

RECOMMENDATION OF THE INSPECTION PANEL

Request for Inspection TANZANIA: Power VI Project (Credit No. 2489-TA)

Below is (A) Background information, (B) a Process note, and (C) the Inspection Panel's ("Panel") recommendation on whether or not there should be an investigation ("Recommendation") into allegations made in the above-referenced Request for Inspection ("Request"). Annex 1 contains the Request. The Management's reply to the Request is provided in Annex 2.

A. Background

1. On May 16, 1995 the Panel received a Request which alleged violations of the International Development Agency's ("IDA") policies in relation to a proposed amendment to the Development Credit and Project Agreements for Tanzania's Power VI Project (Credit 2489-TA).¹ The amendment proposed a reallocation of proceeds from Credit 2489-TA for the purchase of generating units on an emergency basis in order to forestall major power outages in 1995-96 in Tanzania. The purchase and installation of these units was designated by the Government as the Emergency Power Project ("EPP").

2. The Request, filed by a group consisting of the owner and some employees of a Tanzanian company (Tannol Holdings Ltd.), claimed that it was not necessary to restructure Credit 2489-TA as private sources of funding not considered by Management were available; that the proposal was not considered by a competent committee at the appropriate time; and that staff improperly influenced the Government's decision to request IDA financing -- all in violation of provisions of Article V of IDA's Articles of Agreement. In addition, the Requesters alleged violations of the Bank's environmental policies in the preparation of the EPP.

¹ Memorandum from the President to the Executive Directors entitled "Tanzania: Power VI Project (Credit 2489-TA) - Proposed Amendment to the Development Credit and Project Agreements" IDA/R95-54, dated April 19, 1995

3. The amendment is no longer a proposal. On May 9, 1995 the Executive Directors approved IDA financing for the EPP.

B. Process

4. After requesting and receiving further information from the Requesters, the Panel on June 16, 1995 notified the Executive Directors and IDA President of receipt of the Request. IDA Management was required to submit to the Panel a response to the Request and did so on July 18, 1995.

5. The required procedural steps to be followed by the Panel and the Management are contained in IDA Resolution 93-6, dated September 22, 1993 as supplemented by subsequent Decisions of the Executive Directors ("Resolution"). Under paragraph² 17 the Chairman must inform the Executive Directors and President promptly upon receipt of a Request. The Panel's "Operating Procedures" -- at paragraphs 16-18 -- introduce the concept of "registration" to avoid passing on requests which are manifestly frivolous, clearly barred by paragraph 14 of the Resolution, or otherwise obviously outside the Panel's mandate. On the basis of the information contained in this Request, the Chairman concluded that "*prima facie* [it] did not appear to be barred." Accordingly, pursuant to paragraph 18 of the Resolution, Management was required to provide the Panel with "evidence that it has

² Unless otherwise stated references to paragraphs in this document are to those of the Resolution.

complied, or intends to comply with the Bank's relevant policies and procedures."

6. Paragraph 19 of the Resolution instructs the Panel to determine whether the Request meets the eligibility requirements contained in paragraphs 12 to 14 after receipt of a Management response. In this instance a conclusion could only be reached through a field review. The Panel considered information obtained during Mr. Richard Bissell's review conducted in the project area on July 28 and 29, 1995. The Inspector consulted with the Government of Tanzania, TANESCO (the executing entity), and the Requesters.³ In accordance with paragraph 21 the Panel also consulted with the IDA Executive Director representing Tanzania.

7. The Panel is also required by paragraph 13 of the Resolution to satisfy itself that the subject matter of the request has been dealt with by Management and if so, whether it has demonstrated either that it has followed, or is taking adequate steps to follow the relevant policies and procedures. In this case the Management reply did not address, as required, the substance of the Request but dealt exclusively with Management's views on eligibility criteria and its "admissibility". By the terms of the Resolution these issues are to be determined solely by the Panel after a response is received, subject only to any final determination by the Executive Directors. In this instance Management addressed the required questions through "information" contained in an Annex. Avoiding a formalistic approach, the Panel treated Management's Annex as amounting to the required "Response."

8. The Panel observes with concern the formalistic approach of the reply. This approach appears to introduce additional eligibility requirements that would modify the Resolution

³ The Panel wishes to thank the Ministry of Water, Energy and Minerals, officials of TANESCO, and the Bank Resident Mission for logistic support to the mission.

which is the sole prerogative of the Executive Directors. The Resolution was designed to establish a non-judicial forum with non-legalistic requirements and procedures to help direct access by adversely affected people on the ground. Experience to date suggests that existing requirements, if strictly interpreted and applied, could become far too complex to enable adversely affected people themselves --often poor and illiterate--to file a legitimate claim.

C. Recommendation.

9. The recommendation below is based on the Panel's assessment of the Request during the period from July 19, 1995 to date and takes into account the information provided by the Requesters, Tanzanian officials and by Management.

Alleged Violations of Article V of IDA's Articles of Agreement.

10. IDA financing for the EPP has now been approved. Clearly the Executive Directors, in accordance with **Section 1 (c)** of Article V, concluded that in their opinion private financing was not available on terms reasonable for the recipient. The Panel reviewed the allegations that Management's recommendation to the Executive Directors may have been misleading, or based on violations of its own policies or procedures, and found that:

- Prior to their approval of the amendment:
 - Management informed the Executive Directors of the availability of financing from another source on May 9, 1995.
 - The Requesters, through Washington Counsel, provided information on the matter directly to the Executive Directors on May 8, 1995.

- A recommendation of a competent committee was made pursuant to **Section 1 (d)** of Article V.
- With reference to **Section 1 (g)** of Article V there is no evidence that IDA has diverted funds to finance items not included in the Power VI Project, as amended.
- Allegations concerning possible unauthorized staff actions in relation to political influences or considerations might amount to administrative misconduct, a matter clearly outside the Panel's mandate.

11. The Panel does not review decisions of the Executive Directors. The Panel did review Management's actions in providing information to the Executive Directors. Based on the above findings the Panel is satisfied that Management has followed the requirements of Section 1 paragraphs (a), (d), and (g) of Article V of IDA's Articles of Agreement.

Alleged Violations of Operational Manual Statement No. 2.36, Environmental Aspects of Bank Work , paragraph 9(c) and (h) ("OMS") and Operational Directive 4.01 on Environmental Assessment, paragraphs 2, 14-22 ("OD")

12. Alleged violations of the policies set forth in the OMS and ODs clearly fall within the Panel's mandate.

13. Based on the results of the Inspector's field visit, the Panel is satisfied that the Requesters, who reside in Dar es Salaam, could be affected by any possible adverse environmental impact of the EPP. However, the Panel finds that the Requesters failed to demonstrate that their interests are likely to be directly and adversely affected in a material way as a result of any alleged serious violations by IDA of the OMS or OD with respect to the preparation and appraisal of the EPP.

14. In relation to allegations concerning the environmental impact the Panel therefore finds

the Requesters to be ineligible as they do not meet the requirements of paragraph 12 of the Resolution.

15. *Based on the foregoing considerations, the Panel does not recommend that the Executive Directors authorize an investigation into the violations of IDA policies alleged in the Request.*

Attachments