

**CRP Request No. 2016/1 – Request for Compliance Review on the  
Loan 3063-GEO: MFF-Sustainable Urban Transport Investment Program Tranche 3**

**TERMS OF REFERENCE FOR COMPLIANCE REVIEW**

**I. INTRODUCTION**

1. These Terms of Reference (TOR) were prepared by the Compliance Review Panel (CRP) for the compliance review of Loan 3063-GEO: MFF-Sustainable Urban Transport Investment Program Tranche 3 (Project) following a request for compliance review (the Request) (Appendix) received by the CRP on 14 March 2016.
2. On 24 May 2016, the CRP determined the Request eligible and recommended to the ADB Board of Directors (Board) to authorize a compliance review of the Project. The Board considered the CRP's report on eligibility on a no-objection basis and authorized a compliance review on 14 June 2016.
3. Per para. 183 of the Accountability Mechanism Policy (AMP) and para. 76 of Operations Manual (OM) Section L1/Operating Procedures (OP), these TOR, which provide the scope, methodology, estimated review time frame, budget, assignment of CRP members, and other necessary information for the compliance review are submitted for clearance by the Board Compliance Review Committee (BCRC). Following clearance by BCRC, the CRP will provide the TOR to the Board and Management, and post them on the website, within 10 working days of the Board's authorization of the compliance review.

**II. THE REQUEST FOR COMPLIANCE REVIEW**

4. Brief particulars of the Request and the Project are summarized below:

<b>Project Name</b>	Loan 3063-GEO: MFF-Sustainable Urban Transport Investment Program Tranche 3
<b>Country</b>	Georgia
<b>Borrower</b>	Government of Georgia
<b>Project approval date</b>	25 November 2013
<b>Project closing date</b>	31 December 2018
<b>Requesting parties</b>	Aniko Nizharadze, Diana Botkoveili, and 79 other residents in the 9-storey apartment building at 12-33 Block, Rustavi Highway, Tbilisi, Georgia  They are persons directly affected by the Project who are not represented by any other person.
<b>Allegations</b>	The complaint refers to subproject 1, the Tbilisi-Rustavi Urban Road Link (section 2) of the Project which involves the modernization of an existing and construction of a new road from Phonichala to Rustavi. When finished, the total road length for this Project will be 6.8 km, of which 3.8 km is new road construction along the Mktvari river. Once completed, it is expected that the road will be of international standard, Category I highway, with 4 to 6 lanes and with a general design that can accommodate vehicles with speed of 120km/h. In some areas, a reduction of speed is anticipated to mitigate noise impacts.  The complainants alleged that the construction and operation of the

	<p>proposed road will harm them as (i) vibrations will negatively impact the structural integrity of their residential building; and (ii) noise will disturb their previously quiet community. The complaint further described some residents in the building as blind or with visual impairment and/or socially vulnerable.</p> <p>The complainants are not among those to be involuntarily relocated by this subproject. However, due to their relative proximity to the proposed new portions of the road, they will likely be impacted by the noise and air quality deterioration during construction and operation of the new road.</p>
<b>ADB operations department responsible</b>	Central and West Asia Department (CWRD)
<b>Project safeguards categorization</b>	<p>Category B for environmental impact</p> <p>Category A for resettlement impact</p> <p>Category C for indigenous peoples' impact</p>
<b>Project description</b>	<p>The Project is part of an overall investment program valued at \$1.1 billion to be implemented from 2010-2020 and aims to improve the reach, quality, and continuity of urban transport in Georgia. To partially fund it, a multi-tranche financing facility (MFF) with a maximum financing amount of \$300 million was approved by ADB in July 2010. The Project, which is Tranche 3 of this MFF, specifically aims to improve the transport system and infrastructure in urban areas through two subprojects: (i) section 2 which will upgrade 6.8 km of the Tbilisi-Rustavi Urban Road Link to a 4-lane road of international standard, Category I highway; and (ii) phase 2 of Anaklia Coastal Improvement. Under Tranche 3, ADB lent to the Government of Georgia from ADB's ordinary capital resources an amount of \$73 million. Implemented by the Municipal Development Fund of Georgia (MDF), the Project is expected to be completed by 30 June 2018, with loan closing on 31 December 2018.</p> <p>Based on the design, the 6.8 km section 2 crosses a 2 km stretch in the residential and densely populated areas of Ponichala in Gardabani district, and the selected alternative bypasses the residential area and 2.5 km of the alignment passes along the Mtkvari river as well as the Krtsanisi Forest Park. The subproject on the road upgrade and construction might potentially impact 312 land plots with 29.5 hectares of land areas, demolition of 692 structures (82 residential structures, 90 industrial and commercial structures, and 520 minor structures). A total of 282 households and 33 businesses will be affected as it entails the construction of new road portions on the Mtkvari river side, road widening, pavement strengthening, drainage improvement, construction of new bridges and underpasses, retaining walls, interchanges, and overpass for local people to easily and safely cross the road.</p>
<b>Project status</b>	Detailed design has been done. Project construction, which is expected to last for 17 months, has not yet started as contract is yet to be awarded.
<b>Lead reviewer</b>	Arntraud Hartmann, part-time member of CRP, will be the Lead

	Reviewer for this compliance review, with assistance from Lalanath De Silva, part-time member of CRP, and Dingding Tang, Chair, CRP.
<b>Contact person</b>	Dingding Tang Chair, CRP, concurrently, Head, OCRP Email: crp@adb.org Tel: (+63 2) 632 4336

### III. SCOPE OF THE COMPLIANCE REVIEW

6. Per paras. 183-187 of the AMP and paras. 76 to 80 of OM Section L1/OP, the compliance review will investigate alleged violations by ADB of its operational policies and procedures that directly, materially and adversely harm or will likely harm project-affected persons in the course of the formulation, processing, or implementation of the Project. It will probe whether ADB has or has not complied with its operational policies and procedures in connection with the Project. It is not intended to investigate the borrower. After carrying out a compliance review, the CRP will issue to the Board, through BCRC, its findings and recommendations after seeking and considering comments from the borrower, complainants, and Management.

7. Based on the CRP's findings in its eligibility review, the CRP will consider ADB's operational policies and procedures that were in effect at the time of Board approval of the loan regarding project formulation, processing and implementation. These include, among others, the following:

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

### IV. CONDUCT OF COMPLIANCE REVIEW AND METHODOLOGY

8. Throughout the compliance review process, the CRP will consult, as appropriate, all relevant parties concerned, including the complainants, the borrower, concerned government agencies, relevant NGOs and civil society organizations, the Board member representing Georgia, Management, and staff.

9. The compliance review will include the following:

- (i) review of relevant project files;
- (ii) site visits with prior consent of the Government of Georgia;
- (iii) consultation, including interviews, with:
  - ADB Management, staff and consultants;
  - complainants;
  - other project affected persons;
  - the borrower;
  - officials from relevant government agencies, as necessary;
  - relevant NGOs and civil society organizations, as necessary; and
  - the Board member representing Georgia;
- (iv) engagement of consultants or technical experts, as appropriate, to assist the CRP in carrying out its work; and
- (v) any other review or investigatory methods that the CRP considers appropriate in carrying out its work.

## V. TIMEFRAME

10. The CRP plans to complete the compliance review process for this Project within 7 months from clearance of this TOR by the BCRC. Below is the estimated timeframe of the review.

Step	Event	Timeframe
4	<p><b>Conducting compliance review</b></p> <p>(Contingent on the issuance of mission concurrence by the government, site visit is planned by 3rd to 4th week of September 2016.)</p>	July 2016 – October 2016
5	<p><b>Compliance Review Panel’s draft report.</b> CRP will issue its draft report with findings and recommendations to the Management, the borrower, and the complainants for comments, with copy to BCRC.</p> <p>(Comments/responses to CRP draft report are expected by 24 January 2017.)</p>	15 November 2016 (comment period is 45 working days)
6	<p><b>CRP Final Report.</b> After considering the Management’s, borrower’s and complainants’ comments, CRP finalizes its report and submits a Final Report to the Board, including the responses from the complainants, the borrower, and Management; and a matrix prepared by the CRP summarizing how it has responded to such responses.</p>	13 February 2017 (within 14 working days from receipt of responses from Management, borrower and complainants)
7	<p><b>Board consideration of Compliance Review Panel’s Report.</b></p>	within 21 calendar days from receipt of CRP Final Report by the Board

11. This timeline does not take into account any additional time required for translation; requested extensions for filing of responses; or other significant local political events that may delay the site visit. If the CRP deems it necessary to alter the above timeframe, the CRP will first seek BCRC’s clearance of the revised timeframe.

## V. BUDGET FOR THE COMPLIANCE REVIEW

12. Below is the proposed budget for the compliance review.

<b>Budget Items</b>	<b>Amount</b>
Business Travel	\$ 44,000.00
Professional Fees of CRP part-time members	\$ 140,000.00
Consultants	\$ 86,500.00
Administrative Costs (Translation, Interpretation, Representation, & Courier services)	\$ 8,000.00
<b>TOTAL</b>	<b>\$ 278,500.00</b>

**/S/Dingding Tang**

Chair, Compliance Review Panel

**/S/Lalanath de Silva**

Part-time Member, Compliance Review Panel

**/S/Arntraud Hartmann**

Part-time Member, Compliance Review Panel

28 June 2016