

Report No. 55259-KZ

**The Inspection Panel** 

**Report and Recommendation**

**KAZAKHSTAN: South West Roads  
Project: Western Europe-Western China  
International Transit Corridor (CAREC  
1B & 6B) (IBRD Loan No. 7681-KZ)**

June 28, 2010

## **The Inspection Panel**

### **Report and Recommendation On Request for Inspection**

#### **Republic of Kazakhstan: South-West Roads: Western Europe-Western China International Transit Corridor (CAREC-1b & 6b) (IBRD Loan No. 7681-KZ)**

1. On February 5, 2010, the Inspection Panel (the “Panel”) received a Request for Inspection related to the Kazakhstan – South-West Roads: Western Europe-Western China International Transit Corridor Project (the “Project”). This initial request was submitted by two residents of Birlik settlement, Karashik Rural District, city of Turkestan, South Kazakhstan Oblast,<sup>1</sup> Republic of Kazakhstan, and was joined by separate submissions from over 45 households in the same settlement. This Request for Inspection was copied to Bank Management. On February 28, 2010, the Panel received correspondence, which was also copied to Management, from some of the signatories of the initial Request “taking back” their request.<sup>2</sup>
2. Between March 10 and April 24, 2010, the Panel received written communications from individuals who had separately joined the initial request.<sup>3</sup> These individuals, residing in the city of Turkestan, referred to the same issues raised by the initial request for inspection, as well as some interconnected issues related to the city of Turkestan. They requested that the Panel conducts an investigation into these matters. They also asked the Panel to keep their identities and contact information confidential. These communications, incorporating and supplementing the claims in the initial Request, constitute the Request for Inspection (the “Request”) to the Panel. The Request focuses on the segment of the Project passing through the city of Turkestan, including the Birlik settlement. The Panel registered this Request on April 29, 2010, and notified the Executive Directors and the President of the International Bank for Reconstruction and Development (IBRD) in accordance with the Resolution establishing the Inspection Panel (“the Resolution”).<sup>4</sup>

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<sup>1</sup> An oblast is an administrative and territorial division in Russia and the former USSR.

<sup>2</sup> The Panel received this communication while it was translating the Request and ensuring accuracy of the translation, as per paragraph 8 of its Operating Procedures, after several days of World Bank business closure in Washington DC.

<sup>3</sup> As provided for in Paragraph 19 of the Panel’s Operating Procedures, at the request of the Panel the Requesters supplied the Panel with additional information.

<sup>4</sup> IBRD Resolution 93 – 10, Resolution Establishing the Inspection Panel (September 22, 1993).

3. On June 1, 2010, Management submitted its Response to the Request. The Transmittal Memorandum for the Response was dated May 25, 2010.
4. As provided in paragraph 19 of the Resolution, the purpose of this report is to determine the eligibility of the Requests and to make a recommendation to the Executive Directors as to whether the Panel should investigate the matters alleged in the Requests.

## **A. The Project**

5. The Request raises issues related to Republic of Kazakhstan – South-West Roads: Western Europe-Western China International Transit Corridor Project (the “Project”), which is financed through an IBRD Loan.
6. The Project is part of the Government’s program to upgrade and improve the 2,840 km road corridor linking Europe and Russia to China through Kazakhstan.<sup>5</sup> Different donors including IBRD (the “Bank”), and the Government of Kazakhstan are co-financing separate sections of the road corridor.<sup>6</sup>
7. According to the PAD, the objective of the Project is to increase transport efficiency along the road section between Aktobe/Kyzylorda oblast border and the city of Shymkent, and improve road management and traffic safety in Kazakhstan.<sup>7</sup> The Project contributes to the upgrading of 1,062 km of road sections. The Project consists of 5 components, which are described as follows:

**Component 1** – Upgrading and reconstructing road sections along the Corridor within Kyzylorda oblast, excluding Kyzylorda bypass (excluding consulting services for supervision of the construction and all contingencies).

**Component 2** – Upgrading and reconstructing road sections along the Corridor within South Kazakhstan oblast, from Kyzylorda oblast border to Shymkent

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<sup>5</sup> Project Appraisal Report (“PAD”), p. 7 para. 27.

<sup>6</sup> Project Appraisal Report (“PAD”), p. 8 para. 27. According to the PAD, the European Bank for Reconstruction and Development (EBRD) will finance road sections between the Russian Federation border to Martuk in Aktobe oblast (102 km); the Asian Development Bank (ADB) jointly with the Japan International Cooperation Agency (JICA) will finance road sections between Taraz and Korday within Zhambyl oblast (about 321 km); the Islamic Development Bank (IDB) will finance 159 km of road sections between the border of South Kazakhstan oblast and Taraz; and IBRD (the “Bank”) finances sections of the Corridor in the South-West regions of Kazakhstan between Shymkent and Aktobe oblast border (approx 1,062 km). Moreover, the Government of Kazakhstan is financing the remaining sections of the Corridor. This in addition to the construction of 273 km of roads in Aktobe oblast (Aktobe - Karabutak – Irgiz) completed in 2006, plus 205 km of the Almaty-Bishkek road completed in 2005 with ADB and EBRD loans, and the ongoing construction of 215 km of roads in Aktobe oblast (Karabutak to the Kyzylorda oblast border) and the road section from Shymkent to the border with Uzbekistan.

<sup>7</sup> Project Appraisal Report (“PAD”), Project Development Objective p. ii.

including the bypasses to Kyzylorda and Shymkent (excluding consulting services for supervision of the construction and all contingencies).

**Component 3** – Financing of Project Management Consultants (PMC) to assist the Committee for Roads with the management of Project implementation.

**Component 4** – Institutional development and preparation of action plans to improve road safety and road services, including consulting services to review options to strengthen the Committee for Roads, improve the overall condition of the road network, and improve road safety and road services.

**Component 5** – Consulting services for supervision of civil works under Components 1 and 2.<sup>8</sup>

8. Overall progress in implementation of the Project will be monitored through: (i) reduction in transport costs; (ii) improvement in the capacity of the project implementing entities; (iii) adoption of action plans for improving road safety and road services along the corridor; and (iv) implementation of improved road management concepts.<sup>9</sup> In its Response, Management states that the Project is implemented by the Committee of Roads within the Ministry of Transport and Communications (MoTC).<sup>10</sup>

## **B. Financing**

9. On April 30, 2009, the Bank approved a loan (the “Loan”) to the amount of US\$2.125 billion for the Republic of Kazakhstan. The scheduled closing date for the Loan is June 30, 2014.<sup>11</sup> According to the PAD, the Government will finance 15 percent of the total Project cost. Costs of land acquisition and compensation for involuntary resettlement, will be paid for separately from the government budget.<sup>12</sup> According to Management, the Loan became effective on December 9, 2009.<sup>13</sup>
10. The estimated total cost of the Corridor is US\$7.5 billion, of which 37 percent is financed by the Government and the balance by the Bank and other International Financial Institutions (IFIs).<sup>14</sup>

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<sup>8</sup> Project Appraisal Report (“PAD”), Project Description p. ii.

<sup>9</sup> Project Appraisal Report (“PAD”), p. 9 para 30.

<sup>10</sup> Management Response, p. iii.

<sup>11</sup> Management Response, p. 1 para 3.

<sup>12</sup> Project Appraisal Report (“PAD”), Project Description p. ii.

<sup>13</sup> Management Response, p. iii.

<sup>14</sup> Management Response, p. iii.

## C. The Request

11. According to the Request (see Annex 1), the Project includes widening a road segment which currently cuts across Birlik settlement where the Requesters reside. Several houses are close to the current road alignment. The Request states that, as designed, this segment will contribute to the following adverse effects: i) harm to the health of the residents of the settlement from fumes, pollution and noise); ii) harm to the environment, in particular from accidents and spills from trucks transporting flammable and explosive materials; iii) risks to the safety of school children crossing the road daily as a result of higher traffic volume and speed; and, iv) possible impact on houses and related involuntary resettlement.
12. The Requesters also claim that the transit traffic flow in the heart of the city of Turkestan will increase significantly in the future and “*will become an environmental disaster for its residents.*” They add that “*Turkestan is viewed as the second Mecca for Muslims around the world. The city’s potential unsafe life and health conditions for Muslim pilgrims will result in the irreversible damage to the budget of the city, as well as to the income of urban residents benefiting from tourism.*”
13. In one of their communications, the Requesters informed the Panel that local officials promised to: i) plant trees and vegetation between their houses and the road segment at Birlik to be widened; ii) provide a school-bus service to take their children to and from school; and iii) build a new service road outside the city of Turkestan within a period of three to five years. These promises led some of the original signatories to “take back” their initial Request. The Requesters however are concerned that these promises are not referred to in Project documents.
14. The above claims may constitute non-compliance by the Bank with provisions of the following operational Policies and Procedures:  
  
OP/BP 4.01            Environmental Assessment  
OP/BP 4.11           Physical Cultural Resources  
OP/BP 4.12           Involuntary Resettlement  
OP/BP 13.05        Project Supervision  
World Bank Policy on Disclosure of Information dated June 2002

## D. Management Response

15. As stated earlier in this Report, Management submitted its Response on June 1, 2010. In its Response (see Annex 2), Management states that the “*Bank has made every effort to apply its policies and procedures and to pursue in a comprehensive manner its mission statement in the context of the Project.*” Management adds that in its view, the Bank has followed the guidelines, policies and procedures applicable to the

matters raised in the Request and, as a result, it believes that *“the Requesters’ rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.”*<sup>15</sup>

16. Management states that the Corridor provides the main link for local communities to the rest of Kazakhstan and to other countries, adding that the Project road *“is both a source of income for local communities who provide the bulk of services to road users, and also the only access to markets for local products.”*<sup>16</sup>
17. Management further states that the Committee for Roads (the Project’s implementing agency) actively engaged the local communities particularly in the Birlik settlement to respond to concerns raised. According to Management, the Committee for Roads, on several occasions, amended the designs of different road segments in order to address proactively issues raised by local residents throughout the Project road length.<sup>17</sup> Management adds that revisions to the designs for the road segment along Birlik settlement were completed in December 2009 and consulted upon in February 2010 in Turkestan and in Birlik settlement.<sup>18</sup> Management concludes that the issues raised in the Request are resolved to the satisfaction of the majority of the local population around Turkestan city, including residents of Birlik settlement.<sup>19</sup>
18. Management divides its response to the issues raised in the Request in four sections: i) potential adverse effects of the road segment along Birlik settlement; ii) promise of dedicated school-bus services for the children of Birlik settlement; iii) impact of transit traffic on the Mausoleum located at the heart of Turkestan city; and iv) promise of a new bypass road outside the city of Turkestan.<sup>20</sup>
19. Concerning adverse effects of the road segment along Birlik settlement, Management reports several revisions to the design. These include:
  - Shifting the road alignment away from the existing residences at Birlik settlement to provide the maximum possible distance between the houses and the new 4-lane road (at minimum this distance is of 17 meters).
  - Constructing a pedestrian underpass at a point close to the local school and a pedestrian crossing at the traffic signal about 800 meters further along the road. Another underpass will be constructed for livestock at about 600 meters north of the traffic signal.
  - Reconstructing the existing 2-lane road to become a local access road for the residents of Birlik settlement. Construction of bus stops with shelters is included along the redesigned local access road.

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<sup>15</sup> Management Response, p. 15 para. 44.

<sup>16</sup> Management Response, p. 15 para. 45.

<sup>17</sup> Management Response, p. 15 para. 46.

<sup>18</sup> Management Response, p. 15 para. 47.

<sup>19</sup> Management Response, p. 16 para. 48.

<sup>20</sup> Management Response, p. 16 para. 49.

- Constructing a 3-meter high wall between the new 4-lane road and the reconstructed 2-lane local access road to provide safety and act as a barrier reducing traffic noise and vehicle emissions.
  - Planting trees along the new 4-lane bypass road for aesthetic reasons and installing street lights along the existing 2-lane bypass road and at the underpasses to improve personal safety and security.<sup>21</sup>
20. Concerning the promise of a dedicated school-bus service for the children of Birlik, Management confirms that the local administration (Akim) has offered to provide additional bus services specifically to transport children from Birlik settlement to the local school during the school year. Attached to the Management Response are written assurances from MoTC and the Akim confirming that additional bus services will be provided by the local administration, commencing in September 2010.<sup>22</sup>
21. As for the impact on the Mausoleum located in Turkestan city, Management states that it recognizes that the Khoja Ahmed Yasawi Mausoleum at the center of Turkestan is considered a holy site that attracts pilgrims and tourists to the city, and is designated as a UNESCO World Heritage Site. Management states that the designed improvements and widening of the road (from a 2-lane to a 4-lane) will largely follow the alignment of the existing bypass road (which passes through Birlik). At its nearest point this bypass is 2.6 km from the Khoja Ahmed Yasawi Mausoleum. Management adds that the improved bypass will reduce the amount and negative impacts of traffic transiting through the city center and allow better access to the Mausoleum.<sup>23</sup>
22. Concerning the construction of a completely new bypass road outside the city of Turkestan Management states that it is aware of plans by the local Government to construct in the future either a northern or a southern bypass road further away from the city center. Management adds that the feasibility study carried out for the Project examined the proposed northern and southern bypasses, but found that these were not economically justifiable given current volumes of traffic.<sup>24</sup> Management further adds that officials from the Government have promised that either bypasses will be considered when justified by traffic volumes.<sup>25</sup>
23. In that regard, Management states that it is of the view that a decision to construct a new bypass in the future needs to be based on sound analysis of economic, environmental and social impacts. Management also states that, although the Bank cannot guarantee financing for future investments that may be included in the Government's Road Sector Development Program, it would consider such requests in the future. Management further states that, given the cultural and religious importance of the Khoja Ahmed Yasawi Mausoleum located at the center of Turkestan, it would

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<sup>21</sup> Management Response, p. 16 para. 51.

<sup>22</sup> Management Response, p. 18 para. 57.

<sup>23</sup> Management Response, p. 18 para. 59.

<sup>24</sup> Management Response, p. 19 para. 62.

<sup>25</sup> Management Response, p. 19 para. 63.

expect that construction of a longer bypass would remain in the public investment program of Kazakhstan until such time as it is justified on economic grounds.<sup>26</sup>

## **E. Eligibility**

24. The Panel must determine whether the Request satisfies the eligibility criteria set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications,<sup>27</sup> and recommend whether the matters alleged in the Request should be investigated.
25. The Panel has reviewed the Request and Management's Response. Panel Member Alf Jerve together with Panel Senior Operations Officer Serge Selwan visited Kazakhstan between May 29 and June 2, 2010. During their visit, the Panel team met with Government officials in Astana, local officials in Turkestan, and representatives of the project implementing unit MoTC in Shymkent. The Panel also visited Birlik settlement and met with the Requesters and their representatives. The Panel also met with staff of the World Bank country office.
26. The Panel is satisfied that the Request meets all of the eligibility criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications.
27. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The Requesters live in Project-affected areas and have common interests and common concerns, as required by item (a) of the said Paragraph 9.
28. The Panel confirms that the Request "*assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters,*" as per the requirement of Paragraph 9(b).
29. In particular, the Requesters allege that, as designed, the segment of the road crossing Birlik will cause: harm to the health of the residents of the settlement from fumes, pollution and noise; harm to the environment from accidents and spills; risks to the safety of children crossing the road daily to go to school and return home; and, possible impact on houses and related involuntary resettlement. The Requesters also claim that the transit traffic flow in the heart of the city of Turkestan will increase significantly in the future and "*will become an environmental disaster for its residents.*"
30. The Panel confirmed that the World Bank has been aware of concerns from residents of Birlik about the Project's adverse effects on them and their community. The Panel is therefore satisfied that the Request "*does assert that the subject matter has been*

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<sup>26</sup> Management Response, p. 20 para. 66.

<sup>27</sup> Conclusions of the Board's Second Review of the Inspection Panel (the "1999 Clarifications"), April 1999.



*brought to Management's attention and that, in the Requesters' view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures."* Hence, the Request meets the requirement of Paragraph 9(c).

31. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d).
32. As stated above, the closing date of the Loan is December 31, 2013. As of the date the Request was filed about 95 percent of the Loan was undisbursed. The Request therefore satisfies the requirement in Paragraph 9(e) that the related Loan has not been closed or substantially disbursed.<sup>28</sup>
33. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).

## **F. Observations**

34. The Panel notes that concerns were first voiced in writing by a local NGO, on behalf of community members, in June 2009 and that between December 2009 and February 2010 revisions to the designs for the road segment along Birlik settlement were proposed. The Panel was also informed by civil society representatives that since the initial Request for Inspection, Management acted swiftly.
35. The Request, Management's Response, the Panel's field visit, meetings with Requesters and community members, with Government and local officials, and with Bank staff, confirmed that the views on the issues raised in the Request for Inspection are converging. The Panel observes that while all concerned acknowledged the importance of the issues raised, they also acknowledged that the solutions put forth by Management and the authorities in Kazakhstan, as described in paragraphs 19-22 above, address these concerns.
36. The Panel also notes the importance of the Project to all stakeholders in Kazakhstan; national and local authorities, civil society representatives, and community members.
37. The Panel notes that an important reason for submission of the Request for Inspection was lack of trust concerning the implementation of promises made. The articulation of these commitments in official documents has provided a highly valuable reassurance to the Requesters and the affected community. During its visit to Birlik settlement, the Panel shared a sketch map of the design modifications (the map is attached to the Management Response as Annex 10 – Map A) and information relating to the realignment of the road, provision of a school bus service, construction

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<sup>28</sup> According to the Resolution that established the Panel, "*this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.*" Footnote to Paragraph 14 (c).

of underpasses and noise barrier, and the planting of trees. Community members and civil society representatives voiced their satisfaction with these revisions.

38. In Astana, officials informed the Panel that some initial mistakes were committed because there was uncertainty about how to apply the Bank's Policies and Procedures. They also assured the Panel that the Government will fully comply with its commitments under the Loan Agreement and will fulfill such commitments in a timely manner, including social and environmental safeguards.
39. The Deputy Akim of Turkestan informed the Panel that Turkestan, a city of roughly 250,000 people, hosted over 650,000 pilgrims per year. The Panel notes that Turkestan's cultural and religious importance is of great significance for Kazakhstan and several of the surrounding countries. In Astana, Government officials informed the Panel that they are planning for a future bypass for Turkestan. They informed the Panel that when justified by a higher traffic volume Government will construct the bypass in consideration with all relevant social safeguards and without infringing on people's rights. The same message was relayed to the Panel in Shymkent by the Project's implementing agency.
40. On June 9, 2010, the Panel received a correspondence from the Requesters where it is stated that they "*did not require any further investigation.*" The Requesters first thank the Panel for maintaining the confidentiality of their identity. Then, they state that the issues of environmental and technical safety affecting 23 households along the road in Birlik settlement "*were finally solved.*" They further add that it would be virtually impossible to demand from the Government of Kazakhstan any specific terms for the construction of a new bypass since its development depends on the intensity of traffic in the future. Finally, they asked that the Government of Kazakhstan communicates, even informally that it will launch the construction of a new bypass if the traffic on the current bypass, to be improved by the project, increases to over 7000 vehicles per day.

## **G. Conclusion**

41. The Requesters and the Request meet the eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications.
42. In this case, the Panel notes important observations regarding the issues raised in the Request. These observations include Management and the Government's proposal to modify the road design as stated above, the acknowledgement that some mistakes were initially committed in process of consultation, and the Requesters' acknowledgement that the issues pertaining to Birlik settlement have been resolved and that the revised design has been properly documented and shared with the Requesters.

43. On the issue of a future new bypass around Turkestan in future, the Panel notes, as stated in the Management Response, the commitment by Government that a future bypass will be considered once it becomes justified, and the Requesters' acknowledgement that the timing and the choice of alignment cannot be determined at this stage.
  
44. In light of the foregoing, the satisfactory resolution of the key matters of concern to the Requesters and the positive response to the Requesters' concerns documented in the Management Response, the Panel does not recommend an investigation with respect to the allegations contained in the Request for Inspection. If the Board of Executive Directors concurs with this recommendation the Panel will advise the Requesters and Management accordingly.