

**Report No. 58541-TJ**

**The Inspection Panel** 

**Report and Recommendation  
On  
Request for Inspection**

**TAJIKISTAN: Energy Loss Reduction  
Project (Rogun HPP)  
(Credits Nos. 40930-TJ and H1780-TJ)**

**December 23, 2010**

## **The Inspection Panel**

### **Report and Recommendation On Request for Inspection**

#### **TAJIKISTAN: Energy Loss Reduction Project (Rogun HPP) (Credits Nos. 40930-TJ and H1780-TJ)**

1. On October 8, 2010, the Inspection Panel (the “Panel”) received a Request for Inspection relating to the Energy Loss Reduction Project, which is to be restructured to include a component for financing studies and technical assistance concerning the feasibility of the Rogun Hydropower Plant (HPP) in Tajikistan. The Request was submitted by Messrs. Boriy Botirovich Alikhanov and Saydirasul Sanginov and Ms. Dilorom Fayezieva, on their behalf and on behalf of the Ecological Movement of Uzbekistan, representing “*more than 100 NGOs*” (the “Requesters”) as downstream affected people of a transboundary Project. The Request for Inspection includes an Annex entitled “*Environmental Disaster in the Central Asia.*”
2. The Panel registered this Request on October 22, 2010, and notified the Executive Directors and the President of the International Development Association (IDA) in accordance with the Resolution establishing the Inspection Panel (“the Resolution”).<sup>1</sup> On November 22, 2010, Management submitted its Response to the Request.
3. As provided in paragraph 19 of the Resolution, the purpose of this report is to determine the eligibility of the Request and to make a recommendation to the Executive Directors as to whether the Panel should investigate the matters alleged in this Request.
4. Panel Chairperson Roberto Lenton together with Panel Senior Operations Officer Serge Selwan visited Tashkent, Uzbekistan, and Dushanbe and Rogun, Tajikistan, between December 13 and 18, 2010. During its visit, the Panel team met with the Requesters and with high level Government officials, including the First Deputy Prime Minister of Uzbekistan and the First Deputy Prime Minister of Tajikistan. The Panel also met with the staff of the Bank Country Offices in Tashkent and Dushanbe.

#### **A. The Project**

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<sup>1</sup> IDA Resolution 93 – 6, Resolution Establishing the Inspection Panel (September 22, 1993).

5. The Request raises issues related to the feasibility studies of the Rogun Hydropower Plant (HPP), which are planned to be financed under the Energy Loss Reduction Project (the “Project”) once the Project is restructured. The Rogun HPP is a proposed project that was partially constructed during the Soviet period at a site some 100 kilometers from Dushanbe on the Vakhsh River, a tributary of the Amu Darya River, which after leaving Tajikistan flows into Afghanistan, Turkmenistan, Uzbekistan, and eventually the Aral Sea.
6. According to the Management Response (see Annex B), the Energy Loss Reduction Project started in 2005 and is to be considered by the Board for restructuring shortly.<sup>2</sup> The restructuring would include an additional component for financing Assessment Studies (a Techno-Economic Assessment Study and an Environmental and Social Impact Assessment) and technical assistance, with the aim to comprehensively examine the technical, economic, social and environmental viability of the proposed Rogun HPP in accordance with the Bank’s policies and procedures. The proposed restructuring does not contain financing for construction of the proposed Rogun HPP itself.<sup>3</sup>
7. According to the Project Appraisal Document (the “PAD”), the objectives of the original structure of the Energy Loss Reduction Project are to assist in reducing commercial losses in electricity and gas systems, and to lay the foundation for the improvement of the financial viability of the electricity and gas utilities in a socially responsible manner.<sup>4</sup>
8. According to the Project’s Integrated Safeguards Datasheet (the “ISDS”), the objectives of the Energy Loss Reduction Project will be revised during restructuring. They will include: (i) assistance in reducing commercial losses in the electricity and gas systems in Tajikistan, and to lay the foundation for the improvement of the financial viability of Tajikistan’s electricity and gas utilities in a socially responsible manner; and (ii) assistance in the viability assessment of the Rogun HPP.<sup>5</sup>
9. The purpose of Bank involvement in the Assessment Studies, according to Management, is “*to ensure a transparent, modern and unbiased evaluation of the risks and benefits that meets international standards and norms.*” Management adds that these Studies “*will ensure comprehensive coverage of environmental, social, economic and engineering issues and build an objective, substantiated and updated base of knowledge.*” Management further adds that its involvement, which goes beyond Policy requirements, would include international scrutiny through two Panels of Experts and further examination of regional issues through additional Bank-

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<sup>2</sup> Management Response, p. iv, Executive Summary.

<sup>3</sup> Management Response, p. iv, Executive Summary.

<sup>4</sup> Project Appraisal Document (“PAD”), p. 4, para. 2.1.

<sup>5</sup> Restructuring Stage Integrated Safeguard Data Sheet (“ISDS”), dated October 1, 2010, p. 1, Project Objectives.

managed studies (a study of alternatives and a structured program of riparian consultations).<sup>6</sup>

## **B. Financing**

10. The original cost of the Energy Loss Reduction Project totaled the equivalent of US\$30.0 million,<sup>7</sup> of which the Bank was expected to finance US\$18 million (US\$15 million as Credit and the remainder as Grant).<sup>8</sup> The Energy Loss Reduction Project is co-financed by the Swiss Government's Secretariat for Economic Cooperation.<sup>9</sup>
11. The ISDS states that "*most of the originally planned activities have already been contracted for and deliveries have been made.*"<sup>10</sup> The ISDS adds that savings from this Project will be used "*for the conduct of the Rogun HPP feasibility assessment studies and related review panels of experts that are necessary to fulfill the Bank's Safeguards policies.*" According to the ISDS, the proposed changes will increase IDA financing from \$8.5 million to around \$10.41 million.<sup>11</sup>
12. According to the Management Response, the estimated cost of the studies will be approximately US\$10 million.<sup>12</sup> The Panel understands that this cost will not cover the two Bank-funded Independent Panels of Experts (see below).

## **C. The Request**

13. The Request for Inspection (see Annex A) was submitted by Messrs. Boriy Botirovich Alikhanov and Saydirasul Sanginov and Ms. Dilorom Fayeziyeva on their behalf and on behalf of the Ecological Movement of Uzbekistan, representing "*more than 100 NGOs*" (the "Requesters") as downstream affected people of a transboundary Project.
14. The Requesters state that the Bank is making "*one-sided*" Studies that "*do not take into account the interests of all parties.*" The Requesters consider that they are likely to suffer harm from this "*one-sided*" evaluation because the Bank is not taking into consideration the concerns of all parties affected by the Project, including "*those countries which are located in the downstream of Amudarya river.*"<sup>13</sup>
15. The Requesters allege that the "*draft design of the power station was developed 40 years ago*" and did not "*take into account ecological aspects of this project.*"<sup>14</sup> They state that the dam (if completed), will be on one of the main tributaries of a

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<sup>6</sup> Management Response, p. 8, para. 28.

<sup>7</sup> PAD, p. 5, para. 2.3.

<sup>8</sup> PAD, p. 6, para. 2.5.

<sup>9</sup> PAD, p. 7, para. 2.10.

<sup>10</sup> ISDS, p. 1, Project Description.

<sup>11</sup> ISDS, p. 1-2, Project Description.

<sup>12</sup> Management Response, p. iv, Executive Summary.

<sup>13</sup> Request for Inspection, p. 3, para. 4.

<sup>14</sup> Request for Inspection, p. 3, para. 4.

transboundary river, the Amu Darya, which is part of the Aral Sea basin.<sup>15</sup> They add that the construction of the Rogun Hydroelectric Power Station would aggravate the present unfavorable environmental conditions in the region and would cause numerous social, ecological and humanitarian disasters.<sup>16</sup>

16. The Requesters add that if completed, Rogun would be constructed on a fault line where seismic activities are possible and could reach a category 9 magnitude on the Richter scale. They fear that a failure of the dam would create waves that would destroy six hydroelectric power stations downstream and over 700 settlements in Tajikistan, Afghanistan, Uzbekistan, and Turkmenistan.<sup>17</sup> The Requesters state that the geological structure of the basis of the dam includes a thick layer of rock salt and when the level of water in the reservoir rises and filtration streams start moving, subsurface erosion in the base of the dam will develop. They also fear that the washout speed could threaten the integrity of the base of the hydro-electric complex.<sup>18</sup>
17. The Requesters state that the dam's initial construction, which took place in the late 1980s and early 1990s, was conducted with considerable deviations from the initial design. According to the Requesters, the suspension of works in 1992 "*was done practically without any conservation.*" They add that the tunnels and other works have already been damaged by powerful mud streams. They further add that the turbine-generator installation design was made 25 years ago, and a careful examination is needed to know whether it meets modern and international technical norms and standards.<sup>19</sup>
18. The Requesters also fear that filling the reservoir, if the dam is completed, could take seven to eight years, leading to a number of negative consequences downstream. The Requesters fear that this would cause a deterioration of potable water supply, an increase in water shortage during the growing period, a reduction in the size of the cultivated area, and a decrease in land productivity affecting income, living standards and survival ability of affected people in Uzbekistan and Turkmenistan.<sup>20</sup> The Requesters further add that the "*deterioration of the gene pool, conditions for flora and fauna, disappearance of large areas of riparian (tugay) forests, [and] sharp reduction of biodiversity will become the most catastrophic consequences of (...) the construction of Rogun hydroelectric power station,*" if completed.<sup>21</sup>
19. Finally, the Requesters note that they have made several complaints to Bank Staff, including complaints made in July and August 2010 for which they received "*obscure and not clear verbal response from World Bank.*" They add that they are not satisfied

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<sup>15</sup> Request for Inspection, p. 1, para. 2.

<sup>16</sup> Request for Inspection, p. 1, para. 3.

<sup>17</sup> Request for Inspection, p. 1, para. A.

<sup>18</sup> Request for Inspection, p. 2, para. B.

<sup>19</sup> Request for Inspection, p. 2, para. C.

<sup>20</sup> Request for Inspection, p. 2, para. D-E.

<sup>21</sup> Request for Inspection, p. 3, para. F.

with the Bank's response and request the Panel to recommend to the World Bank's Board of Executive Directors that an investigation of these matters be carried out.<sup>22</sup>

20. The above claims may constitute non-compliance by Bank Management 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 4.37	Safety of Dams
OP/BP 7.50	Projects on International Waterways

#### **D. Management Response**

21. As stated earlier in this Report, Management submitted its Response (see Annex B) on November 22, 2010.
22. In its Response, Management considers that this Request for Inspection should be ineligible for the following reasons: i) the issues raised by the Requesters focus on potential harm that could derive from the construction, operation and/or failure of the proposed Rogun HPP, but not from the Assessment Studies that the Bank intends to finance;<sup>23</sup> and ii) Management has no record of the Requesters' attempt to raise their issues with it prior to the submission of the Request for Inspection.<sup>24</sup>
23. Management considers that "*the Requesters raise legitimate and important issues regarding the proposed Rogun HPP, which the proposed Assessment Studies are exactly designed to address.*"<sup>25</sup> Management states that it welcomes the opportunity to clarify the nature and details of its involvement in the Assessment Studies and to address the issues and questions raised by the Requesters.<sup>26</sup>
24. According to the Management Response, the proposed Rogun HPP is being considered "*within an environment of very difficult regional political and economic relations.*" Management adds that "*the project that was conceived under the Soviet system must now be re-examined in a political dynamic of increased nationalism, resource conflicts and declining regional cooperation.*" Management further adds that the proposed Rogun HPP has the potential to address many of the development needs of Tajikistan and the broader region and thus is worthy of study and that, as a large and complex project on a transboundary river (involving Tajikistan, Uzbekistan, Turkmenistan and Afghanistan, as well as the broader interests of Kyrgyz Republic and Kazakhstan), such study requires particular care and attention.<sup>27</sup>

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<sup>22</sup> Request for Inspection, p. 3, para. 5-6.

<sup>23</sup> Management Response, p. 1, para. 2.

<sup>24</sup> Management Response, p. 1, para. 5.

<sup>25</sup> Management Response, p. 2, para. 6.

<sup>26</sup> Management Response, p. 23, para. 86.

<sup>27</sup> Management Response, p. iv, Executive Summary.

25. In its Response, Management states that the Bank has not committed to funding the proposed Rogun HPP. It adds that the bank involvement “*will depend on a series of activities that include economic, financial, environmental and social assessments of the proposed Rogun HPP, other Bank-managed studies (including analysis of project alternatives), sharing and discussion of studies with riparians, and scrutiny by the two Bank-funded independent Panels of Experts (the Engineering/Dam Safety Panel focused on the TEAS [Techno-Economic Assessment] study and the Environment/Social Panel focused on the ESIA [Environmental and Social Impact Assessment]).*” Management states that “*only if these activities indicate in the judgment of the Bank that the proposed Rogun HPP is viable, would the Bank consider endeavoring to establish a suitable consortium to support the proposed Rogun HPP.*”<sup>28</sup>
26. Management adds that the purpose of these studies is to assess the benefits, risks and overall viability of the proposed Rogun HPP, and to identify measures to enhance positive impacts and address potential negative impacts according to international standards and Bank policies.<sup>29</sup> Management states that the Assessment Studies “*will ensure comprehensive coverage of environmental, social, economic and engineering issues and build an objective, substantiated and updated base of knowledge.*”<sup>30</sup>
27. According to Management, during preparation for the Terms of Reference (ToRs) for both Assessment Studies, the Bank facilitated extensive consultations with the governments of Kazakhstan, Kyrgyz Republic, Tajikistan, Uzbekistan, Turkmenistan, and Afghanistan (2008-2009). Management states that as part of these consultations, the Government of Uzbekistan submitted its Expert Opinion “*that described potential negative impacts to downstream populations as a consequence of the construction of the proposed Rogun HPP, and its attendant risks. Issues raised in the Uzbek Expert Opinion and by other riparian governments were considered and integrated into the TORs of both the TEAS and ESIA studies.*”<sup>31</sup>
28. Management states that it will include international scrutiny through its financing and management of two Panels of Experts, and further examination of regional issues through additional Bank-managed studies (including a study of alternatives), as well as a structured program of riparian consultations.<sup>32</sup> According to Management, the two international Panels of Experts will be established to provide oversight and quality assurance for both Assessment Studies, consistent with OPs 4.01 and 4.37: the Environment/Social Panel and the Engineering/Dam Safety Panel. Management adds that to build confidence in the objectivity of the Panels’ advice, members will be

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<sup>28</sup> Management Response, p. 11, para. 42.

<sup>29</sup> Management Response, p. 10, para. 36.

<sup>30</sup> Management Response, p. 8, para. 28.

<sup>31</sup> Management Response, p. 12, para. 43.

<sup>32</sup> Management Response, p. 8, para. 28.

selected, managed and funded by the Bank. Under normal procedures, Panels of Experts are contracted directly by the project proponent/Borrower.<sup>33</sup>

29. Management adds that “*as part of its expanded program for the Assessment Studies,*” it will undertake “*an assessment of alternatives for securing the energy, storage capacity and exports offered by the proposed Rogun HPP.*” According to Management, this will help better understand “*the range of investment options for energy and water security at least cost and highest development value. The assessment will cover alternative sources such as demand side management, hydropower of alternative sizes and configurations (including reservoir and run-of-river), other renewable sources, and domestic sources of thermal energy.*”<sup>34</sup>
30. Management also adds that the alternatives study will complement current Bank scoping studies of winter energy options for Tajikistan and the Kyrgyz Republic and the benefits of regional trade, as well as efforts to better understand the infrastructure opportunities and constraints to Central Asia energy trade, to be carried out in partnership with the Asian Development Bank and the Central Asia Regional Economic Cooperation (CAREC) program’s Energy Sector Coordinating Committee.<sup>35</sup>
31. In its Annex 1 “Issue Clarification by Management”, Management notes that most issues raised by the Requesters refer to potential harm that could derive from the construction and operation of the proposed Rogun HPP itself, but not from the Assessment Studies.

## **E. Eligibility**

32. The Panel must determine whether the Request satisfies the eligibility criteria set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications,<sup>36</sup> and recommend whether the matters alleged in the Request should be investigated.
33. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel, as required by Paragraph 9(a) of the 1999 Clarifications.
34. As noted earlier, Panel Chairperson, Roberto Lenton together with Panel Senior Operations Officer Serge Selwan visited Tashkent, Uzbekistan, and Dushanbe and Rogun, Tajikistan, between December 13 and 18, 2010. During its visit to Tashkent, the Panel met with Mr. Boriy Botirovich Alikhanov and Mr. Saydirasul Sanginov of

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<sup>33</sup> Management Response, p. 8, para. 29 and Footnote 2. According to Management, members will be internationally recognized experts in their fields with experience in similarly large and complex hydropower projects. They will be independent from any personal interests in the proposed Rogun HPP. No members will be drawn from Central Asia or other former Soviet republics.

<sup>34</sup> Management Response, p. 6, para. 22.

<sup>35</sup> Management Response, p. 6-7, para. 23.

<sup>36</sup> Conclusions of the Board’s Second Review of the Inspection Panel (the “1999 Clarifications”), April 1999.



the Ecological Movement of Uzbekistan in the presence of Members of Parliament representing Karakalpakstan Autonomous Republic, Surkhandarya Province, and Tashkent.

35. Concerning the requirement of Paragraph 9(b) of the 1999 Clarifications, that the Request “*assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters,*” the Panel considered the Request for Inspection and the record on the TORs.
36. The Panel acknowledges that most issues raised by the Requesters refer to potential harm related to Rogun HPP which is yet to be designed and which the Bank has not committed to fund. Regardless of how reasonable and justified the positions of the Requesters may be concerning the proposed Rogun HPP, at this stage the only issues that are relevant, and can be considered under the purview of the Panel, are those related to activities that the Bank is supporting: the Assessment Studies.
37. The Requesters claim that the Bank is making “*one-sided*” Studies that “*do not take into account the interests of all parties, including those countries which are located in the downstream of Amudarya river.*” This claim refers to the Assessment Studies financed by the Bank. In substance, the Requesters claim that the way these Studies are designed, through a credit to the Government of Tajikistan, will not allow the participation of downstream parties on an equal footing and ensure that their concerns will be fully considered and addressed.
38. In the Panel’s view, such assertion could amount in substance to an assertion that “*a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters.*” This could be the case in the context of Bank’s Operational Policy Projects on International Waterways, OP 7.50. The Policy notes that projects on international waterways may affect relations between the Bank and its borrowers. It states that the Bank attaches great importance to riparians making appropriate agreements or arrangements for the efficient use and protection of such waterways, and that the Bank stands ready to assist riparians in achieving this end. The Policy also contains, *inter alia*, provisions for the beneficiary State to notify other riparians of covered proposed projects, and certain exceptions to the notification requirement, including for water resource surveys and feasibility studies on or involving international waterways if the State proposing the activities includes in the terms of reference for the activities an examination of any potential riparian issues.
39. In this specific case, the Management Response states that the Bank’s cooperation with the Government of Tajikistan has resulted in, among other things, notification by the Government of Tajikistan to riparian States in December 2007. In addition, the record shows that during preparation of the Assessment Studies the Bank facilitated extensive consultations with the governments of the riparian countries, including Uzbekistan, and that, as part of these consultations, the Government of Uzbekistan

submitted its Expert Opinion, which was considered and integrated into the TORs of the studies.<sup>37</sup> The Panel notes that an important goal of the studies is to address the issues and concerns about the potential harms that might be associated with Rogun HPP and to consider possible alternatives. In the Panel's view, the Bank has made efforts to ensure that potential riparian issues are being examined in the context of these Studies, as provided by Bank policy. In light of the above, the Panel is satisfied, at the present stage, that there is adequate evidence of the Bank's intention to comply with applicable Operational Policies. Accordingly, the Panel considers that the requirement of Paragraph 9(b) of the 1999 Clarifications has not been met.

40. Concerning the requirement of paragraph 9(c) of the 1999 Clarifications, which provides that "*The request does assert that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures,*" the Panel took into account the following considerations and information.
41. The Panel notes that Management and the Requesters acknowledge meeting in Tashkent on August 4, 2010, during a meeting between Management and the Government of Uzbekistan. During the Panel visit, the Requesters provided additional details on this meeting both orally and in writing. The Requesters informed the Panel that during this meeting Mr. Alikhanov had made the Bank aware of all of their concerns. During this meeting, they also handed out a brochure which reflects their concerns about the effects of the construction of Rogun HPP, as well as about the ecological examination and adherence to out-of-date technologies. Management acknowledges that the one of the signatories to the Request was present and that its staff was shown the brochure.
42. The August 4, 2010, meeting is also referred to in the Request for Inspection, which was submitted shortly after the Requesters and Management had met a second time on October 8, 2010, during the Bank-IMF Annual Meetings in Washington, DC. The Request for Inspection stated that "*the last verbally complains and in writing complains to World Bank were made on July and August 2010. We have received an obscure and not clear verbal response from World Bank. We are not satisfied with a response from World Bank.*"<sup>38</sup>
43. The Panel notes the statement of Management that it would have been more appropriate for the Requesters to complain in writing, and thereby create a record of its complaints. The Panel also notes that the meeting of August 4 was a meeting between the Bank and Government officials. At the same time, Management acknowledges that it is "*fully cognizant of the difficult transboundary energy-water issues in Central Asia and takes very seriously the concerns of riparians,*"<sup>39</sup> and that the lead Requester raised concerns with Management directly, as noted above. The

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<sup>37</sup> Management Response, p. 12, para. 43.

<sup>38</sup> Request for Inspection, p. 3, para. 5.

<sup>39</sup> Management Response, p. 28, para. 99.

Panel also notes that Requesters made a good faith effort to raise their concerns with Bank Management. In light of these particular circumstances, the Panel considers that the requirement of Paragraph 9(c) of the 1999 Clarifications has been met.

44. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d) of the 1999 Clarifications.
45. As stated above, according to the Management Response, the Board will soon consider restructuring the Energy Loss Reduction Project to approve financing of the Assessment Studies.<sup>40</sup> However, as of the date the Request was filed, the Energy Loss Reduction Project was scheduled to close on June 30, 2012, and was 23.52% undisbursed. The Request therefore satisfies the requirement in Paragraph 9(e) of the 1999 Clarifications, that the related Credit has not been closed or substantially disbursed.<sup>41</sup>
46. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f) of the 1999 Clarifications.
47. The Panel is satisfied that the Request does not meet all the eligibility criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications.

## **F. Observations**

48. The Panel notes that the only issues of harm that can be considered by the Panel in this Eligibility Report are those related to the Assessment Studies that will be carried out under the restructured Energy Loss Reduction Project. The key issue raised by the Requesters considered by the Panel in this context is their concern that the way the Assessment Studies are designed will not allow the participation of downstream parties on an equal footing and thus ensure that their concerns are fully considered and addressed.
49. The Panel notes that carrying out Assessment Studies on a transboundary Project through an agreement with an upstream country could indeed raise fears among downstream stakeholders about their ability to participate on an equitable basis and ensure that their concerns are appropriately considered and addressed. The Panel thus fully understands and appreciates the concerns of the Requesters.
50. At the same time, the Panel notes that the Bank has agreed to separately finance and manage additional components to address the fears and concerns of downstream riparians, including the establishment of two Panels of Experts, a study of

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<sup>40</sup> Management Response, p. iv, Executive Summary.

<sup>41</sup> According to the Resolution that established the Panel, “*this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.*” Footnote to Paragraph 14 (c).

alternatives, and a structured program of riparian consultations.<sup>42</sup> It is noteworthy, that by financing and managing the Panel of Experts the Bank has gone beyond the requirements of the Policy on Environmental Assessment, OP 4.01, which requires that this be done by the beneficiary or borrowing country.<sup>43</sup>

51. While the Panel cannot consider the issues raised in the Request that relate to the Rogun Project itself, the Panel notes that the issues raised by the requesters relating to Rogun HPP are serious and deserve attention. Management in its response has also acknowledged that the Requesters raise legitimate and important issues regarding the proposed Rogun HPP. The Panel further notes that the issues raised in the Request have been reflected in the Terms of Reference of the proposed Assessment Studies to be financed under the Project.
52. The Panel agrees with Management that the proposed Rogun HPP has the potential to deliver significant development benefits to Tajikistan and the broader region and thus merits serious study. It notes that such a study will help ensure that a fact-based decision is taken on this complex and sensitive project, while recognizing that, as acknowledged by Management, such a study requires very special care.

## **G. Conclusion**

53. As noted previously, the Panel considers that the eligibility criterion of paragraph 9 (b) has not been satisfied in this Request.
54. In light of the above, the Panel does not recommend an investigation of whether the Bank has complied with its operational policies and procedures. The Panel notes that this recommendation would not prevent the Requesters or others from coming to the Panel at a later stage in the event that the Assessment Studies deviate from Bank policy requirements in a way that could lead to harm to affected communities. The Panel recommendation also does not preclude the possibility of a future claim, relating to compliance and harm, in the event that the Bank decides to finance activities for the construction of the Rogun HPP or a related alternative.

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<sup>42</sup> According to the Management Response, the Central Asia Energy-Water Development Program supports the Bank's expanded role in the Assessment Studies. This role "*includes undertaking a study of possible institutional arrangements or mechanisms for managing and monitoring agreed water management regimes (i.e., reservoir operations), which may encompass an international oversight body or similar systems to ensure transparency and compliance.*" Management further states that it will "*independently verify the hydrologic data and analysis undertaken by the Bank financed and managed consultants preparing the Assessment Studies in order to enhance confidence in the studies and, more broadly, contribute to a commonly agreed information base on the hydrology of the Vakhsh and upper Amu Darya rivers*" (see Management Response, p. 5, para. 18).

<sup>43</sup> OP 4.01 states that "*for Category A projects that are highly risky or contentious or that involve serious and multidimensional environmental concerns, the borrower should normally also engage an advisory panel of independent, internationally recognized environmental specialists to advise on all aspects of the project relevant to the EA.*"