

## **Inspection Panel Investigation Report and Management's Response to the Inspection Panel Investigation Report on "Kenya - Natural Resource Management Project"**

**October 29, 2014**

### **U.S. Position**

The United States welcomes this opportunity to discuss the Inspection Panel's report on the Kenya Natural Resource Management Project and the Management Report and Recommendation (MRR). In light of the ongoing review of the World Bank's safeguards policies, along with changes to the Bank's operational structure with the shift to global practices, the United States takes the opportunity presented by this report to reaffirm our strong commitment to the Bank's oversight and accountability mechanisms, which are integral for development effectiveness and giving voice to the most vulnerable. Over the last year, the Panel has worked to improve its engagement with Bank Management and it is critical that Management respond in kind by constructively addressing the Panel's findings.

The United States supports the Panel's findings of Management's noncompliance with regard to institutional analysis, involuntary resettlement, and the customary rights of indigenous peoples. The United States appreciates the Panel's finding that no evictions were directly supported as part of the Natural Resource Management Project, but also agree with the Panel that serious process and substantive breakdowns occurred during project design and implementation.

The United States notes the Panel's finding that the Bank did not fully appreciate the incongruity between the Kenyan Forestry Service's (KFS) – and its predecessor's – mission and certain aspects of the project's development objectives. The introduction of forest co-management practices with indigenous peoples, a goal of both the project and the KFS, required strong capacity building of the KFS in order to decrease the risks of evictions in these sensitive areas while working collaboratively with indigenous persons' and strengthening the understanding of their rights. While the original project did include activities meant to build KFS's capacity, a more thorough analysis during preparation could have highlighted the agency's focus on compliance and enforcement, thereby allowing the Bank to foresee the possibility of involuntary resettlement and implement appropriate mitigating measures.

The United States also notes that the Panel highlighted the differences between project documents, which included frameworks to address eviction risks, and Management's position that no resettlement was planned under the project. Even if it were the case that the Bank did not foresee resettlement as part of the project, this experience again points to the importance of strong project preparation as well as monitoring during implementation. The United States also questions the processes that allowed the Bank to enter into legal agreements without a proper understanding of its obligations. This is especially true concerning the ambitious indigenous peoples planning framework, which, among other things, necessitated the 2011 restructuring.

While the United States acknowledges the steps undertaken by the Bank to develop a process framework to protect the customary rights of indigenous peoples, the United States notes the Panel's finding of a lack of follow through in its implementation. Given the harms suffered

10/29/14

by the requestors, the United States urges the Bank to continue to play a constructive role in developing an equitable and lasting solution. The United States believes that the proposed high-level colloquium could be useful, but, by itself, is likely not sufficient to address this challenging situation. The United States encourages Management to explore additional ways in which it can play a supporting role in the ongoing discussions between the Government of Kenya and the Sengwer people.

Finally, as with the case of the Vishnugad Pipalkoti Hydro Electric Project, the United States expects to see in each MRR a consolidated, detailed, time-bound action matrix, with clearly assigned responsibilities, as well as a detailed roadmap for periodic reporting to the Board on the progress of such actions. These elements of an MRR are critical for the clarity of the Panel process and for supporting the Board's oversight role.