INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

THE INSPECTION PANEL

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IPN REQUEST RQ 11/04

October 20, 2011

NOTICE OF REGISTRATION

Re: Request for Inspection
Red Sea - Dead Sea Water Conveyance Study Program

On June 24, 2011, the Inspection Panel (hereinafter, the "Panel") received a Request for Inspection relating to the Red Sea Dead Sea Water Conveyance Study Program (hereinafter referred to as the "Study Program"). The Request was filed by two Palestinian civil society organizations, Stop the Wall Campaign and the Palestinian Farmers Union, and the Global Initiative for Economic, Social and Cultural Rights (hereinafter, the "Requesters"). On July 15, 2011, the Panel asked the Requesters for clarifications on certain issues in the Request. On August 11, 2011, the Panel received a revised and more substantive Request for Inspection (hereinafter, the "Request"), which also details earlier contact between a representative of the Stop the Wall Campaign and Bank staff, during which the Requesters' concerns were raised. According to the Request, both Stop the Wall Campaign and the Palestinian Farmers Union represent residents of the West Bank. The Request states that these residents "*rely on ground water resources that are put at risk by the decline of the Dead Sea and which do not appear to be effectively addressed by the Red Sea Dead Sea Water Conveyance Program.*"

The Request states that the studies being funded "*are of such significance that they will likely be the basis for political decisions (...). Consequently, the application of the Bank's Operational Policies and Bank Procedures is crucial (...) to ensure that all relevant decision-makers and the affected stakeholders have reliable and accurate information.*" According to the Requesters, flaws (see below) in the Terms of Reference for and implementation of the Study Program "*would result in inadequate and incomplete Environmental and Social Assessments.*" The Requesters state that Palestinian civil society "*requires adequate and complete*

Environmental and Social Assessments, including a full exploration and examination of feasible regional alternatives." The Requesters ask for "*an investigation of the Red Sea Dead Sea Water Conveyance Study Program to ensure that it comes into full compliance with the World Bank's Operational Policies and Bank Procedures.*"

The Study Program

According to the Study Program's public website, in 2005 the Government of Jordan, the Government of Israel and the Palestinian Authority agreed on the terms of reference of a Study Program to investigate whether and how the transfer of water from the Red Sea to the Dead Sea can stop the decline of the Dead Sea water level and restore the unique natural and cultural environment of the Dead Sea.[1]

The Study Program was initiated to analyze the feasibility of conveying water from the Red Sea to the Dead Sea (base case). In a jointly signed letter to the World Bank dated May 9, 2005, the Beneficiary Parties (Israel, Jordan, and the Palestinian Authority) requested the World Bank to coordinate donor financing and manage the Study Program, which the Bank agreed to do. A multi-donor Trust Fund currently amounting to US$16.7 million was established, making the Study Program fully funded. The Study Program includes a Feasibility Study, an Environmental and Social Assessment, and a Study of Alternatives (also referred to as analysis of alternatives).

According to the May 2010 "*Inception Report*", the Study Program aims at: i) reviewing the past and current baseline studies/research related to the limnology of the Dead Sea with particular attention to the recent scientific efforts in modeling the dynamic limnology of the Dead Sea; ii) evaluating how the level, water balance and chemistry of the Dead Sea will evolve in the future in the event that no action is taken; and, iii) identifying and assessing impacts of adding Red Sea water and reject brine from desalination to the Dead Sea on the water balance, limnology, chemistry and microbiology of the Dead Sea. The same document states that the Dead Sea level dropped by more than 25 meters in the past century and by about a meter a year in the past decade, mainly due to the diversion of water from its catchment area by Israel, Jordan, Syria and Lebanon and industrial activity in the southern basin of the Dead Sea.

According to the December 2010 "*Annotated Outline of the Study of Alternatives Report and Consultation Plan*", the Study Program expects to examine the following alternatives among others: i) no action alternative; ii) proposed action Red Sea-Dead Sea water conveyance; iii) Lower Jordan River options; iv) other water transfer options; and v) desalination options.

[1] Public information is available at the following link: http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTREDSEADEADSEA/0,,menuPK:5174623~pagePK:64168427~piPK:64168435~theSitePK:5174617,00.html.

The Request

The Requesters claim that, with respect to **the analysis of alternatives**, "*the Beneficiary Parties and Bank Management have carved the Analysis of Alternatives out of the Environmental and Social Assessment in contravention of best international practices and are in violation of OP/BP 4.01, or at least in violation of OP/BP4.01 in how the Analysis of Regional Alternatives has been implemented.*" According to the Request, "*the harm in the approach taken by the Beneficiary Parties and Bank management is that the analysis of regional alternatives is not integrated structurally into the Environmental and Social Assessment reflecting contemporaneously in parallel to the Economic Feasibility study of the proposed project.*"

The Requesters claim that affected parties they represent "*might prefer*" a Jordan River Basin alternative, which entails regenerating the flow of the Jordan River. According to the Requesters, such an alternative "*would not have the serious environmental and social risks that are associated with the Red Sea Dead Sea Water Conveyance project, and would provide the indigenous Palestinians with the opportunity to utilize in future the Jordan River Basin flows which they historically accessed.*"

Regarding the **selection of experts** for the Study Program, the Requesters allege that the experts selected by certain of the Beneficiary Parties "*are highly likely to evaluate the analysis of regional alternatives in a light favorable to the desired proposed project* [the conveyance alternative]," which they consider is likely to cause harm to stakeholders more broadly by not engaging in a genuine independent and impartial analysis of regional alternatives. They consider that the Technical Steering Committee, mandated to review the reports, "*is made up almost entirely of representatives of the beneficiary parties*" rather than "*independent, internationally recognized environmental specialists*" as required by the Bank's Environmental Assessment Policy.

The Request complains about the lack of proper **disclosure of and consultation on** the drafts study reports. It states that "*in fact, more than 20 months after the beginning of the Study of Alternatives, the Requesters and other affected parties are only able to find the Annotated Outline of the Study of Alternatives Report and the Consultation Plan on the World Bank website.*" The Requesters question the commitment of the Bank to ensure a proper discussion of alternatives, and state that "*the Technical Steering Committee chaired by the World Bank is not taking the alternatives into serious consideration because they have not presented the alternatives for public consultation and incorporated the information into overall assessment of the Environmental and Social Assessment and Economic Feasibility of the Red Sea Dead Sea Water Conveyance Program.*"

They add that during the public consultation a number of Palestinians complained that they received almost no notice of the consultation as it was published in a local paper only a few days prior to the actual consultation meeting, violating the requirements of the safeguard policies and the general Policy on Access to Information.

Furthermore, the Requesters claim that the **absence of notification to other Jordan River riparians**, notably Lebanon and Syria, is a violation of the Bank's Policy on Projects on International Waters. They consider that the Bank, "*by not consulting with Lebanon and Syria, let alone providing formal notification,*" has "*harmed the affected parties,*" and this has been "*an impeding factor to a thorough regional Analysis of Alternatives necessary to identify the optimal solution for the decline of the Dead Sea.*"

The Requesters consider that "*these glaring oversights*", noted above, will cause a serious likelihood of harm to the affected parties along the Jordan River Basin and will result in the absence of a serious comparison with other alternatives or combination of alternatives.

Adding to the above concerns, the Requesters claim that the Bank's Policies on Natural Habitats, Indigenous Peoples, and Projects in Disputed Areas also apply to the Study Program, and that lack of compliance with these policies would affect their rights and interests. The Requesters noted that the United Nations General Assembly and Human Rights Council have adopted resolutions related to the human right to water and sanitation.

The Requesters assert to the Panel that they had brought their concerns to the attention of Management during the consultation process, a follow up phone conversation, and a written letter of concern. The Requesters and Management also exchanged emails on a few occasions indicating their willingness to meet.

The above claims expressed in the Request may constitute, *inter alia*, non-compliance by the Bank with various provisions of the following Operational Policies and Procedures:

OP/BP 4.01 Environmental Assessment
OP/BP 4.04 Natural Habitats
OP/BP 4.10 Indigenous Peoples
OP/BP 7.50 Projects on International Waterways
OP/BP 7.60 Projects in Disputed Areas
The World Bank Policy on Access to Information, July 1, 2010

In accordance with paragraph 17 of the Panel's Operating Procedures (the "Operating Procedures"), I am notifying you that I have, on October 20, 2011, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Please note that the Panel's registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of a Request for Inspection.

As provided in paragraph 18 of the Resolution that established the Panel (the "Resolution"), paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the "1999 Clarifications"), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than November 18, 2011 with written evidence that it has complied, or intends to comply, with the Bank's relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications 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.*"

The Request has been assigned IPN Request Number RQ 11/04.

Yours sincerely,

Roberto Lenton
Chairperson

Mr. Jamal Juma
Director
Stop the Wall Campaign

Mr. Adel Abu Ne'meh
Director
Palestinian Farmers Union

Mr. Bret Thiele
Co-Executive Director
Global Initiative for Economic, Social and Cultural Rights

Mr. Robert B. Zoellick
President
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development