

IMRANA JALAL
Chair
The Inspection Panel

IPN REQUEST RQ 18/08

January 17, 2019

NOTICE OF REGISTRATION

Request for Inspection

KENYA: Transport Sector Support Project (P124109) and its Additional Financing (P146630)

1. On December 17, 2018, the Inspection Panel (“the Panel”) received a Request for Inspection (“the Request”) of the Transport Sector Support Project and its Additional Financing (“the Project”) in Kenya. The Request was submitted by three members of the project-affected community (“the Requesters”) who asked the Panel to keep their identities confidential.¹
2. The Requesters’ concerns relate to impact from works on the Webuye-Kitale road, which is financed by the Project. The complaint raises concerns about environmental impact, health and safety issues, impact on livelihoods, inadequate working conditions as well as a lack of consultation and information disclosure.
3. The Panel issued a Notice of Receipt of the Request on its website on December 18, 2018, and informed the Requesters and Bank Management.

The Project

4. The Transport Sector Support Project (P124109) was approved on April 21, 2011, for US\$300 million equivalent. The total project cost is US\$477.76 million equivalent. The Agence Française de Développement is co-financing the Project with US\$97.54 million and the Borrower is providing US\$80.22 million.² An Additional Financing for the Project of US\$203.5 million equivalent (P146630) was approved on March 26, 2014. The closing date of the Project was recently extended to December 31, 2019, “*to allow for the completion of*

¹ The complainants first contacted the Panel on October 24, 2018, but at that point Management had not been informed about the issues. After contacting Management, the complainants approached the Panel again on December 9, 2018, indicating their dissatisfaction with the response received.

² Project Appraisal Document, March 29, 2011, p. i.

*some incomplete activities including implementation of associated resettlement action plans.*³

5. The Project development objectives are to: (a) increase the efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-Sudan road corridor; (b) enhance aviation safety and security to meet international standards; and (c) improve the institutional arrangements and capacity in the transport sector.⁴ The Project's first component includes the rehabilitation and improvement of the Kisumu-Kakamega-Webuye-Kitale section. The Requesters' concerns relate to impact from the works on the Webuye-Kitale road section, in particular the Webuye flyover.

6. The environmental category of the Project is "B" and the Project was 92.33 percent disbursed at the time of receipt of the Request. The Project triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Physical Cultural Resources (OP/BP 4.11); and Involuntary Resettlement (OP/BP 4.12).

The Request

7. The Request was submitted by three members of the project-affected community who asked for confidentiality. They allege the harms described below, and claim that there is a lack of mitigation measures provided by the Project.

8. **Environmental impact and concerns relating to community health and safety.** The Requesters claim that the Webuye-Kitale road works have compromised community health and safety and exposed the vulnerable population to the risks of hazardous pollutants. They state that exposure to contaminated air and dust pollution could have long-term negative impact on those affected. The Requesters explain that discharge of water and sewage from the construction site used to flow to the road and affect nearby structures, road users, including pedestrians and cyclists, as well as roadside vendors. They also raise concern about noise pollution, disruption of utility services and an increase in organic and inorganic solid waste and greenhouse gas emissions.

9. The Requesters express concern about childrens' safe access to school after the completion of the flyover. They explain that, because of a lack of safe crossing points closer to the schools, children now have to take a longer route of more than 30 minutes to and from school using a busy road, which puts them at risk.

10. **Livelihood impact.** The Requesters allege that the Webuye flyover will have long-term negative socioeconomic impact, particularly on vendors and businesses. They explain that mostly women lost their businesses, affecting their livelihoods. They explain that the lack of walkways from the road makes it difficult for customers to access the shops. They also refer to increased dust and air pollution affecting vendors and small businesses, as well

³ See: Restructuring Paper, December 2018, p. 4.

⁴ With the additional financing and the introduction of two new activities in response to emergencies, the Project objectives was expanded to: (d) restore the capacity of the international passenger terminal destroyed in a fire at Jomo Kenyatta International Airport; and (e) strengthen the capacity of Kenya Airports Authority in disaster preparedness and responsiveness at Kenyan airports. Project Paper, March 12, 2014, p. 18.

as roadside food, vegetables, fruits, meat and other shop items. According to the Requesters, the provision of roadside facilities and compensation for loss of business are other areas of concern. They explain that modern kiosks or a market on the roadside could have improved local vendors' business opportunities. The Requesters also raise concern over some land use for farming following construction.

11. **Inadequate working conditions.** According to the Requesters, the workers were not provided proper protective equipment and their working conditions have "*never been human.*" They explain that the toilets at the construction site were poorly done and overflow during the rainy season.

12. **Consultation and information disclosure.** The complainants believe there has been no meaningful stakeholder consultation in a manner that is proportionate to the risks and impact on affected communities during the construction phase. They explain that there was no information provided to make meaningful and informed choices about livelihood restoration, compensation and other resettlement entitlements. The Requesters further claim that the Project's Environmental Assessment has never been disclosed and that no information had been provided about toxic chemicals, hazardous waste and other dangerous materials.

Initial Due Diligence

13. After receipt of the Request, the Panel conducted its initial due diligence and verified that the Request meets the admissibility criteria for registration, as follows:

14. The Request is not frivolous, absurd or anonymous, and was submitted by two or more members of the community where the Project is located. The Requesters provided the Panel correspondence with Bank Management in which they raised their concerns and shared with the Panel their dissatisfaction with the response. The Panel also verified that the subject matter of the Request does not concern issues of procurement and, at the time of the receipt of the Request, the Project was 92.33 percent disbursed. The Panel notes that the Project closing date was recently extended to December 31, 2019. The Panel has also not made a recommendation on the issues raised in this Request.

15. The Panel met with Bank Management on January 10, 2019, to discuss the issues raised in the Request. Following the meeting, Management shared with the Panel several documents, including an Action Plan of February 20, 2018, with key actions that were agreed in a stakeholder and community meeting. Management informed the Panel that the implementation of the Action Plan was well underway and many items were already completed or would be completed by March 2019.

16. The Panel communicated with the Requesters several times over email and conducted a phone call with them on January 16, 2019, to better understand their concerns. The Requesters elaborated on the harm and explained to the Panel that they were aware of the Action Plan that is currently under implementation, but noted that it did not adequately address all their concerns and that its implementation was not satisfactory. They also told the Panel that following the submission of their complaint to Bank Management and the

Inspection Panel there is a fear of retaliation in the community and community members are hesitant to share their concerns about the Project.

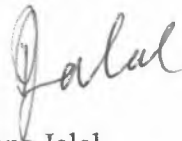
Registration of the Request

17. As provided in paragraph 17 of the IDA Resolution (“the Resolution”) that established the Panel, “the Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.”⁵ With this notice, I am notifying you that I have, on January 17, 2019, registered this Request.

18. The Panel’s registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 18 of the Resolution, and paragraphs 2 and 8 of the “Conclusions of the Board’s Second Review of the Inspection Panel” (“the 1999 Clarification”), Bank Management must provide the Panel within 21 business days (by February 19, 2019) a response to the issues raised in the Request for Inspection. The subject matter that Management must deal with in the response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarification.

19. After receiving the Management Response, the Panel will, as outlined in the 1999 Clarification 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.”⁶ This Request has been assigned IPN Request Number RQ 18/08.

Yours sincerely,



Imrana Jalal
Chair

Attachments

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

⁵ Resolution Establishing the Panel (September 22, 1993), Resolution No. IDA 93-6, <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/Resolution1993.pdf>

⁶ Ibid.