The Inspection Panel

Report and Recommendation
On
Request for Inspection

India: Improving Rural Livelihoods through Carbon Sequestration Project (TF058308)

A. Introduction

This Report

1. In accordance with the Resolution (hereinafter "the Resolution")[1] establishing the Inspection Panel (hereinafter "the Panel"), the purpose of this Report and Recommendation on Request for Inspection (hereinafter "the Report") is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request, based on the Panel's confirmation of the technical eligibility of the Request and its assessment of other factors as stipulated in the Resolution. The Panel's determination of the technical eligibility of the Request, in accordance with the 1999 Clarification,[2] is set out in Section E(a) below, and Section F summarizes the Panel's observations on other factors considered before making a recommendation to the Board. The Panel's recommendation is presented in Section G.

Panel process

2. The Inspection Panel (the "Panel") received a Request for Inspection (the "Request") related to the India: Improving Rural Livelihoods through Carbon Sequestration Project (the "Project"). The Request was submitted by farmers who are "*inhabitants of the backwards districts of Orissa and Andhra Pradesh*," India, most of whom "*belong to weaker sections including Scheduled Tribes and Scheduled Castes*." The Request is composed of two letters: the first letter was sent to the Panel on behalf of the farmers by Mr. Sriharsha Masabathula, President of VEDA Climate Change Solutions Limited (VCCSL) (hereinafter "VEDA") on April 23, 2012; the second letter (both in English and Telugu) was written and signed by the farmers and forwarded by VEDA to the Panel on May 21, 2012. In

---

[1] International Bank for Reconstruction and Development (Resolution IBRD 93-10) and International Development Association (Resolution 93-6), "The World Bank Inspection Panel", September 22, 1993 (hereinafter "the Resolution"), para 19. Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf

[2] "1999 Clarification of the Board's Second Review of the Inspection Panel", April 1999 (hereinafter "the 1999 Clarification"). Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf

their letter, the farmers authorize VEDA to act as their representative and to take up the issues they are concerned about with appropriate authorities, including the World Bank. VEDA is the representative of the Requesters but is also one of two Project Entities charged with implementation of the Project as described below.

3. The Panel registered the Request on July 27, 2012. Management requested an extension for the submission of its Response[3] to the Request for Inspection which was received on September 18, 2012.

B. The Project

4. The Project is the first Bio Carbon Fund (BioCF)-supported investment in India. BioCF is a public/private initiative established as a trust fund administered by the World Bank for carbon sequestration projects in forestry and agro-ecosystems. The World Bank oversees the Fund's management and appoints a Fund Manager and a Fund Management Unit, which is part of the World Bank's Carbon Finance Unit. The BioCF aims at purchasing 'emission reductions', while promoting poverty alleviation and biodiversity conservation. Greenhouse gas (GHG) reductions – in this case from sequestration of CO_2 through planting of trees – are certified and traded as Certified Emission Reductions (CERs). BioCF considers purchasing CERs from a variety of land use and forestry projects, including afforestation and reforestation.

5. The Project design provides for farmers to raise tree plantations on degraded farmlands or lands used for subsistence agriculture, selling the resultant CERs, and thus obtaining additional income (referred to as carbon revenue). This Project is officially registered under the United Nations Framework Convention on Climate Change (UNFCCC) Clean Development Mechanism (CDM, Registration No.4531). Thus, Bank Management states, the Project must comply with the CDM framework.[4]

6. According to the Project Design Document (PDD)[5] the objectives of the Project are:

- "*To pilot reforestation activities for generating high-quality greenhouse gas removals by sinks*[6] *that can be measured, monitored and verified;*
- *To develop plantation and agro forestry models, which can provide multiple benefits to farmers in terms of timber, firewood and non-wood forest products;*
- *To provide additional income and to promote livelihoods of poor farmers through carbon revenues;*
- *To reforest degraded lands to control soil and water erosion and reclaim lands;*

---

[3] Management Response to Request for Inspection Panel Review of the India: Improving Rural Livelihoods through Carbon Sequestration Project (TF 058308), September 18, 2012, World Bank (hereinafter "Management Response").
[4] Management Response, ¶ 10.
[5] Project Design Document Form for Afforestation and Reforestation Project Activities (CDM-AR-PDD), Version 04, CEM - Executive Board, UNFCCC/CCNUCC.
[6]In this context, a "sink" refers to the removal of greenhouse gases (GHG) from the atmosphere attributable to afforestation or reforestation projects.

- *To reduce the dependence of industry on natural forests thereby conserving biodiversity; and*
- *To build capacity of various stakeholders to benefit from global mechanisms*."

The Project area includes six districts in the two states of Orissa and Andhra Pradesh: Rayagada, Koraput and Kalahandi districts in Orissa and the districts of Visakhapatnam, Srikakulam, and Vizianagaram in Andhra Pradesh. There are many ethnic minority groups (i.e. classified as scheduled tribes) located in the project area, but less than 5% of the project participants are from tribal communities. The Requesters live in the district of Srikakulam.

7. The Project includes four main stakeholders: VEDA and J .K. Paper Limited (JKPL) – the two so-called Project Entities, farmers interested in developing agro-forestry and the BioCF. The participating farmers agreed to raise plantations of fast-growing species of trees with high rates of carbon sequestration (mainly Eucalyptus and Casuarina species) on fallow land on their property. Under the Project, once trees are harvested – normally five years from planting and before seven years have passed – the farmers will sell the timber to JKPL based on a buy-back guarantee. In addition, they receive revenue from selling the CERs generated under the Project to the BioCF though VEDA and JKPL.

8. The Project involves reforestation activities on 1608ha of land that belong to 1590 farmers and is expected to deliver around 182,000 CERs by 2017. The farmers are responsible for setting up their plantations, and JPKL provides them technical guidance and assistance for planting and harvesting and support for raising funds to start the plantations. The farmers carry out tree planting in accordance with an established environmental management framework in order to claim the carbon revenue accrued.

9. VEDA, a company established specifically to deal with issues related to carbon revenue, facilitates the flow of carbon revenue to the participating farmers. JKPL keeps records of information required to quantify the carbon revenue, as per the agreed monitoring plan, and reports through VEDA periodically.

10. Farmers wishing to participate in the Project signed an agreement with VEDA and JKPL authorizing the two companies to carry out all activities relating to the CER transaction. On behalf of the farmers, VEDA and JKPL signed the Emission Reduction Purchase Agreement (ERPA) with BioCF. BioCF organizes the verification through any of the accredited auditing agencies (DOE – Designated Operational Entity), and their verification report forms the basis of payment to VEDA and JKPL. According to the ERPA, 80% of the total carbon revenue is to be distributed to the farmers, while 20% is distributed equally between the two Project Entities.

11. The Project Entities are responsible for managing the account and making payments to individual farmers. According to Management Response, in April 2012 the Bank released into an Escrow Account the first installment for the CERs generated by the Project (US$ 200,250). However, as indicated in the Response

and verified by the Panel during its visit to the Project area, the participating farmers have yet to receive their payments.

12. **Financing** The Project is financed by BioCF with a budget of USD 1,117,800 approved on May 8, 2007 and it is expected to close on December 31, 2017. When the Request for Inspection was submitted, about 43% had been disbursed.

C. The Request

13. What follows is a summary of the Request for Inspection. The Request is attached to this Report as Annex I.

14. According to the Request, delays in Project execution by the Bank have caused harm to farmers participating in the Project. The Request states that farmers actively participated in the Project since its beginning by raising plantations on their degraded lands and, in doing so, they hoped that the Project and the revenue generated by sequestering carbon would allow them to improve their livelihoods. The farmers maintain that they waited eight years for "*the project to materialize*" and to receive their share of carbon revenue. They argue that, although they learned that the carbon revenue has been released by BioCF, this revenue would only be given to farmers whose plantations are still standing, while those who had to harvest and sell their trees – the Requesters among them – will not be receiving their share. According to the Request, this group of farmers participating in the Project is being deprived of their revenue because of delays in Project execution for which the farmers themselves are not responsible.

15. The Requesters state that they have managed their plantations according to the agreed silvicultural practices, and have harvested the trees based on a rotation schedule that is practice for the species that were planted and outlined in the environmental management framework prescribed in the Project Design Document. They state that, while they were able to leave the trees standing until the visit of the DoE for the validation procedure[7], they had to harvest before the verification[8] occurred. Missing the verification meant that the Certified Emission Reductions (CERs) from their plantations could not be computed, and thus the farmers could not receive their share of the carbon revenue. The Request claims that the responsibility of the delay rests on the World Bank, by failing to respect the Project timeframes for the validation and verification procedures required under the CDM rules.

16. VEDA, the representative of the Requesters and a Project Entity, maintains that the World Bank "*is not willing to pay*" the farmers who have harvested their trees although "*reasonable efforts*" were made by VEDA to have these plantations recognized as CERs. VEDA maintains that the provisions of the ERPA "*have not*

[7] The General Conditions define "Validation" as the process of independent evaluation of the Project Activity by a Validator in accordance with the International Rules on the basis of, *inter alia*, the Project Design Document and the CDM Operations Plan, General Conditions, Article II.
[8] The General Conditions define "Verification" as the periodic assessment by a Verifier of the amount of GHG Reductions generated by the Project, General Condition, Article II.

been followed in letter and spirit" thus causing a severe loss to some of the participating farmers.

17. VEDA states that it brought the described shortcomings to the attention of the Bank and the BioCF staff in several instances with emails and in meetings. The Requesters however did not consider the Bank's response adequate to resolve the issues raised and requested the Panel to carry out an investigation.

18. **Events following the submission of the Request.** Soon after the submission of the Request for Inspection, Bank Management indicated that a supervision mission to the Project areas was imminent and that the mission team intended to meet with VEDA representatives and with the farmers who raised concerns to discuss and try to address these issues. The Bank mission took place on June 16-20, 2012. The Panel was informed that the team met with VEDA representatives, with JKPL, and with farmers participating in the Project, including some of the Requesters, and that proposals to address issues raised in the Request were discussed with the Requesters.[9]

19. Notably, during the mission JKPL presented to the Bank a benefit sharing proposal. According to the agreed proposal, farmers were divided in three categories: farmers with standing trees at time of verification, farmers who harvested but have replanted/will replant and farmers who have harvested and uprooted their trees and decided not to replant. The benefit sharing proposal provides for paying the first two categories of farmers 100% of their share, and paying the third category in two 50% installments, the second installment upon a decision to stay in the Project and replant.

20. In a subsequent note to the Panel, the Requesters expressed further disappointment that the Bank's mission did not address their issues and urged the Panel to visit the Project area to discuss with the farmers directly and to continue its process.

21. During the Panel's visit to the Project area, VEDA further clarified its position to the Panel. VEDA staff stated that not only standing trees but also harvested trees should result in carbon revenue, as the farmers who harvested participated in the Project and contributed to generating emission reductions. VEDA indicated to the Panel that the payment released by the Bank in April 2012 would cover only payments for the farmers who have standing trees, while the BioCF should provide an additional payment for farmers who have harvested prior to the verification. Waiting for a further legal clarification from the Bank on this point, VEDA has yet to distribute the revenue to the farmers.

D. The Management Response

22. A summary of Management Response follows, and a complete copy is attached to this Report as Annex II.

[9] The Bank team prepared a report about the mission but at this time the report remains a confidential document.

23. Management Response provides Management's considerations on the eligibility of the Request for Inspection. Management believes that the Request does not meet the eligibility requirements included in the Panel's Resolution and subsequent Clarification and states that the issues raised in the Request are "*commercial in nature*", and thus should be addressed through good faith negotiations or arbitration as specified in the governing legal agreement, the Project's ERPA. Management's considerations on the eligibility of the Request are discussed below in Section E(a) in the Determination of Technical Eligibility.

24. According to Management, VEDA indicated that some farmers could not be paid because they harvested their trees before the verification occurred, and requested an additional payment from the Bank that would compensate those farmers. Management argues that, contrary to the Request's contention, the Bank as the Trustee of the BioCF is not "*liable to make additional payments*" [10] and compensate the Requesters beyond the agreed limit on the volume of emission reductions. This, the Response states, would be against CDM rules that the "*Bank is obliged to apply*" and that includes the third party validation and verification procedures.[11] In addition, Management is of the view that the Project Entities "*have failed to fulfill their contractual obligations to the farmers*" and instead sought additional financial resources from the Bank "*with the aim to have the Bank fund their contractual obligations to the farmers*." For these reasons, the Response notes, the issues raised by the Project Entities should be solved under the dispute resolution system provided for in the ERPA. Management also believes that if the matter is taken to arbitration, an investigation by the Panel "*could prejudice one of more Parties' positions, including the Bank's* […]."

25. Annex I to Management Response provides more detailed responses to the claims raised by the Requesters.

26. The CDM framework regulates how carbon revenue accrues and how payments are made to the farmers under the Project. Management indicates that, according to the CDM rules, the carbon revenue is calculated based on the average volume of standing trees in plantations, while harvested or uprooted trees do not contribute to accrued total revenue. Farmers do not plant all in the same year or the same species and thus at any point in time there will be farmers with no standing trees or trees too young to contribute to the carbon sequestration and certified emission reductions. Moreover, CDM rules do not allow having peaks in standing stocks that coincide with the time of verification because the Project should generate and maintain an average carbon stock over the Project life.

27. As a result, the Response notes, it is not correct for VEDA to claim that only farmers with standing trees will receive payments and those who harvested will not have their share. Management states that, in accordance with the PDD and the CDM framework, the carbon revenue is to be distributed equitably to all farmers who participated in the Project based on the land size of each farmer, even if some farmers harvested their trees before the verification process. Management adds

---

[10] Management Response, ¶ 26.
[11] Management Response, ¶10.

that it always made clear with both VEDA and JKPL staff about how carbon revenue is calculated and how benefits should be shared among farmers.

28. With respect to the delays in the verification process that the Requesters consider a responsibility of the Bank, Management notes that the "*timing of the CDM process is not determined by the Bank*."[12] Validation and verification are conducted by a third party auditor accredited by the UNFCCC, and the tentatively agreed timelines may change based on the type of issues that may arise. The Response indicates that the validation was concluded in 691 days while the global average for this kind of activities is 689 days. The timing was influenced in this case by the time it took the Project Entities to respond to questions of the auditor who carried out the validation procedures about land eligibility. As noted above, the Project is implemented on degraded/fallow lands and criteria are provided under the CDM rules and the PDD, to determine whether a given parcel of land is eligible for inclusion in the Project. Validation is a necessary step in the process to register the Project with the CDM. Verification follows the validation and generates CERs.

29. Management further discusses the benefit sharing proposal presented during the June 2012 mission. Upon a request from the Project Entities to provide a legal opinion on the proposal, the Bank confirmed that such proposal is in conformity with the ERPA and international best practice. Management however stated that it cannot opine with respect to the tripartite agreements signed by the Project Entities and the farmers as these fall under domestic laws.

E. Panel Review of the Request and Management Response

30. The Panel has carefully reviewed the Request and the Management Response. Panel Member Eimi Watanabe, together with Deputy Executive Secretary Dilek Barlas and Senior Operations Officer Tatiana Tassoni, visited India from October 1-5, 2012. During its visit, the Panel team met with farmers including the Requesters in the district of Srikakulam, their representatives from VEDA, and with the JK Paper Mills' management team responsible for the Project. The Panel also met with World Bank Country office staff in Delhi and with national authorities from the Ministry of Finance.

31. The Panel's review is based on information presented in the Request, on the Management Response, on other documentary evidence, and on information gathered during the site visit, and meetings with Requesters and Bank Management.

32. The Panel wishes to express its appreciation to all those mentioned above for sharing their views and exchanging information and insights with the Panel. The Panel also wishes to thank the Country Director and the World Bank Country Office in India for meeting with the Panel team, discussing the issues and providing relevant information, and assisting with logistical arrangements.

---

[12] Management Response, p. 10.

33. This review covers the Panel's determination of the technical eligibility of the Request, according to the criteria set forth in the 1999 Clarification, including an analysis relating to Management's discussion on the eligibility of the Request.

a) Determination of technical eligibility

34. The Panel is satisfied that the Request meets all six technical eligibility criteria provided for in paragraph 9 of the 1999 Clarifications.

35. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request. It follows from this interpretation, that technical eligibility in and of itself would not be a sufficient basis for recommending an investigation.

36. Criterion (a): "*The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory*." The Panel confirms that the Requesters live in the Project area and are farmers who participated in the Project. They share common concerns with respect to the Project as designed and implemented and believe that they are suffering harm as a result of the Bank non compliance with its policies and procedures in the design and implementation of the Project. The requirement of paragraph 9(a) is met.

37. Criterion (b): "*The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester*." The Panel confirms that the Request raises issues of actual and potential material adverse effects on the Requesters, and that the Request asserts that these harms are linked to serious violation by the Bank of its policies and procedures. The Request asserts that delays in Project execution by the Bank have caused harm to farmers participating in the Project. They add that the carbon revenue would only be given to the farmers whose plantations are still standing, while those who had harvested and sold their trees prior to the verification process would not be receiving their share. The Request maintains that this group of farmers is being deprived of their carbon revenue because of delays in Project execution, specifically in conducting the third-party audit, which is the responsibility of the Bank in its supervisory role. Additionally, the Request asserts that the Project generated a reduced amount of CERs because of such delays. The Panel has thus confirmed that the requirement of paragraph 9(b) has been met.

38. With regard to the claim of harm, Management refers to paragraph 14 of the 1999 Clarifications and claims that the without-project situation should be used in assessing material adverse effect as consideration for eligibility of the Request. This paragraph provides guidance to the Panel in assessment of material adverse effect during an investigation and is not applicable to the determination of the technical eligibility of a Request.

39. As stated above, technical eligibility criteria are set forth in paragraph 9 of the 1999 Clarifications. According to paragraph 9(b) of the 1999 Clarifications, an assertion of material adverse effect on the requesters caused by the Bank's

violation of its policies is the criterion necessary to meet the technical eligibility requirement, which has been met as described above.

40. Further, paragraph 7 of the 1999 Clarifications clearly states that the Panel cannot make any definitive assessment of non-compliance and related harm at the eligibility stage[13]. The Panel's preliminary analysis of potential issues of harm is included in the observations section of this Report below.

41. In its Response, Management also claims that the Request does not assert that the Bank has violated any of its policies and procedures and therefore the Request fails to meet eligibility requirements. The Management Response notes that the Requesters did not demonstrate that their rights or interests have been or likely will be directly affected by the Bank's non-compliance of its operational policies and procedures.

42. Letters received by the Panel, which form the Request, claim harm suffered by the participating farmers, and specifically the ones who harvested their plantations, as a result of the Bank's actions or omissions. The Request dated April 23, 2012, claims that "*the participating farmers are suffering as a result of the World Bank's failures and omissions in the BioCarbon Fund project*." The Request states that some of the participating farmers are being deprived of carbon revenue although they have not been responsible for "*the delay in project execution by the World Bank*." The Request further claims that the Bank "*has failed to adhere to the timeframes*", and adds that although reasonable efforts have been made by the Project entities, the Bank "*is not willing to pay for the ERs generated by the farmers who have harvested the plantations*."

43. The assertion of harm resulting from delays caused by World Bank's actions and omissions connotes assertion of failure to meet supervision requirements, as per the provisions of OP13.05 on Project Supervision. While Management claims that the Request does not meet the eligibility requirements as the Request does not specifically assert that the Bank has violated any of its policies and procedures, there is no provision in the Panel's Resolution or Clarifications which requires the Requesters to specify the Bank policies and procedures that they believe to be violated by the Bank. Requesters cannot be expected to know about specific policies and procedures of the Bank, and such a requirement would introduce an undue burden on the requesters and create an obstacle for requesters to access the Panel process.

44. Criterion (c): "*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 Requesters state that they have raised their concerns with World Bank staff on several occasions through meetings

---

[13] Paragraph 7 of the 1999 Clarification provides that at the eligibility stage "*…the Panel will not report on the Bank's failure to comply with its policies and procedures or its resulting material adverse effect; any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation*."

and via e-mail but are not satisfied with the response they have received. The Panel is satisfied that this criterion has been met.

45. Criterion (d): "*The matter is not related to procurement*". The Panel is satisfied that the claims with respect to harm and non-compliance included in the Request for Inspection do not raise issues of procurement under the Project and hence this criterion is met.

46. Criterion (e): "*The related loan has not been closed or substantially disbursed*". At the time the Request for Inspection was submitted, about 43% of the BioCF had been disbursed.

47. Criterion (f): "*The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request*". The Panel confirms that it has not previously made a recommendation on the subject matter of the Request.

F. Observations on other factors supporting the Panel's recommendation

a) Allegations of harm

48. The Request alleges different harms as a result of delays in project implementation. In order to better understand the claims, the Panel team met with representatives of VEDA and JKPL. The Panel team also met some dozen farmers who are Project participants in Bhagirathpuram, Ajjaram and Chinnaraopalli villages of Srikakulam District in Andhra Pradesh, including the four Requesters.

49. All of the participating farmers, without exception, expressed their frustration that they have not been paid the promised additional money "*for protecting the environment and improving the climate*", a shorthand explanation provided to farmers for revenue generated through carbon sequestration. They said that although they participated and raised plantations on their degraded land according to the Project, they are being denied the promised income.

50. The Panel was informed that, at the start of the Project, the extension workers had explained to the farmers that by planting and growing the improved quality eucalyptus or casuarinas trees, they will not only be able to sell the harvested trees to JKPL through a buy-back guarantee, but also receive an additional sum, because planting trees contributes to protecting the environment and improving the climate. The farmers informed the Panel team that they have now been waiting a long time for this additional payment to materialize, having repeatedly being told that the money is due shortly. When asked, the farmers replied that they were not aware of the amount, on what basis it will be calculated, nor what other groups of farmers may receive; they replied that they will take whatever is given to them, as JKPL has all the necessary records.

51. VEDA as representative of the Requesters elaborated on different aspects of the harm suffered by the farmers. In their view, as a result of significant delays in Project implementation, which led to delaying the verification, some of the

participating farmers had to harvest their plantations before the verification. According to VEDA, because the verification took into account only the standing trees, as opposed to all trees planted at any time (standing, harvested or uprooted) a reduced amount of CERs were calculated leading to less carbon revenue released for farmers. VEDA also asserted that the carbon revenue released by BioCF would only be given to farmers whose plantations are still standing, and not to the farmers who have already harvested their plantations. Therefore, according to the VEDA, farmers who harvested the trees would not receive any revenue. They claim therefore that Bank should make additional payments to account for the trees already harvested prior to verification.

52. Management asserts in its Response that the Project "*allowed the farmers to generate additional income in the form of timber payments, compared with the without-Project alternative*" and consequently, *the Requesters have not demonstrated a material deterioration compared to the without-Project situation*". In the Panel's view, regardless of the income from timber payments, as per the Project design the farmers are entitled to receive carbon revenue, the absence of which constitutes a material adverse effect. The farmers were encouraged to participate in the Project, and invest own time and effort, on the promise of additional payments. This represented opportunity costs to farmers. Furthermore, the Panel was informed that the additional payment from the carbon revenue will be used to offset initial investment costs of re-planting, or re-generating growth from coppice. Hence, as acknowledged by Management in discussion with the Panel, the sustainability of the Project is in question if farmers perceive that participation in the Project is a net loss to them.

53. On the claim that the GHG reduction achieved by trees that were harvested prior to verification should also be included in the calculation for CERs, the Panel notes that the Project Design Document (PDD), which is part of the official documentation registered with UNFCC, states that "[c]*oincidence with peaks in carbon stocks is not an issue as the net GHG removals by sinks is based on the inventory data of plantations within the project area and they reflect average volume of standing timber on the farmer land parcels. The data also reflects individual farmer circumstances under which thinning and harvesting are proposed and implemented…. The management practices of farmers do not allow the peaks of carbon stocks to coincide with verification schedules.*[14]" The Panel understands this to mean that, under Project design, the carbon revenue is calculated based on the average volume of <u>standing</u> trees in the plantations within the Project area, and that harvested and uprooted trees do not count in the calculation for CERs.

54. The Panel understands, moreover, that the Project envisages distribution of the total accrued carbon revenue to all participating farmers who have participated in the Project, whether they had standing trees or not at the time of verification, using the relative land holding size of each farmer to determine his/her revenue share.[15]

---

[14] PDD, Section A.8, p. 17.
[15] Project Design Document (PDD), Section C.6 (Assessment and Demonstration of Additionality), p. 32.

55. Thus, the Panel notes that the Requesters' assertion pertaining to the GHG reductions from trees harvested prior to verification is not in accordance with the Project methodology agreed to by the Entities and the farmers. Further, the assertion that, under the Project, the farmers who harvested the trees prior to verification would be totally deprived of carbon revenue is also not correct.

b) **Issues of compliance**

56. The Request alleges that delays in Project implementation and execution by the Bank have caused harm to the farmers. The Panel has observed that the Project process has indeed been a lengthy one. The Letter of Intent was signed by the Bank and the two entities in January 2006; the validation process was finally completed in February 2011, and the Project was registered with UNFCC in June 2011. The final verification report was issued in September 2012. According to Management, this length of time is within the norm for the validation time of CDM A/R (Afforestation/Reforestation) projects.

57. As an illustration of the complexity of the CDM process, the Panel team was informed that GPS measurements were initially conducted by field workers standing in the center of every plot. Subsequently, the Project was informed by the auditors that this was insufficient, and that measurements have to be taken at every corner of each plot, thus requiring the field workers to re-visit every farm and take multiple readings, a process that extended over three months. There was likewise a lengthy process at the verification stage. The Panel team was informed that these were some of the processes that resulted in what appeared to VEDA and JKPL as an inordinate long and complex process.

58. Management, VEDA and JKPL informed the Panel team of the pilot nature of the Project. The Panel understands that it was the first Bio Carbon Fund supported operation in India. All involved noted that unfamiliarity with methodologies that are highly complex required a longer time than expected.

59. In the Panel's view, the length of time taken by the Project at various stages was mainly due to the complexity of the CDM process. The Panel team did not come across any indication that there was serious lack of supervision on World Bank's part that led to undue delay. The Panel team was in fact informed that this has been one of the most supervision-intensive projects in the current India portfolio.

60. The Bio-Carbon Fund has issued a report based on insights from the Fund's seven years of experience designing and implementing 21 CDM A/R projects in 16 developing countries. The Panel notes that the challenges encountered in this Project in implementing the complex CDM processes are widely prevalent, and the Report states that "*the A/R CDM rules and procedures need to be further simplified to become more pragmatic and to accommodate realities on the ground.*"[16] The Panel also notes the challenge for Management in undertaking supervision and implementation support over projects where procedures are defined by external entities.

[16] World Bank, Bio-Carbon Fund: Insights from Afforestation and Reforestation Clean Development Mechanism Projects, 2011, ¶ 0.6.

61. Regarding the issue of harm raised by the farmers, namely, non-payment of carbon revenue, in its Response, Management notes that "*Bank has made the payments payable to the Project Entities required under the ERPA promptly, following audits completed under the CDM. Payments to farmers are the responsibility of the Project Entities, not the Bank.*" Management has transferred the carbon revenue to the escrow account held by the two entities in April 2012, who have yet to release the payments to the farmers. Following the Bank's June mission, JKPL proposed a benefit sharing agreement which Management has confirmed is in accordance with ERPA. For the reasons noted above, VEDA and JKPL held back on paying out to the farmers.

62. The Panel notes that there are no indications of policy non-compliance on the part of Management with regard to the payment of carbon revenue being withheld from the farmers, as the Panel understands that the funds were transferred into the escrow account without delay in April 2012. The Panel verified that Management communicated and followed up with the Project Entities to expedite the payment to the farmers.

63. Towards the end of its visit, VEDA and JKPL told the Panel team that they have now reached agreement on the benefit sharing arrangement to pay out the carbon revenue to the farmers. In an e-mail from the Requester dated October 15, 2012, the Panel was informed that "*an event is scheduled on 17 October, 2012 at Rayagada to hand over the first tranche of cheques to the participating farmers […] as per the JKPL proposed benefit sharing mechanism and the distribution of carbon revenue is expected to be completed within a month time*".

G. Recommendation

64. The Requesters and the Request meet the technical eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications.

65. The Panel notes that the main concern of the participating farmers is the delay in payment of carbon revenue due to them under the Project. Both VEDA and JKPL indicated their firm commitment to pay the farmers as soon as possible based on the agreed benefit sharing arrangement.

66. As noted above, the Panel could not find any indication of potential serious non compliance by Management that contributed to delays in the verification and any resulting underestimation of the volume of CERs. Furthermore, the Panel could not find any indication that there were issues of serious non-compliance by Management that may have caused delays in the delivery of carbon revenue.

67. Considering the above, the Panel does not recommend an investigation.