

IPN REQUEST RQ 16/06

October 18, 2016

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

Request for Inspection

**BANGLADESH: Trade and Transport Studies RETF Project (P148881);
Proposed Regional Connectivity Project 1 (P154580)**

Notice of Non-Registration

Summary

1. In accordance with paragraph 17 of the Resolution¹ establishing the Inspection Panel (the “Panel”), I hereby inform you that on August 31, 2016, the Panel received a Request for Inspection (the “Request”) of the Bangladesh Trade and Transport Studies RETF Project (the “Project”), funded under the International Development Association (IDA)-administered Partnership for South Asia Regional Integration Programmatic Trust Fund (SARIP). The Project includes a feasibility study of route options connecting Thegamukh and Chittagong Port and detailed feasibility and design studies for the selected preferred route.

2. The Request² was submitted by members of indigenous communities in the Chittagong Hill Tracts (CHT) area of Bangladesh who claim to represent four indigenous communities living in the Rangamati district (the “Requesters”).³ The Requesters asked the Panel to keep their identities confidential. The Request alleges the absence of meaningful engagement with indigenous peoples and raises concerns over land issues, forests, the environment and cultural sites. The Request also refers to impacts on traders and demographic changes.

3. The Panel conducted extensive due diligence in line with its updated Operating Procedures⁴, and learned that the Bank did not accept the feasibility study of route options as it was not satisfied with the standard of consultations and the quality of the draft study. The Panel

¹ The World Bank Inspection Panel, International Development Association, Resolution No. IDA 93-6 (referred to as the “Resolution”).

² The Request is attached to this Notice as Annex 1.

³ The Chittagong Hill Tracts is an area in southeastern Bangladesh, bordering India and Myanmar, and is divided into three districts: Khagrachari District, Rangamati Hill District, and Bandarban District.

⁴ Available at:

<http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>

received a memorandum⁵ from Management assuring the Panel that the Bank would not proceed with any activities to connect Thegamukh and Chittagong Port. Since the relevant Project component did not cause a material adverse effect and there is no longer a potential for harm to materialize given the Bank's decision not to move forward with any activities with regard to connecting Thegamukh and Chittagong Port, the Panel has decided not to register this Request.

The Project

4. The Project (P148881) was approved for an amount of US\$4,999,000 (as a recipient executed trust fund, TF016418) on February 9, 2014 and closed on August 31, 2016. The trust fund was 34.85 percent disbursed at the time of receipt of the Request. It is a Category A Project that triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Forests (OP/BP 4.36); Pest Management (OP/BP 4.09); Physical Cultural Resources (OP/BP 4.11); Indigenous Peoples (OP/BP 4.10); Involuntary Resettlement (OP/BP 4.12); and Projects on International Waterways (OP/BP 7.50).

5. The Project development objective is to “[s]upport analysis of institutional and management constraints related to trade and transport facilitation and to finance technical assistance and studies for potential investments to facilitate national and regional trade and transport for Government and Development Partner support.” The Project funds several studies, including a feasibility study of route options to connect Thegamukh and Chittagong Port, containing environmental and social screening and alternatives analysis, followed by detailed designs of the selected option. The Project also includes environmental and social safeguards studies related to the studies to connect Thegamukh and Chittagong Port.

6. Another project, the Bangladesh Regional Connectivity Project 1 (P154580), currently under preparation, has the objective “to decrease border crossing time at selected border crossing points and to enhance connectivity for trade along strategic regional transport corridors.” According to the concept stage Project Information Document (PID), component 2 includes detailed feasibility and design studies for linked roads to Thegamukh land port. The PID also states that it is expected that a follow-on World Bank regional IDA investment project would finance the prioritized road links to land ports once the studies are completed.⁶

The Request

7. The Request explains that the Chittagong Hill Tracts is recognized by law as a “tribal inhabited region” including 11 indigenous peoples that have lived there since time “immemorial.” According to the Requesters, the Project area includes several settlements of indigenous communities along with their privately titled lands and customarily owned and used lands. A few non-indigenous people who were resettled to the area by the government in the 1980s would also be affected by the Project. The Request states that the Bank's Policy OP/BP 4.10 on Indigenous Peoples has been triggered but not properly respected.

8. The Requesters raise concerns over the absence of meaningful engagement with Indigenous Peoples. They explain that the Local Government Engineering Department claims

⁵ The memorandum is attached to this Notice as Annex 2.

⁶ PID Concept Stage, page 5.

it conducted around 100 consultations in the course of preparing the feasibility study, but indigenous leaders were unaware of these. According to the Requesters, one consultation with indigenous leaders took place in order to receive feedback on the draft feasibility study. The Requesters allege that no information was provided to the participants prior to the meeting and the draft feasibility study was not public, thus hindering interested participants from providing constructive feedback.

9. The Request also alleges that important land issues remain unaddressed; the proposed routes include settlements of people who were displaced by armed conflict and a hydropower project and who remain un-rehabilitated. With regards to impacts on the environment, forests and cultural sites, the Requesters explain that areas along the proposed routes include crucial watersheds and fragile eco-zones, and wildlife species under threat of extinction, as well as burial and cremation grounds and places of ancestor worship.

10. The Requesters also explain that the majority of traders in the CHT currently are indigenous peoples, but there is concern that outsiders will take over trading once the border point is formally opened. According to the Requesters, substantial in-migration will make indigenous peoples a minority and the Project would further accelerate these demographic changes.

11. In a June 2016 letter to Bank Management endorsed by 16 local civil society organizations (CSOs) and 25 individuals, the Requesters explain that two options under the Project appear to have been shortlisted: a 124-kilometer (km) land route (“Land Route”) and a part waterway (63 km) and part roadway (8 km) route (“Multimodal Route”). In the same letter, the Requesters recommend that studies and consultations should only be continued for the Multimodal Route. On September 23, 2016, the Requesters shared with the Panel a position paper on the Project prepared by several CSOs that explains the community’s concerns in greater detail and includes recommendations for different stakeholders, including the World Bank.

Panel’s Observations and Determination

12. In accordance with its Operating Procedures, after receipt of the Request the Panel issued a Notice of Receipt on its website.⁷ The Panel conducted its due diligence by reviewing the information contained in the Request and Project documents. To better understand the Project and the issues raised in the Request, the Panel conducted a phone call with the Requesters on September 16, 2016.

13. On September 29, 2016, the Panel met with Management and learned that the Bank had not been satisfied with the standard of consultations and has raised this issue with the government and implementing agency at different occasions over the past year. Management explained to the Panel that accessibility has been a challenge during the consultation process. Management also informed the Panel that the Project team has provided detailed comments on the draft study at different stages of the process, but at Project closing, the Bank was not satisfied with its quality and decided not to finance further studies to connect Thegamukh and Chittagong Port. Management, in an email dated October 13, 2016, also confirmed that given

⁷ <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=114>

that the first phase of the feasibility study was not completed and the Project has closed, activities relating to the Chittagong Port and Thegamukh connectivity were dropped from the proposed Bangladesh Regional Connectivity Project 1 (P154580), which will be reflected in the forthcoming appraisal stage PID.

14. On October 9, 2016, Management sent a letter to the government highlighting several shortcomings, particularly with regards to the consultation process, which did not meet the standard of Free Prior and Informed Consultations, and explaining that the Bank would not proceed with the study. The Panel received a copy of this letter. Upon the Panel's request, Management, on October 13, 2016, sent a memorandum to the Panel explaining that the World Bank has informed the government that it could not accept the study. The Bank also requested that the study be marked as an incomplete draft and not be published. The memorandum also explains that the Bank has conveyed that it neither endorses the draft study nor its conclusions. The Borrower is also not authorized to refer to the World Bank in connection with the study. The memorandum reaffirms that the Bank has no intention at this point to move forward with any activities relating to the Thegamukh-Chittagong Connectivity.

15. The Panel notes that the relevant Project component did not cause a material adverse effect and there is no longer a potential for harm to materialize given the Bank's decision not to move forward with any activities with regard to connecting Thegamukh and Chittagong Port. In light of the foregoing and in accordance with the Panel Resolution, its Clarifications, and its Operating Procedures, the Panel is not registering the Request for Inspection. The Panel notes that, if the Bank re-engages in the activities mentioned in the Request in the future or new evidence becomes available, the Panel would be in a position to reassess the existence of a plausible link between a Bank-supported project and the alleged harm. Hence, in such a case, the Requesters retain their right to re-submit a Request for Inspection concerning the issues raised.

Yours sincerely,



Gonzalo Castro de la Mata
Chairman

Attachments

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

Members of indigenous communities in the Chittagong Hill Tracts (CHT) area of Bangladesh
(Requesters confidential)

ANNEX I

To
The Executive Secretary
The Inspection Panel
1818 H Street NW, MSN 10-1007, Washington DC 20433, USA
Email: ipanel@worldbank.org

(1) We, the undersigned, belong to indigenous communities of Chittagong Hill Tracts (CHT) Bangladesh. We represent indigenous communities, namely Chakma, Marma, Tanchangya and Lushai living in different upazilas (sub-district) of Rangamati district, Bangladesh.

(2) We represent the communities that are likely to suffer, harm as a result of the World Bank's failures or omissions in the Bangladesh Trade and Transport Studies RETF Project (P148881). The project is part of the larger project named "Bangladesh Trade and Transport Facilitation Studies RETF project" (Project ID: P1488810; hereafter "RETF Bangladesh project"). The RETF Bangladesh project is in turn part of the larger region-based programme called the Bank-Executed South Asia Eastern Corridor Programmatic Trade and Transport Facilitation TA (P147957), which is a major component of WB-GOB agreements that facilitate Non Lending Technical Assistance Programmes (NLTA) to Bangladesh.

The RETF-Bangladesh project includes studies on (a) Dredging of Inland Waterways (including in the CHT); (b) Improvement of Sea Ports (including construction of the proposed new Karnafuli Container Terminal (KCT) at Chittagong port); (c) Establishment/Development of Land Customs Stations (LCS) (including at Thegamukh); and (d) Support to a Project Management Unit (PMU) and (e) Construction of roadway from Chittagong Port to Teghmukh.

The project concerned is the Chittagong-Thegamukh Connectivity Project (hereafter "project") in the central and north-central part of the Chittagong Hill Tracts (CHT) region of Bangladesh (hereafter "project area"). The main purpose of the project is for the World Bank to support the Government of Bangladesh (GOB) to connect the remote Thegamukh area in east-central CHT, currently inaccessible by road, and bordering Mizoram State of India, with its main port city, Chittagong, through Rangamati town and sub-district centres within the Rangamati district of the CHT.

(3) The project area, along with its vicinity, includes several settlements of indigenous communities along with their privately titled lands, and customarily owned and used lands (forests, swidden lands, grasslands, grazing lands and water bodies). A few non-indigenous communities (largely Bengali people re-settled by the government in the 1980s) will also be affected on the route between Barkal to Chhoto Harina.¹

The route passes through two major legal categories of lands, namely, (a) reserved forests: (RFs), administered by the Bangladesh Forest Department (BFD); and (b) Circle-Mauza Lands: administered by traditional Mauza Headmen and Village Karbaries, supervised by a layer of authorities, traditional (Karbaries, Headmen &

¹For the Bengali resettlement programme in the CHT, see: Roy (1998:64-66, 71-90); Roy 2000: 107-121) and Adnan (2004: 47-67).

Circle Chiefs); bureaucratic (UNOs and DCs), elective (Hill District Councils & CHT Regional Council) and ministerial (line ministries, particularly MOCHTA).

The CHT is recognized by law as a 'tribal inhabited region', including eleven indigenous peoples that have lived here since time immemorial. They have their distinct ethnic identities, culture, traditions, customs and heritage.

That is why World Bank's current Operational Policy (OP/BP) 4.10 has been triggered, requiring, among others, recognition of customary land rights, benefit sharing, and the application of the principle of 'free, prior, informed consultation' at every relevant stage of the project.

However, the above stated operational policy and principle of the Bank for indigenous peoples are not properly respected in this regard.

Absence of meaningful engagement with indigenous peoples

It has been reported that the Local Government and Engineering Department (LGED), in partnership with private consultant firms, has been commissioned by the World Bank to carry out feasibility studies (Technical Studies). These studies must be conducted in compliance with the Bank's OP/BP 4.10 and other applicable policies.

The LGED has reported that it has conducted 21 consultations, in the first phase, and 80 consultations in the second phase, in local languages, to seek feedback on the likely impact of the intervention upon the concerned communities.

However, when we discussed this matter with indigenous leaders in the project area, from village to regional levels, without fail, **all showed complete ignorance about the aforesaid consultations.**

These leaders include chairpersons and members of the concerned local government bodies (Union Councils and the Upazila or Sub-District Councils), and the tradition institutions of Circle Chief, Headman and Karbari. Even the Chittagong Hill Tracts Regional Council (CHTRC), the apex administrative body in the CHT and the Member of Parliament from Rangamati are uninformed.

This clearly suggests that either these consultation meetings, or a substantial number of them, never took place, or they concerned discussions at very superficial levels, and perhaps in secret, as information about them appears to have been suppressed or otherwise not made known to the public.

This lack of consultation with indigenous leaders was conveyed to World Bank project, safeguards, and operations staff in a meeting held at World Bank Headquarters in Washington DC with indigenous representatives from CHT on 16 May, 2016 as well as subsequent communications [see attached correspondence], yet has not been resolved.

This is a clear contravention of the requirement for 'free, prior and informed consultation', which necessarily includes the provision of sufficient information of the

likely impact of the intervention and consultations with the legitimate representatives of the concerned communities, which should include both the traditional and elected leaders and other CHT-specific institutions, at community, circle, district and regional levels.

Land issues

Land related issues, including the resolution of land disputes, the transfer of authority to the Hill District Councils and the rehabilitation of former international refugees and internally displaced persons from among the indigenous population are among the core problems of the CHT peoples, which were addressed by the CHT Accord of 1997 and/or subsequent legislation.

Unfortunately, most of the aforesaid issues remain totally or largely unaddressed until today. The proposed routes – particularly the Land Route – includes numerous settlements of families that were displaced during the previous armed conflict (1970s-1990s) and who remain un-rehabilitated. Moreover, the area also includes several communities who were affected earlier by the Kaptai Hydro Electric Project (1960s), including both rehabilitated and un-rehabilitated people.

Forest, Environment & Cultural Sites

The areas along the proposed routes, particularly the all-land route, includes several crucial watersheds and fragile eco zones, including state reserved forests, community managed mauza reserves (village common forests or “VCFs”) and other customarily managed community forests of varied growth and vulnerability. Several species of wildlife, including those under threat of extinction, have their habitats in the region. In addition, the area includes a number of sites that are of high cultural value to the communities, including burial grounds, cremation grounds and places of ancestor worship.

Method of receiving feedback on feasibility study

Meaningful and adequate consultations were not ensured with the indigenous peoples’ communities as mandated in the World Bank’s relevant policies. We are aware of only one consultation, held on 16 May 2016 in Rangamati, wherein some representatives from indigenous peoples were invited along with other stakeholders. However, the organizers did not provide any relevant user-friendly documents or other relevant information prior to the consultation.

The draft feasibility study report was not public. As a result, people with interest and expertise in this regard were unable to provide any constructive feedback to the organizers of the consultation or to their peers.

Ethnic & Cultural Dimensions

Though it was mentioned in the *Informal Cross Border Trade Practice* study that the majority traders were from the Chakma and Pangkhua peoples, we are extremely concerned that this feature will not hold true for long, as people from outside the CHT, including large or medium corporate bodies, will no doubt take over the trading after the border point is formally opened.

The alarming rate at which the in-migration of outsiders has taken place over the last several decades (reducing the indigenous percentage of the region's population from over 91% in 1951 to around 53% in 2011) suggests that the indigenous people will become an insignificant minority in the very near future. The proposed connectivity project will no doubt accelerate demographic changes at a pace hitherto unknown.

We wish to reiterate that the concerned feasibility study process has been in clear violation of the indigenous peoples' rights and norms under regional, national and international law, and also not in conformity with the process required under the relevant safeguard policies of the World Bank, including OP/BP 4.10.

The study project included the following, among others, departures from expected steps and measures:

- (i) failure to engage in a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities and their representative institutions, including both elective and traditional institutions, to fully identify their views and to ascertain their broad community support for the project.
- (ii) systemic failure to prepare indigenous peoples-appropriate planning documents;
- (iii) widespread failure to appropriately disclose planning documents to impacted indigenous peoples;
- (iv) failure to assess and address within the study issues required by the Indigenous Peoples Policy, such as land and resource rights, benefit sharing, sacred sites and cultural impacts, where these are clearly relevant;
- (v) failure to establish local or national level complaints mechanisms or adequately respond to complaints that were raised; and
- (vi) failure to establish meaningful engagement with civil society organizations in the project area.

(4) There are several Safeguard Policies of the World Bank that are considered to have been "triggered" in the case of the Thegamukh project. These include: (a) Environmental Assessment (OP/BP 4.01), (b) Natural Habitats (OP/BP 4.04), (c) Forests (OP/BP 4.36), (d) Pest Management (OP 4.09), (e) Physical Cultural resources (OP/BP 4.11), (f) Indigenous Peoples (OP/BP 4.10), (g) Involuntary Resettlement (OP/BP 4.12) and (h) Projects on International Waterways (OP/BP 7.60).² The following discussion focuses upon some of most significant implications in relation to the aforesaid safeguard policies.

(5) We have raised our concern to World Bank staffs on May 16, 2016 at World Bank Head Office in Washington DC. Further, on behalf of the CHT Civil Society Organization (CSOs), we have submitted a concern letter to the World Bank on 26 June 2016. Following that letter, the WB sent a reply to us on July 25, 2016. The letter mentioned – "We take your concerns seriously and have referred them to LGED. Our letter to LGED is attached herewith for your reference. We have requested LGED to contact you within the next 15 working days and to address your concerns related to inadequate consultations with indigenous communities, and environmental and social sensitivities."

²World Bank, 2014a and World Bank, 2014b: Ch. IV, paras 11-15.

Unfortunately, we did not hear anything directly from the LGED till today but its appointed consultancy firm did conduct two additional local consultations on 8 and 9 August. Nonetheless, those local consultations were solely inadequate to resolve concerns of the indigenous communities related to the project. On the other hand, for obtaining relevant documents on this project,

had sent a request letter to LGED on July 27, 2016. However, there was no response from LGED at all.

(6) We request the Inspection Panel recommend to the World Bank's Executive Directors that an investigation of these matters be carried out.

Yours truly,



Signed on behalf of myself and the following



List of attachments

1. Formal correspondence with the World Bank
2. Response from the World Bank
3. CHT CSOs concern letter to World Bank
4. Letter of authorization from other complainants (a complete letter will be sent later)
5. Letter to Inspection Panel

We do not authorise you to disclose our identities

To Whom It May Concern

We, the under signed, on behalf of likely to be affected community of World Bank's project: Bangladesh Trade and Transport Studies RETF Project (P148881) like to give our authorization to [REDACTED] to send a complain to World Bank Inspection Panel.

4 signatures redated by the Panel

To Whom It May Concern

We, the under signed, on behalf of likely to be affected community of World Bank's project: Bangladesh Trade and Transport Studies RETF Project (P148881) like to give our authorization to [REDACTED] to send a complain to World Bank Inspection Panel.

6 signatures redacted by the Panel

CONCERNS ON BANGLADESH REGIONAL CONNECTIVITY PROJECT (Chittagong Hill Tracts)

We, the undersigned, on behalf of inhabitants of Chittagong Hill Tracts (CHT) hereby put forward our most serious concerns on the proposed funding by the World Bank of the Thegamukh-Chittagong Port Connectivity project in Bangladesh.

Based on information available to us, we understand that of the various options available, two have been shortlisted: (a) Rajasthali-Bilaichhari-Jurochhari-Barkal-Thegamukh (123.54 km), a totally land route ("Land Route"); and (b) a part waterway (Rangamati-Chhotoharina; 63 km) and part roadway (Chhotoharina-Thegamukh; 7.98 km) route ("Multimodal Route").

The CHT is recognized by law as a 'tribal inhabited region', including eleven indigenous peoples that have lived here since time immemorial. They have their distinct ethnic identities, culture, traditions, customs and heritage.

That is why World Bank's current Operational Policy (OP/BP) 4.10 has been triggered, requiring, among others, recognition of customary land rights, benefit sharing, and the application of the principle of 'free, prior, informed consultation' at every relevant stage of the project.

In addition, the Safeguard Policies on Natural Habitats (OP/BP 4.04), Physical Cultural Resources (OP/BP 4.11), Forests (OP/BP 4.36) and Involuntary Resettlement (OP/BP 4.12), have also been triggered.

On account of anticipated adverse social and environmental impacts, the proposed project has been categorized as a "Category A" matter.

For indigenous peoples' communities, the core poverty alleviation objective of the Bank will not be achievable as long as the Bank's projects, designed to benefit dominant populations, bring about further impoverishment of our communities in economic terms and marginalization in social and cultural terms, along with the degradation of the environment.

These issues on human rights, social equity and ecological considerations have been affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and reiterated in the Outcome Document of the UN General Assembly's World Conference on Indigenous Peoples.

Absence of meaningful engagement with indigenous peoples

It has been reported that the Local Government and Engineering Department (LGED), in partnership with private consultant firms, has been commissioned by the World Bank to carry out feasibility studies (Technical Studies). These studies must be conducted in compliance with the Bank's OP/BP 4.10 and other applicable policies.

The LGED has reported that it has conducted 21 consultations, in the first phase, and 80 consultations in the second phase, in local languages, to seek feedback on the likely impact of the intervention upon the concerned communities.

This matter was discussed with indigenous leaders in the project area, from village to regional levels, and without fail, **all showed complete ignorance about the aforesaid consultations.**

These leaders include chairpersons and members of the concerned local government bodies (Union Councils and the Upazila or Sub-District Councils), and the tradition institutions of Circle Chief, Headman and Karbari. Even the Chittagong Hill Tracts Regional Council (CHTRC), the apex administrative body in the CHT and the Member of Parliament from Rangamati are uninformed.

This clearly suggests that either these consultation meetings, or a substantial number of them, never took place, or they concerned discussions at very superficial levels, and perhaps in secret, as information about them appears to have been suppressed or otherwise not made known to the public.

This lack of consultation with indigenous leaders was conveyed to World Bank project, safeguards, and operations staff in a meeting held at World Bank Headquarters in Washington DC with indigenous representatives from CHT on 16 May, 2016, yet has not been resolved.

This is a clear contravention of the requirement for 'free, prior and informed consultation', which necessarily includes the provision of sufficient information of the likely impact of the intervention and consultations with the legitimate representatives of the concerned communities, which should include both the traditional and elected leaders and other CHT-specific institutions, at community, circle, district and regional levels.

Land issues

Land related issues, including the resolution of land disputes, the transfer of authority to the Hill District Councils and the rehabilitation of former international refugees and internally displaced persons from among the indigenous population are among the core problems of the CHT peoples, which were addressed by the CHT Accord of 1997 and/or subsequent legislation.

Unfortunately, most of the aforesaid issues remain totally or largely unaddressed until today. The proposed routes – particularly the Land Route – includes numerous settlements of families that were displaced during the previous armed conflict (1970s-1990s) and who remain un-rehabilitated. Moreover, the area also includes several communities who were affected earlier by the Kaptai Hydro Electric Project (1960s), including both rehabilitated and un-rehabilitated people.

Forest, Environment & Cultural Sites

The areas along the proposed routes, particularly the all-land route, includes several crucial watersheds and fragile eco zones, including state reserved forests, community managed mauza reserves (village common forests or “VCFs”) and other customarily managed community forests of varied growth and vulnerability. Several species of wildlife, including those under threat of extinction, have their habitats in the region. In addition, the area includes a number of sites that are of high cultural value to the communities, including burial grounds, cremation grounds and places of ancestor worship.

Method of receiving feedback on feasibility study

Meaningful and adequate consultations were not ensured with the indigenous peoples’ communities as mandated in the World Bank’s relevant policies. We are aware of only one consultation, held on 16 May 2016 in Rangamati, wherein some representatives from indigenous peoples were invited along with other stakeholders. However, the organizers did not provide any relevant user-friendly documents or other relevant information prior to the consultation.

The draft feasibility study report was not public. As a result, people with interest and expertise in this regard were unable to provide any constructive feedback to the organizers of the consultation or to their peers.

Ethnic & Cultural Dimensions

Though it was mentioned in the *Informal Cross Border Trade Practice* study that the majority traders were from the Chakma and Pangkhua peoples, we are extremely concerned that this feature will not hold true for long, as people from outside the CHT,

including large or medium corporate bodies, will no doubt take over the trading after the border point is formally opened.

The alarming rate at which the in-migration of outsiders has taken place over the last several decades (reducing the indigenous percentage of the region's population from over 91% in 1951 to around 53% in 2011) suggests that the indigenous people will become an insignificant minority in the very near future. The proposed connectivity project will no doubt accelerate demographic changes at a pace hitherto unknown.

We wish to reiterate that the concerned feasibility study process has been in clear violation of the indigenous peoples' rights and norms under regional, national and international law, and also not in conformity with the process required under the relevant safeguard policies of the World Bank, including OP/BP 4.10.

The study project included the following, among other, departures from expected steps and measures:

(i) failure to engage in a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities and their representative institutions, including both elective and traditional institutions, to fully identify their views and to ascertain their broad community support for the project.

(ii) systemic failure to prepare indigenous peoples-appropriate planning documents;

(iii) widespread failure to appropriately disclose planning documents to impacted indigenous peoples;

(iv) failure to assess and address within the study issues required by the Indigenous Peoples Policy, such as land and resource rights, benefit sharing, sacred sites and cultural impacts, where these are clearly relevant;

(v) failure to establish local or national level complaints mechanisms or adequately respond to complaints that were raised; and

(vi) failure to establish meaningful engagement with civil society organizations in the project area.

Recommendations:

In the light of the above, we make the following recommendations and suggestions:

- (a) *To continue appropriate studies and consultations **only for the Multimodal Route**, and in full compliance with safeguard policies;*
- (b) **To suspend any further steps with regard to the Land Route** *until such time as the crucial provisions of the CHT Accord of 1997 are faithfully and fully implemented*, including the resolution of land disputes, the rehabilitation of all displaced indigenous persons (international refugees and internally displaced persons), the transfer of Land & Land Administration to the hill district councils, and other commensurate measures to protect the integrity of the CHT as a “tribal inhabited region” in accordance with the provisions of the 1997 CHT Accord, the CHT Regional Council Act 1998, the Hill Districts Councils Act 1989 and concerned customs, usages and practices of the indigenous peoples.
- (c) **To engage in meaningful consultation with indigenous peoples in the project area in compliance with OP 4.10**, including through their traditional and elected authorities, the CHT Regional Council, the Rangamati Hill District Council, the concerned Circle Chief and Headmen, elected representatives of the Union & Upazila Councils concerned, as well as with members of civil societies through appropriate measures, including full disclosure of information in appropriate languages and forms and substantive consultations with adequate preparations and in consultation and in partnership with the relevant CHT institutions and legitimate representatives of the would be affected communities.
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ENDORSEMENT:

By Organizations:

16 endorsing organizations redacted by the Panel



By Individual:



25 endorsing individuals redacted by the Panel

(ctd.) 25 endorsing individuals redacted by the Panel

ANNEX II



THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

OFFICE MEMORANDUM

DATE: October 13, 2016

TO: Gonzalo Castro de la Mata, Chairperson, IBRD/IDA Inspection Panel

FROM: Karla Gonzalez Carvajal, Practice Manager, GTI06

EXTENSION: 39012

SUBJECT: **Thegamukh-Chittagong Connectivity study managed by LGED under the Bangladesh Trade and Transport Studies RETF Project (P148881)**

As per our recent discussion, this is to update the Inspection Panel on the latest status of the Thegamukh-Chittagong Connectivity study under the Bangladesh Trade and Transport Studies RETF Project (P148881).

After having reviewed the draft consultant report for the feasibility study which was submitted by LGED to the World Bank on July 31, 2016, the Bank provided comments on August 7, 2016, advising the Implementing Agency that the report has not adequately fulfilled the Terms of References. On August 24, 2016 the Bank received a Supplementary Report documenting regional and national consultation sessions conducted during August 8-10, 2016. In addition to shortcomings of that Supplementary Report, the findings of the consultation sessions, as well as the Bank's comments of August 7, 2016 and previous rounds of comments transmitted from October 2015 through August 2016, were not adequately incorporated into the draft feasibility study report. Given that the Bangladesh Trade and Transport Studies RETF Project (P148881) has closed effective August 31, 2016, no additional work on the draft study can be supported.

As a consequence of the above cited shortcomings, the World Bank has not accepted the report as a feasibility study and has advised the Government of Bangladesh accordingly. The Bank also requested that this report is marked as an incomplete draft and that it is not published. The World Bank has conveyed that it neither endorses this draft study or its conclusions, nor is the Borrower authorized to refer to the World Bank in connection with this draft study. The World Bank has no intention at this point to move forward with any activities relating to Thegamukh-Chittagong Connectivity.

Please let me know if you have further questions.