and assess project-related risks and adverse impacts to the health and safety of the potentially affected communities and develop protection, prevention and mitigation measures proportionate to the impacts and risks, and appropriate to the stage, size and nature of the Project and its associated facilities?
- Was the Client required to identify, evaluate and monitor the potential traffic and road safety risks to potentially affected communities throughout the Project life cycle and, where appropriate, develop measures and plans to address them?
- Was the Client required to undertake a road safety audit for the Project and routinely monitor incident and accident reports to identify and resolve problems or negative safety trends, including in connection with the associated facility of Phase I?

**PR10: Information disclosure and stakeholder engagement**

- Did EBRD ensure that the Client conduct stakeholder engagement as a part of both phases on the basis of providing local communities that were directly affected by the overall project and other relevant stakeholders with access to timely, relevant, understandable and accessible information, in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation?

- Did the stakeholder engagement as part of both phases include the following elements: stakeholder identification and analysis; stakeholder engagement planning; disclosure of information; consultation and participation; grievance mechanism; and ongoing reporting to relevant stakeholders?
- Was the disclosure of Project information that helps stakeholders understand the risks, impacts and opportunities of the Project facilitated by the Client?
- Did the Client establish an effective grievance mechanism, process or procedure to receive and facilitate resolution of stakeholders' concerns and grievances, in particular, about the client's environmental and social performance?
- Was the grievance mechanism used in this case, did EBRD ensure that it was available and functional at all, and if a grievance was at any point formulated by Requester, did the authorities in charge deem it acceptable for processing as a grievance or simply dismiss it without further ado?
- When EBRD became aware of the issues raised in the Request (i.e., protracted road closure, inadequacy of the temporary road and related accidents) and of the radical and impactful changes it caused did it take any action and/or request the Client to take any actions? In particular, did EBRD ensure that affected communities were adequately informed? Was an updated ESMP warranted? Was an additional disclosure and consultation warranted given the duration, the magnitude and the gravity of the developments in relation with the associated facility of Phase I?

### **Compliance Review Methodology**

The Compliance Review will include the following activities:

- a. If required, a site visit to the Project site by the compliance team;
- b. a review of relevant Project files (Project documents, studies, minutes, emails, and other files as considered relevant by IPAM);
- c. scheduling of virtual/in person interviews, with (subject to availability to connect with IPAM):
  - Bank management;
  - Consultants involved in the Project;
  - Requester and other Project-Affected People
  - the Client;
  - ADB staff; and
  - Any other Third Parties considered relevant by IPAM.
- d. the engagement of consultants or technical experts, as appropriate, to provide technical inputs as required by IPAM, and
- e. any other review or investigatory methods that IPAM considers appropriate in carrying out its work.

IPAM will liaise closely with Compliance Review Panel of the ADB should the Requester decide to file a complaint with them as well and will consider if there is scope for collaboration in a manner



that is consistent with para. 3.1. of the PAP, to ensure that Cases are handled efficiently, avoiding duplicative processes and excessive disruptions or disturbances to all Parties.

### Expertise

IPAM may require experts to be hired to assist with some of the technical aspects of the Compliance Review. In a preliminary fashion, IPAM may require technical support from a transport specialist to assist in its review of the case as per Good International Practice. The investigation will require the engagement of interpreters and translators.

### Time Frame

The Compliance Review will commence as soon as possible following the posting of the Compliance Assessment Report containing these Terms of Reference in the virtual [case file](#) in the IPAM Case Registry.

At this point in time IPAM is unable to provide an estimated timeframe for completion of the Draft Compliance Review Report for the following reasons: the current workload of the compliance team, the time required for translation of materials; and the possible need to schedule a project site visit between May and August of 2023. Every effort will be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit.

Please note that once the Draft Compliance Review Report is ready, IPAM will share it in a confidential fashion with Requester, Management and the Client to get their comments prior to finalising the report.

When IPAM finalises the Compliance Review Report, there are two alternative outcomes:

1. If the Bank has been found in compliance, no further actions are required. The Compliance Review Report is sent to the Board for information and is disclosed in the IPAM case registry and the case is closed.
2. If The Bank has been found **not in compliance**, a series of steps are to take place before the Compliance Review Report is sent to the Board and is disclosed to the public. This process takes around 6 months from the date of finalisation of the Compliance Review Report and includes the following steps:
  - a. the Compliance Review Report will include recommendations at the Project and systemic level.
  - b. Bank Management will be asked to draft a Management Action Plan.
  - c. The Draft Management Action Plan is sent to the Requester for Comments.
  - d. Management reviews the Requester's comments and adjusts the Plan if deemed relevant.
  - e. IPAM sends to the Board the Compliance Review Report and the draft Management Action Plan - at this stage the Board is asked to review the Plan and approve it or send it back to Management.
  - f. Once the Management Action Plan is approved, IPAM discloses the Compliance Review Report, the Management Action Plan and starts the Monitoring Stage.



### **Time Extensions**

If IPAM requires an extension of this timeframe, Parties will be promptly notified and the case registry updated to reflect the new deadlines.

Please note that if Requester or Management require an extension, they should inform IPAM along with the proposed extended deadline. IPAM will seek to accommodate those requests and inform all Parties of its decision in a promptly fashion.

## Tentative Schedule

A preliminary schedule of the main milestones to be delivered is presented in the table below.

Activity	Estimated Timeframe <sup>1</sup>
<p><b>Conducting compliance review and preparation of Draft Compliance Review Report</b></p> <p>Desk review</p> <p>Identification and compilation of relevant documents and studies. (may involve translation to English), as well as identification of interviewees</p> <p>Identification of relevant stakeholders for interviewing</p> <p>Consultations and interviews (virtual or in person as appropriate. and in compliance with social distancing measures)</p> <p>Site visit, if required (dates subject to confirmation)</p> <p><b>Draft Compliance Review Report</b></p> <p>IPAM will circulate the draft report to Requester, Management and Client.</p> <p><b>If IPAM finds the Bank to be non-compliant</b>, the Compliance Report will include recommendations to address the findings of non-compliance; as well as a Management Action Plan Monitoring to be initiated following the preparation and approval of the Management Action Plan</p>	<p>April 2023 - potentially December 2023</p> <p>Between June and August 2023</p> <p>Tentative date for completion of the Draft Report is <b>December 2023</b>. Once circulated Parties will have <b>10 business days</b> to provide written comments on the Draft Compliance Review Report.</p>
<p><b>Development of Management Action Plan</b></p> <p>Management shall prepare a Management Action Plan in response to the findings of non-compliance. It may also prepare a Management Response addressing the findings of the Compliance Review Report, if it deems appropriate.</p> <p><b>Circulation of Draft Management Action Plan</b> to Requester for comments on the draft MAP.</p> <p><b>Finalisation of Compliance Review Report</b></p> <p>IPAM will finalise the Compliance Review Report once it has considered the Requester's comments on the draft Management Action Plan</p> <p><b>Finalisation of the Management Action Plan</b></p> <p><b>If IPAM finds the Bank to be complaint</b></p> <p>IPAM finalises the Compliance Review Report based on comments from Parties and submits it to the Board and the President for information, discloses the document in the case registry and closes the case.</p> <p><b>Submission of the Compliance Review documents to the EBRD Board of Directors</b></p> <p>IPAM will submit the final Compliance Review Report, the Management Action Plan, and Requester's Comments. The Management Action Plan is submitted to the Board for decision while the other documents relating to the finding of non-compliance will be submitted to the Board for information</p>	<p>Submission of Draft Management Action Plan to IPAM – <b>30 business days from the date of receipt of the draft Compliance Review Report</b></p> <p>Submission of Requester comments to IPAM <b>20 business days from the date of IPAM circulation</b>. Circulation of Final Compliance Review Report and Requester's comments on MAP to Management</p> <p><b>10 business days from the date of receipt of comments</b> Final Management Action Plan</p> <p><b>15 business days from date receipt of both the final Compliance Review Report and Requester's comments</b></p> <p>Public disclosure immediately after the finalisation of the Compliance Review Report.</p> <p>Board decision on MAP – subject to Board scheduling Public disclosure of Compliance Review Package including approved Management Action Plan – <b>after approval of MAP</b></p>

<sup>1</sup> Estimated deadlines for each activity and/or deliverable are calculated according to the Policy provided timeframes.

**Access to Information**

In order to ensure timely completion of this Compliance Review, IPAM shall require from Bank Management full, unrestricted access to relevant Bank staff and files. All relevant Parties are encouraged to comply with requests from IPAM for obtaining access to sites, submission of written materials, provision of information and attendance at meetings. Any situations where the actions or lack of action by any Party hinders or delays the conduct of the Compliance Review may be referenced in the Compliance Review Report.

Access to, use and disclosure of any information gathered by IPAM during the Compliance Review process shall be subject to the Bank's Access to Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. IPAM will not release any document or information that has been provided on a confidential basis without the express written consent of the party who owns such document.