

IPN REQUEST RQ RQ 11/02

August 17, 2011

NOTICE OF REGISTRATION

Re: Request for Inspection

**REPUBLIC OF KAZAKHSTAN: South-West Roads: Western Europe-Western China
International Transit Corridor (CAREC-1b & 6b) (IBRD Loan No. 7681-KZ)**

Between February 16, 2011, and April 19, 2011, the Inspection Panel (hereinafter, the “Panel”) received several complaints expressing different concerns related to impacts of the Kazakhstan—South-West Roads: Western Europe-Western China International Transit Corridor Project (hereinafter, the “Project”). On June 15, 2011, the Panel received a formal Request for Inspection asking the Panel to investigate these concerns (hereinafter, the “Request”). This Request was supplemented by clarifications received by the Panel on June 24, 2011. The concerns relate to the design, appraisal, and implementation of different road sections of the Bank-financed Project in Kazakhstan. The Request was submitted by Mr. Bauyrzhan Isaliev, a representative of the non-governmental organization “National Analytical Information Resource” (hereinafter, “NAIR”), on his own behalf and on behalf of NAIR and 24 Project-affected people (hereinafter, the “Requesters”).

Issues raised in the Request are related to loss of assets and livelihood from land acquisition for the Project and potential adverse environmental impacts with regard to different sections of the projected road. The Request primarily alleges violations of the World Bank’s Policies on Environmental Assessment and Involuntary Resettlement, and harm that is likely to occur as a result of such policy violations. According to the Requesters, they have brought their concerns to the attention of Bank Management and the affected people were not satisfied with Management’s response.¹

The Panel notes that on April 29, 2010, the Panel had registered a Request for Inspection related to the same Project. Following a satisfactory resolution of the issue raised in this Request, the Panel did not recommend an Investigation. The Panel further notes that the issues and circumstances raised

¹ Upon receipt of the initial complaints, the Panel inquired whether the issues of concern had first been raised with Bank Management, in line with Panel procedures. Since February 16, 2011, the Requesters made several efforts to raise the different concerns expressed in the Request for Inspection with Bank Management directly in writing. In addition, on April 13, 2011, the affected peoples’ representative met with the Bank team in Shymkent to discuss these concerns. The Requesters stated that Bank Management’s consideration of problems outlined in the Request is not satisfactory.

in the current Request differ from those of the 2010 Request and relate to three additional sections of the road.

The Project

The Project's development objectives are to increase transport efficiency on the road sections between Aktobe/Kyzylorda Oblast border and Shymkent, and to improve road management and traffic safety in Kazakhstan.² The Project has five components: 1) upgrade and reconstruct road sections along the corridor within Kyzylorda Oblast, excluding Kyzylorda bypass; 2) upgrade and reconstruct road sections along the corridor within South Kazakhstan Oblast from Kyzylorda Oblast border to Shymkent, including the bypasses to Kyzylorda and Shymkent; 3) financing of Project Management Consultants (PMC) to assist the Committee for Roads with the management of project implementation; 4) institutional development and preparation of action plans to improve road safety and road services; and 5) consulting services for supervision of civil works under the first two components. The International Bank for Reconstruction and Development (IBRD) loan amount is US\$2.125 billion. The Loan was approved on April 30, 2009, and is scheduled to close on December 31, 2013.

IBRD's loan is disbursed against expenses related to activities covering a road section that extends to over 1,000 kilometers along the Western Europe to Western China Corridor. Other sections of the Corridor within Kazakhstan are financed by the Government of Kazakhstan, the Asian Development Bank, Islamic Development Bank, and the European Bank for Reconstruction and Development.

The Request

The Requesters' claims relate to four different road sections of the Project. These are located in the areas of Temirlanovka, Sairam, Yntymak, and Turkestan in Kazakhstan.

In Temirlanovka, the Requesters claim that the Environmental Impact Assessment report (EIA) related to a bypass "[d]oes not comply with the Instructions on Conducting Environmental Impact Assessment (...)", and violates the Bank's EA Policy. The Request states that the Requesters' "*right to participate in decision-making processes on matters related to the environment*" was violated, because of the limitations on their "*right to express [their] opinion during the environmental expertise review.*" Such alleged violation, according to the Request, represents a failure to comply with the Bank's EA Policy, and raises issues under the Bank's Policy on Access to Information and the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). In the above-mentioned clarifications received on June 24, 2011, the Requesters allege that the EIA report for the Temirlanovka bypass includes "*neither analysis nor mitigation plan.*" They state that this EIA report is not taking into consideration the local flora and fauna, including the *Tugai* forest.³ They add that the *Tugai* forest and the Arys

² Project Appraisal Document (PAD), p. ii.

³ *Tugai* forests are riparian forests found in Central Asia. *Tugai* are found in river valleys where water is close to the surface of the ground. The Requesters indicate that in this *Tugai* grow willows, silver oleaster, cheegrass, and tamarisk. They state that animal species such as ducks, herons, pheasants, birds of prey, and jackals live there, and that barbell, catfish, and other types of small fish are found in the river.

River ecosystem will suffer direct and irreversible impact from the Project. They further state that the EIA report does not properly assess potential flooding such as the one that occurred in February 2009. The Requesters attached to the Request for Inspection a document containing the EIA-related concerns and suggestions, which they also sent to Management on October 19, 2010.

In Sairam, according to the Request, eight affected community members claim that project related activities started on the land before the conclusion of a compensation agreement. The Request claims that excavation activities “*have not begun on the lands of other citizens only because of the spontaneous resistance of these landowners.*” The Request states that four of the affected people have been compensated. The Panel was informed that the land in question is used for agricultural purposes and as a means to earn income. According to the Requesters, during a meeting on April 13, 2011, the Bank team stated that the Bank does not intend to “*solve specific problems of individual land users and land owners, and that it is the prerogative of the Committee for Roads and the Project Management’s Consultant.*”

In the settlement of Yntymak, which covers 5 km along the highway, according to the Request, the “*project designer*” asserts that the distance from the road to the settlement is 35-40 meters. The Request claims that the designer’s assertion “*does not reflect reality*”; that the distance is only 15-20 meters. The Request further states that this will result in installation of noise fences at a distance of only 5 meters from the residential houses and that the “*trees that are planned alongside of existing roads in Yntymak will be felled during the implementation of the project.*” Furthermore, the Request questions whether the Technical Specifications of the contracts with construction companies are in accordance with standards of environmental safety. The Requesters raise concerns relating to the Bank’s OP/BP 4.01 on Environmental Assessment (EA).

In Turkestan, according to the Request, two signatories allege loss of assets and income as a result of Project related land acquisition activities. These two signatories built a commercial facility on their land, which they allege is affected by the Project in Turkestan. The Request states that these two signatories received a notification about design and future implementation of the Project when they had just completed the construction of a commercial facility, which they are now unable to operate. The Request claims that the two signatories incurred a significant loss as a result of the Project. The Request claims violation of the Bank’s OP/BP 4.12 on Involuntary Resettlement.

Finally, the Requesters informed the Panel that they have tried to resolve the above described issues with World Bank Management and various agencies involved in the Project, such as the Department for Roads of South Kazakhstan Oblast, the Kazakhstan Committee for Roads, and the local *Akimat* offices.

The above claims expressed in the Request may constitute, *inter alia*, non-compliance by the Bank with various provisions of the following Operational Policies and Procedures:

- OP/BP 4.01 Environmental Assessment
- OP/BP 4.04 Natural Habitats
- OP/BP 4.12 Involuntary Resettlement
- OP/BP 13.05 Project Supervision
- OMS 2.20 Project Appraisal

The World Bank Policy on Access to Information, July 1, 2010

Until further notice, all communications with the Requesters in connection with the Request will be sent to Mr. Bauyrzhan Isaliev.

In accordance with paragraph 17 of the Panel's Operating Procedures (the "Operating Procedures"), I am notifying you that I have, on August 17, 2011, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register.

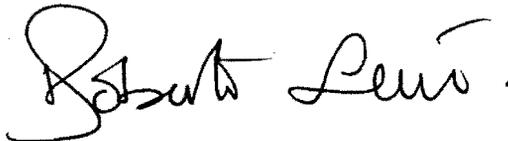
Please note that the Panel's registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of a Request for Inspection.

As provided in paragraph 18 of the Resolution that established the Panel (the "Resolution"), paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the "1999 Clarifications"), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than September 16, 2011 with written evidence that it has complied, or intends to comply, with the Bank's relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, "*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*"

The Request has been assigned IPN Request Number RQ 11/02.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Roberto Lenton". The signature is fluid and cursive, with a large initial "R" and a long horizontal stroke at the end.

Roberto Lenton
Chairperson

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Ploshchad Al Farabi, 4, Apt. 4
City of Shymkent, Kazakhstan

Mr. Robert B. Zoellick
President
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development