

Ramanie Kunanayagam
Chairperson
The Inspection Panel

IPN REQUEST 22/02

April 13, 2022

**MEMORANDUM TO THE EXECUTIVE DIRECTORS
INTERNATIONAL DEVELOPMENT ASSOCIATION**

Request for Inspection

**Kenya: Transport Sector Support Project (P124109) and its Additional Financing
(P146630) - (Second Request)**

Notice of Non-Registration

Summary

1. In accordance with paragraph 18 of the Resolution¹ of the Inspection Panel (the “Panel”), I hereby inform you that on March 3, 2022, the Panel received a Request for Inspection (the “Request”) of the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630) (the “Project”). This is the second request concerning the Project. The Request acknowledges the Panel’s previous reports.²

2. The Request was submitted by Emony Yefwe International, a local nongovernmental organization. Thirteen community members from the area of the Webuye interchange signed the Request (the “Requesters”). The community members live in the area of the Webuye interchange in the Project area. The Requesters have not asked the Panel to keep their identities confidential. However, consistent with its practice, the Panel redacted the names of the community members signing the Request and their phone numbers.

The Project

3. The Transport Sector Support Project was approved on April 21, 2011, in an amount of US\$300 million equivalent. The Additional Financing was approved on March 26, 2014, in an amount of US\$203.50 million equivalent, and became effective on June 20, 2014.

4. The Project has four components: (i) Support to Kenya National Highways Authority (KeNHA) to improve roads, roadside facilities and road safety and for institutional strengthening;

¹ The World Bank Inspection Panel, International Development Association, Resolution No. IDA 2020-0003, September 8, 2020 (the “Resolution”).

² These reports are available at: <https://www.inspectionpanel.org/panel-cases/transport-sector-support-project-p124109-and-its-additional-financing-p146630>.

(ii) Institutional strengthening and capacity building in the transport sector; (iii) Support to Kenya Airports Authority; and (iv) Support to Kenya Civil Aviation Authority. The Requesters' concerns relate to the first component.³ The first component covers the rehabilitation and improvement of several road sections in Kenya, including the Kisumu-Kakamega-Webuye-Kitale road section, which includes the Webuye interchange.

5. The environmental category of the Project is "B".⁴ The Project closed on December 31, 2019.

Background

6. On December 17, 2018, the Panel received a first Request for Inspection raising concerns about potential harm from the construction of the Webuye interchange financed under the Project. The first Request raises concerns about, among others, livelihood impact to a group of mobile traders who were active in the area. These mobile traders were not identified in the original Resettlement Action Plan (RAP).

7. The Panel registered the Request on January 17, 2019. The Panel determined in its initial eligibility report that the first Request and Requesters met the technical eligibility criteria set forth in the Resolution. Following the Panel's first eligibility report, Management identified in a RAP Audit that 52 mobile traders were not counted by the time of the cutoff date or compensated during the RAP implementation. On April 26, 2020, Management updated the Panel that the Bungoma County Government had identified a suitable parcel of land close to the Webuye interchange which would be used as a marketplace to house the mobile traders, and that the Bungoma Country Government had fully paid for and finalized the land title deed on March 4, 2020. A marketplace was to be built on this parcel of land and stalls and kiosks would be assigned to mobile traders. Based on the commitments made to address the Requesters concerns, including the acquisition of land in close proximity to the Webuye interchange to build a market for the mobile traders, the Panel did not recommend an investigation.

The Request

8. The Panel received the Request on March 3, 2022, from Emony Yefwe International, a local nongovernmental organization. Thirteen community members from the area of the Webuye interchange signed the Request.

9. The Requesters state that Bungoma County Government fully paid for a plot of land to be used for the construction of a marketplace where the businesses of 52 mobile traders will be relocated. They add the Bungoma County Government finalized the land title deed on March 4, 2020, and works were expected to start on July 1, 2020. They state that to date the works have not started. They ask for the "*construction to begin immediately*", threats against them be stopped, and

³ World Bank, Management Response to Request for Inspection Panel Review of the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630), dated February 19, 2019 (the "Management Response"), pp. 2-3, para. 8.

⁴ World Bank, Kenya Transport Sector Support Project (P124109), Report No: 60005-KE, Project Appraisal Document, March 29, 2011 (the "PAD"), p. i and p. 66, para. 53.

that the World Bank convenes a meeting between mobile traders and the Bungoma County Government.

Panel's Observations and Determination

10. In accordance with its Operating Procedures,⁵ the Panel issued a Notice of Receipt on its website on April 1, 2022. The Panel conducted its due diligence by reviewing the information contained in the Request and Project documents, as well as by speaking to the Requesters on April 4, 2022, to better understand their concerns.

11. Pursuant to the issuance of the Notice of Receipt, on April 4, 2022, Management informed the Panel that the construction of the market is still being pursued as per Management's most recent update on the Management actions.⁶ Management reiterated that land was secured for the construction of the market in March 2020. According to Management, due to the COVID-19 pandemic, construction of the market could not start and the activity was delayed. Management added that the COVID-19 pandemic caused a shifting of budgetary priorities to address the pandemic, and as a result the Kenya National Highways Authority (KeNHA) was not able to obtain the appropriate budget allocation for the market. This process has now re-started with bidding expected to commence soon. According to Management, KeNHA and County of Bungoma officials have decided on the design for the market and initiated stakeholder consultations.

12. In light of the foregoing, and in accordance with the Panel Resolution and its Operating Procedures, given the Project closed on December 31, 2019, the Panel is not registering the Request for Inspection.

Yours Sincerely,



Ramanie Kunanayagam, Chairperson

Attachments

Mr. David Malpass, President
International Development Association

The Executive Directors and Alternates
International Development Association

Emony Yefwe International

⁵ Inspection Panel Operating Procedures, April 2014.

⁶ Management's update is available at:

<https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/130-Second%20Update%20on%20Management%20Actions-24%20April%202020.pdf>.

Request for Inspection (Redacted)



EMONYO YEFWE INTERNATIONAL

“Putting Climate Change on the Agenda of Policy Makers & Business”
P.O. Box 1127 - 50205 Webuye Kenya Email: emonyoyefwe@gmail.com

22/2/2022

REF: ABANDONED MOBILE TRADERS AT THE WEBUYE INTERCHANGE.

KENYA- TRANSPORT SECTOR SUPPORT PROJECT(PI24109) AND ITS ADDITIONAL FINANCING (PI46630).

TO BOARD OF GOVERNORS OF THE WORLD BANK.
TO INSPECTION PANEL
TO COUNTRY DIRECTOR.

Whereas, the third and final eligibility report on the Kenya Transport Sector Support Project and its Additional Financing, the Inspection Panel did not recommend an investigation.

The Panel did note the willingness of Management and the Borrower to address concerns raised by the community. Concerning livelihood impact, including the identification of mobile traders and small business owners who were not appropriately compensated for the temporary impact they suffered during construction.

That, the relocation of the 52 mobile traders from the Webuye interchange area, would follow after the Bungoma County Government acquires a parcel of land close to the Webuye interchange where a market would be built and stalls and kiosks assigned to mobile traders to ply their trade.

That, Management stated that the Bungoma County Government had identified a suitable plot, which it has fully paid for, and had finalized the land title deed on March 4, 2020.

That, work on the design of the market was delayed and was expected to commence on July 1, 2020.

That, it was to take approximately one month.

That, the allocation of stalls would be completed within four months of the construction being finished.

That in August 2021, **Emonyoyefwe International** and the **Dinah business community** Petitioned The Governor Bungoma county on the supposed roadside facility as being needed now more than ever as one of the measures in response to controlling the corona virus pandemic.

That upto date, there has never been a response from the governor.

That Police have denied us the right to demonstrate by refusing to give a permit.

That, these failures constituted human rights violations and further undermines, the Project's objective to increase efficiency of road transport along the Northern Corridor.

That, the delay to construct the market goes against the spirit of the pledge to 'leave no one behind', relates closely to three important dimensions of the 2030 Agenda: poverty, inclusiveness and inequality.

That, the facility was to build the resilience of the poor and vulnerable; access to employment; and expanding infrastructure with a focus on affordable and equitable access for all.

Therefore, as mobile traders ;-

We demand for the market construction to begin immediately.

We demand that KenHA stops threatening traders with eviction until the market construction is completed and traders relocated.

We demand the World Bank to convene a meeting between mobile traders and the Governor Bungoma county.



EMONYO YEFWE INTERNATIONAL

“Putting Climate Change on the Agenda of Policy Makers & Business”

P.O. Box 1127 - 50205 Webuye Kenya Email: emonyoyefwe@gmail.com

We request for a clear timeline for the construction to start and if the said Kshs.50million for the proposed market is intact and we be involved in the design and planning.

We demand that the county government acts transparently, by showing the land it acquired within Dinah area.

	NAME	ID/NO	SIGNATURE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			





EMONYO YEFWE INTERNATIONAL

"Putting Climate Change on the Agenda of Policy Makers & Business"
P.O. Box 1127 - 50205 Webuye Kenya Email: emonyoyefwe@gmail.com

THE GOVERNOR,

31/08/2021

BUNGOMA COUNTY GOVERNMENT

PO BOX 1886-50200

BUNGOMA.



REF: MARKET CONSTRUCTION FOR MOBILE TRADERS AT DINAH- FLYOVER.

Dear sir,

Regarding the market construction for mobile traders at Dinah flyover, after completion of the Webuye Kitale road.

Emonyoyefwe International and the **Dinah business community** is of the opinion that the supposed roadside facility is needed now more than ever as one of the measures in response to controlling the corona virus pandemic.

Whereas, the project management informed the affected community to an understanding, that a market shall be built at a cost of Kshs.50million.

That, the market construction was to transition and relocation of the mobile traders at the Webuye interchange area, as Bungoma County Government had identified a suitable plot close to the Webuye Interchange for the development of appropriate market stalls (closed + open shops).

Therefore, it is our considered opinion that, one year has elapsed, and the facility is not in place.

However, since the completion for allocation of stalls to beneficiaries, was to be done within four months after closure of the project we felt it necessary to draw your attention on the matter.

That, The Bungoma County Government informed the project management to have fully paid for the land and processing of the land title deed finalized on March 4, 2020, next to the Interchange.

That, design of the market had been expected to commence on March 16, 2020 and would take approximately one month to complete.

That, KeNHA was to provide funds and work with the County Government to design, construct and provide an entrance to the market.

That, Allocation of stalls to be made within four months of completing construction of the market.

That, Emonyoyefwe International as Requesters for World Bank Inspection Panel to investigate the project felt that the RAP audit did not identify all the affected mobile traders and small business



owners and was too narrowly focused to cover the livelihood impact on mobile traders and a few business owners.

That, these failures constituted human rights violations and did not help achieve the Project's objective to increase efficiency of road transport along the Northern Corridor.

That, the delay to construct the market goes against the spirit of the pledge to 'leave no one behind', relates closely to three important dimensions of the 2030 Agenda: poverty, inclusiveness and inequality.

That, the facility was to build the resilience of the poor and vulnerable; access to employment; and expanding infrastructure with a focus on affordable and equitable access for all.

Thus, we the undersigned wishes to make our request, praying for positive considerations, hoping that the response is received at the earliest.

1. [Redacted]
2. [Redacted]
3. [Redacted]
4. [Redacted]
5. [Redacted]
6. [Redacted]
7. [Redacted]
8. [Redacted]
9. [Redacted]
10. [Redacted]





EMONYO YEFWE INTERNATIONAL

“Putting Climate Change on the Agenda of Policy Makers & Business”
P.O. Box 1127 - 50205 Webuye Kenya Email: emonyoyefwe@gmail.com

THE GOVERNOR,

04/10/2021

BUNGOMA COUNTY GOVERNMENT

PO BOX 1886-50200

BUNGOMA.

REF: MARKET CONSTRUCTION FOR MOBILE TRADERS AT DINAH- FLYOVER.

YOUR EXCELLENCY sir,

This is a reminder to draw your attention to the letter dated 31/08 / 2021, which was delivered to your office on 13/ 09/2021.

The reminder is seeking your wise guidance and action on addressing the concerns in the petition, to alley the fears and anxiety of the mobile traders at the said venue.

The letter is here attached for easy of reference.

Yours faithfully.

1.

2.





EMONYO YEFWE INTERNATIONAL

“Putting Climate Change on the Agenda of Policy Makers & Business”
P.O. Box 1127 - 50205 Webuye Kenya Email: emonyoyefwe@gmail.com

THE OCS MATISI ,

17/11/2021

POLICE STATION

BUNGOMA.

REF: REUEST FOR PERMIT TO HOLD PEACEFUL DEMOSTRATION.

Dear sir,

The business community at Dinah intends to hold a peaceful demonstration as regards, delayed market construction for mobile traders at Dinah Interchange, after completion of the Webuye Kitale road .

The decision to demonstrate comes after spirited efforts to engage the concerned authorities failed to bore any fruits.

Emony Yefwe International and the **Dinah business community** is of the opinion that the supposed roadside facility is needed now more than ever as one of the measures in response to controlling the corona virus pandemic.

Therefore, we are appealing for your office to give us a permit as well as provide us with adequate security on the material day.

The details of the concerns and efforts taken in view of addressing the issues peacefully are hereby attached.

We intend to hold the demonstration on 23/11/2021

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]



- C.C
- District County Commissioner
 - OCPP Matulo

THE KENYA POLICE SERVICE

Email: ocpdwebuyew@gmail.com



WEBUYE WEST POLICE
SUB-COUNTY
P.O. BOX 70
WEBUYE

SEC.POL.6/11/VOL.I/67

29TH NOVEMBER, 2021.

THE EMONYO YEFWE INTERNATIONAL

P.O. BOX 1127-50205

WEBUYE

REF: REQUEST FOR PERMIT TO HOLD PEACEFUL DEMONSTRATION

Reference is made to your letter dated 22/11/2021 on the above subject matter.

After perusal of the letter and wide consultation for the purpose of conducting of holding peaceful demonstration, I object your request based on the following points:-

- 1.) Covid-19 pandemic is still enforced and people should discouraged on any public gathering.
- 2.) Security threat against terrorism whereby they kill people en-mass and may take advantage of such gathering.
- 3.) Traffic flow – Dina is situated in a very busy Webuye - Malaba road and if allowed it will cause a major traffic obstruction.
- 4.) If permit granted the peaceful demonstration may turned violent and cause of destruction of properties and loss of life.

Therefore, I advise that you channel your grievances to the appropriate offices. e.g County Government and your local leaders within your areas. Demonstration is not a solution.

The request is highly regretted.



(JOSEPH CHESIRE)
SUB-COUNTY POLICE COMMANDER
WEBUYE WEST

KENYA POLICE SERVICE

TELEGRAMS: "police"



COUNTY POLICE H/QUARTERS,
P.O. BOX 81,
BUNGOMA

Email: bungomacountycommander@gmail.com

C/GEN/6/11/VOL. I/73

7th December, 2021

EMONYO YEFWE INTERNATIONAL
P.O. BOX 1127
WEBUYE

RE: REQUEST FOR PERMIT TO HOLD PEACEFUL DEMONSTRATION

Your unreferenced letter dated 7th December, 2021 on the above subject matter refers.

After perusal of your letter, you are kindly advised that permits are issued through the OCS.

You are therefore advised to make your request through the OCS Matisi.

A handwritten signature in black ink, appearing to be 'DR. MUSYOKI MUTUNGI'.

DR. MUSYOKI MUTUNGI, PhD, MBS
COUNTY POLICE COMMANDER
BUNGOMA