

Inspection Panel Investigation Plan
Kenya: Electricity Expansion Project (P103037)
Initial Investigation Plan (March 3, 2015)

1. Introduction and Panel's Recommendation

On October 26, 2014, the Inspection Panel received a Request for Inspection of the Kenya: Electricity Expansion Project. The Request concerns impacts of the Project's geothermal generation expansion component, which is implemented in the Greater Olkaria Geothermal Area. The Requesters are members and representatives of the Maasai community affected by the Project, and have asked the Panel to treat their identities confidential. The Request was registered on November 13, 2014. The Panel received Management's Response on December 19, 2014.

On February 2, 2015, the Panel recommended that an investigation be carried out into the alleged issues of harm and related non-compliance with World Bank operational policies and procedures with respect to issues such as land titling, identification of Project Affected People (PAPs), livelihood restoration measures, grievance mechanism and indigenous peoples. On February 13, 2015, the Board approved the Panel's recommendation.

The Panel's investigation will also report on any relevant steps and actions taken by Management during the course of the investigation to address the issues of harm and compliance relating to the concerns raised by the Requesters.

In the interest of efficiency, the Panel is coordinating its investigation with the Complaints Mechanism of the European Investment Bank ("EIB-CM"), which has also received complaints relating to the same Project and raising the same concerns. Following a joint field visit, the EIB-CM confirmed their agreement to handle the issues in coordination with the Panel.

This document presents a broad outline of the investigation plan as required by the Panel's Operating Procedures. It includes a summary of the key questions and issues to be addressed during the investigation, and a timeline. This initial investigation plan will be adjusted as needed.

2. Generic Questions for the Investigation

In line with its mandate and Operational Procedures the Panel will consider in its analysis the following:

- Is there a violation of the Bank's applicable policies and procedures in the design, appraisal and implementation of the Project that may have contributed to the harm alleged in the Request? Including:
 - What issues of harm raised in the Request can be linked to the Project? Is the harm of a serious nature?
 - How were these issues addressed during design, appraisal and implementation of the Project?

- Were these actions sufficient to meet the requirements of the applicable policies?
 - Can the issues of harm in question be at least partly attributable to the Bank's non-compliance?
- Were any steps and actions taken by Management during the course of the investigation to address the issues of compliance and the harms raised by the Requesters? Are these actions sufficient to meet the requirements of the applicable policies?

3. Scope of the Investigation: Issues of Harm and Compliance

The Panel will also address specific concerns of harm and related non-compliance with Bank Operational Policies and Procedures with respect to land titling, identification of PAPs, livelihood restoration and benefit sharing, grievance redress and implementation support, and indigenous people.

The Requesters' concerns relate to different aspects of the resettlement process, including: proper identification of PAPs, meaningful consultations, adequate compensation, land titling, and livelihood restoration. Specifically, they claimed that some affected people were not adequately identified. They claim that they were facing serious challenges in order to restore their livelihood because of added costs of school fees and transportation. They also raised concerns relating to the poor quality of the roads and houses as well as access to water at the resettlement site.

The Requesters expressed to the Panel their frustration in seeking redress and the Bank's response to their concerns. They also expressed concerns that the grievance mechanism was ineffective. They claimed that they were having difficulty in communicating grievances, particularly because of fear of retaliation for raising issues regarding the resettlement program. Some PAPs claimed that they were not aware of the existence of a grievance redress mechanism, while others expressed lack of trust in it.

The Request raises issues relating to safeguarding their traditional ways of living, their customary rights, the customs and cultural particularities, and benefits accruing from the Project. They claimed that the Project impacts on their sacred and cultural sites and raised concerns about protecting their ancestral graves. They also claimed that the Project is affecting their traditional ways of living as Maasai.

Land Titling

- What was the basis for the commitment to provide the Maasai with communal title before resettling? Was due diligence conducted regarding the resettlement site to ensure that land titles would be transferred?

Identification of Project-Affected People

- Were the PAPs properly identified? Were they informed ahead of time that a census would be conducted for the purposes of resettlement activities? Was there a socio-economic baseline data conducted at the affected household level? How often was the data reviewed and/or updated?

- Were adequate and meaningful consultations conducted with the affected community on the Project activities affecting them and was their participation included in the preparation and implementation of resettlement-related activities? Was the preparation for the resettlement (choice and conditions of site, housing design, and the participation of the affected community) culturally appropriate for the affected community?

Livelihood Restoration and Benefit Sharing:

- Was the compensation package (individual and communal) in accordance with Bank policy requirements?
- How were other resettlement safeguard aspects addressed, such as relocation assistance, income generation schemes and livelihood restoration?

Redress and Implementation Support:

- Is the available mechanism accessible to the community? Is the mechanism set up in a manner that allows the community to seek effective redress for their concerns with clearly identified steps and procedures? Has the mechanism been successful in addressing issues raised by the community?
- Did the Bank identify in a timely fashion concerns that have arisen from the implementation of the Project? Were they adequately reported and solutions suggested to the implementing agency?

Indigenous People

- Why was the Bank Policy on Indigenous Peoples (OP 4.10) not applied to the Maasai community affected by the Project? Was the analysis underlying this decision adequate?
- Has harm resulted to the Maasai community and their customary land tenure rights and access to resources due to this decision?

4. Methodology of Fact Finding

For the purposes of this investigation, the Panel will enlist the assistance of an expert on involuntary resettlement and an anthropologist. The involuntary resettlement specialist will analyze the resettlement process from design to implementation, including the participation of affected communities in resettlement activities, and the extent to which this process led to livelihood restoration to pre-displacement standards or better. The anthropologist will analyze whether the decision to not apply OP 4.10 to the affected Maasai community was adequate and related harm, if any.

The investigation will be conducted in three phases: (i) investigation preparation (February – March 2015); (ii) review of documentation and field visit (March – April 2015); and (iii) report drafting (May – August 2015). The investigation will also include interview with Bank staff and other relevant stakeholders.

The Panel's Investigation Report and Management Response are made publicly available after the Board of Executive Directors meets to discuss the Panel's findings and to consider Management's recommendations.