

TO: Mr. Shengman Zhang, Managing Director, The World Bank
CC: Robert Calderisi, Country Director for Cameroon and Chad
James Wolfensohn, President

RE: Comments on Draft Terms of Reference for the International Advisory Group for the Chad-Cameroon Pipeline

25 September 2000

Dear Mr. Zhang:

Thank you for providing civil society with the opportunity to comment on the Terms of Reference (TOR) for the International Advisory Group for the Chad-Cameroon Pipeline, and for making an effort to inform the local people. We appreciate the extension of the deadline for comments to September 25, and hope that you will include comments from the region that will likely arrive past this date, since there has not been enough time for affected people in Chad and Cameroon to formulate their comments. Moreover, the Bank's web site has been down recently, and many people have had difficulty accessing it.

Below are comments on each specific provision of the TOR, followed by a summary of points that should be included in the final draft. We also emphasize the importance of ensuring that the appointment of IAG members be transparent and that the public be given an opportunity to comment on potential candidates for these important positions.

Background

TOR: (Para 1): "The two Governments involved will monitor project activities in their territories and will also be advised by an Environmental and Social Panel whose mandate is to help the Governments ensure that the project's Environmental Management Plan (EMP) is properly implemented. Furthermore, an External Compliance Monitoring Group (ECMG) will be set up to monitor EMP implementation on behalf of the lender group. The ECMG will conduct site visits and review monitoring reports, and will report back to the lender group on a regular basis."

Comments: The relationship between the IAG and other mechanisms that are set up within the projects should be defined within the TOR. In particular it is important to determine which "group" has the predominant role. We recommend that because of its independence, IAG findings should supercede the findings of other mechanisms.

TOR: (Para 2): "There is a risk that the project will not attain its poverty-alleviation objectives and could have negative impacts on affected populations. In addition, weak capacity and the potential for conflict between involved parties also present risks to adequate implementation of the project."

Comments: Such risks have already been borne out, as human rights have been violated during project planning. We recommend that the TOR recognize explicitly that human rights violations are among the obstacles to the fulfillment of poverty alleviation objectives.

Purpose of the IAG

TOR: (Para 3) "The purpose of establishing the IAG is to enlist the best available expertise and experience to guide the Bank on the achievement of poverty alleviation in the context of the Chad-Cameroon pipeline project and related projects. The IAG will advise the Bank Group on the consistency of implementation with the broader social, environmental, and poverty-alleviation objectives of the projects, as well as with the Bank's broader goals of poverty alleviation and sustainable development in Chad and Cameroon, identify problems as they arise, and suggest solutions for consideration by the Bank. The IAG will be made up of highly respected individuals who are completely independent of all parties to the projects. The IAG will carry out its work in collaboration with all stakeholders and will provide an additional channel for affected populations to raise concerns about the projects and their impact on poverty in Chad and Cameroon."

Comments: The purpose as described above reflects the objectives that were proposed in the Appeal to President Wolfensohn from 73 NGOs and NGO Umbrella Organizations (July 10, 2000). The Appeal is attached as reference. However, important points emphasizing the monitoring role of the IAG have been ignored. We reiterate that the objectives of the IAG should be to a) provide independent verification of the effective implementation of environmental mitigation, compensation, indigenous peoples plans and social development measures of the projects; b) to ensure that the revenue management plans are adequately carried out during project implementation; c) to ensure the development effectiveness of the project; d) to monitor its impacts; e) to ensure the monitoring of unexpected problems which were not considered during project preparation; and f) to monitor the implementation of the decisions taken by the Board of Executive Directors."

In addition to providing channels for affected populations to raise concerns as they arise during project implementation, the IAG should also look into problems that have been raised by NGOs to date but that have not yet been adequately addressed (e.g. review the Indigenous Peoples Plan, Revenue Management Plan, national environmental safety guidelines, Environmental Management Plan including the Oil Spill Response Plan, compensation procedures, etc.).

Scope of Work

TOR: (Para. 4) "The IAG will visit Chad and Cameroon at least once a year, or more often depending on the IAG's assessment, to observe project progress and to conduct discussions with all stakeholders, including government staff responsible for monitoring project progress and planning and managing revenues for poverty-focused development, affected populations, and civil society organizations. The IAG is expected to hear the concerns expressed and issues raised by key stakeholders, and to advise the Bank and IFC on actions to be taken to ensure that these concerns and issues are appropriately addressed. The IAG will be free to define independently the focus of its own work, which is likely to evolve as project implementation progresses. Among other issues, early focal points of the IAG could include social investment activities in the project area and adequate progress with regard to capacity-building activities, whereas increased attention to activities related to sound revenue management is foreseeable once oil revenues come on stream."

Comments: The scope of work described above concurs with several points raised in the Appeal. However, since the purpose includes a focus on broader goals of poverty alleviation and sustainable development, these broader goals cannot be conceived of without adequate attention to the protection of human rights. The Bank has recently recognized that societies with large exports of primary commodities are dangerous and especially prone to conflict. The report "Economic Causes of Civil Conflict and Their Implications for Policy" by Paul Collier (June 2000) states, "The most powerful risk factor is that countries which have a substantial share of their income (GDP) coming from the export of primary commodities are radically more at risk of conflict" (p.6).

Moreover, on September 22, Bank President James Wolfensohn met with over 120 NGOs in Prague, and reiterated the importance of human rights in poverty alleviation and development: "You have to protect people's rights. You have to have a legal system that works. You have to have honest judges. You have to have a financial system that gives openness to people and not just a few. You have to fight corruption [...]. Unless you have property rights, unless you have individual rights, unless you have a sense of equity, you cannot attack the question of poverty."

Mr. Wolfensohn as well as Bank management responsible for the project have indicated that the Bank's involvement in the Chad-Cameroon Pipeline and oil field development can help ensure that the project's impacts are positive. In his comments in Prague, Mr. Wolfensohn said specifically about the Pipeline Projects that, "if I am there [...] I can do everything possible to protect the environment, the indigenous people, transparency and the use of funding." A letter from Serge Michailof, then country director for the region, of December 17, 1999 to Korinna Horta of Environmental Defense, responded to concerns that there was intimidation of local people by local authorities and police forces. The letter recognized the role of the Bank in helping to prevent human rights abuses: "Unfortunately, it appears that some local officials have not fully understood the commitment of the national authorities to a peaceful and open consultation process. Recent actions have been construed as intimidation (interrogation of individuals who were taken by

international NGOs to visit the Ogoni region in Nigeria). We have communicated our concerns about this type of practice to the Government. The pipeline project in Chad and Cameroon has been designed based on lessons learned from the Nigerian experience, and is intended to avoid the problems associated with the Nigerian situation." Moreover, the letter acknowledged the role that the Bank played in resolving the precarious situation of member of parliament Yorongar: "Mr. Yorongar's pardon and release from jail were likely directly due to World Bank intervention, and he continues his activities at liberty."

Especially in light of the latest wave of killings in the oil-producing region, and the role that the Bank has publicly said that it wants to take, the IAG should have the specific mandate of monitoring human rights as a matter of priority. The TOR should strongly reflect this mandate.

The TOR should also indicate other issues that the IAG will be expected to focus on, including but not limited to: health conditions, compensation, environmental mitigation and biodiversity protection, as well as the social investments and capacity building activities.

We also recommend that the IAG visit the countries at least twice a year, as well as have the capacity to travel to the region as called upon by the affected people or as they determine necessary. More time in the countries will permit greater continuity in the IAG's work, and provide greater access by local stakeholders. This appears especially important given the reports about serious problems with compensation for local people and their lack of any kind of recourse.

In addition, the definition of "key stakeholders" should include the local media in Chad and Cameroon, who should be considered as an important source of information and a critical element in ensuring the project's transparency.

Finally, it is critical that the IAG not only advise the Bank and IFC on actions to be taken, but that they have a decisive role in following up on implementation of solutions. To "ensure that these concerns and issues are appropriately addressed", implies that the IAG have enforcing authority. Language should be included in the TOR that clarifies that the IAG will have an enforcement role that enables it to ensure that problems are actually solved, not just identified. Moreover, it must be explicit that in the event that the advice of the IAG is not followed, and the governments fail to implement the terms and conditions of the loan that are related to environmental mitigation and social protection and development, then the IAG's findings should prompt stronger action by Bank Management and the Board. For example, the IAG should be able to recommend that loan disbursements be suspended until problems are adequately solved.

TOR: (Para 5) "One member of the Advisory Group will be named as the Convenor. The Convenor will be provided with the support services of a small Secretariat. After distributing information about the projects to the IAG members for review, the Convenor will arrange for the IAG to meet and develop and present to the Bank Group an agenda for its first year's work. Following this meeting, the IAG may, at its discretion, meet with the World Bank President, the project Corporate Oversight Committee (COC), appointed by the President, and set up to monitor implementation of the cluster of projects, Bank and IFC senior management, and the project team whom they will be advising. They will also undertake a first familiarization visit to the project area in Chad and Cameroon, followed by regular visits."

Comments: This paragraph indicates that there will be an ongoing function of the COC, which is at present unclear. The COC should have no other role than to help President Wolfensohn select the IAG members, as it could unnecessarily interfere with the IAG's direct relationship with, and obligation to report to, the President of the World Bank. The TOR should delete the Paragraph 5 reference to IAG meetings with the COC.

It should also be clearly stated that in addition to the Bank President, the IAG should meet with NGOs and local communities affected by the pipeline project, without the presence of any government, military, consortium or Bank officials. The perspectives of all stakeholders should be actively solicited from the beginning of the IAG process, and a specific plan for future meetings should be made and publicized as soon as possible.

TOR: (Para 6). "Following each visit, the IAG will report to the President of the Bank Group. Their findings will be discussed by the COC, Bank senior management, and Board of the Bank Group and then made public. The IAG (or a subset of the Group) may also, at its discretion or upon invitation from the Bank, visit Washington to discuss its findings and recommendations with Bank Group senior management. "

Comments: First, the reference to the COC should be dropped. Second, we recommend that the reporting process be carried out as follows:

- i) The IAG should develop its findings and recommendations in consultation with a wide range of affected people in Chad and Cameroon, in order to allow them the opportunity to define their own concerns and priorities. The IAG's preliminary findings and recommendations should be discussed with civil society *before* they report to the Bank.
- ii) Following the consultation, IAG findings and recommendations should then be submitted to the President of the Bank, senior Bank management, and the Board of Directors.
- iii) Given that the IAG's reports, findings and recommendations will likely prompt responses and possible action plans by Bank management, assurances must be given that affected people in both Chad and Cameroon, as well as interested NGOs and other stakeholders, will be consulted on the development of such action plans, to ensure that they reflect solutions that are viable and satisfactory to the communities, before decisions are taken.
- iv) Finally, it should be explicitly stated that all final reports, findings and recommendations of the IAG as well as all Bank responses, proposed solutions and action plans should be made public at the same time as they are discussed by, or agreed to, by the Bank's President, Management and the President of the Bank Group.

TOR: (Para 7) "The work of the IAG is expected to continue for seven years, covering the period of oilfield design and pipeline construction and the first three years of the flow of oil and consequently the first inflow of significant oil revenues. At the end of the second and the fifth years, the Bank Group, and the IAG will conduct a joint stocktaking to evaluate whether the IAG's work has been useful and should be continued, and to make any necessary adjustments in the IAG's composition or scope of work. Other partners funding the work of the IAG may participate in this evaluation."

Comments: The public, particularly those communities affected by the pipeline, and concerned international NGOs should also be fully involved in each evaluation of the IAG's work. It is on their behalf that the IAG is being established, and its effectiveness should be evaluated specifically in relation to the IAG's ability to respond to community concerns, solve problems, and enforce environmental and social mitigation and compensation agreements. The second evaluation should include as an option the prolonged functioning of the IAG. All evaluations should be made public.

Expertise

TOR: (Para 8) "The challenge of translating oil revenues into poverty-alleviation programs calls for political, economic, environmental, social, financial, and technical skills, as well as the ability to listen and understand the concerns of people from all levels of society and from the variety of cultural backgrounds that are found in the project area. The IAG's independence is crucial to its effectiveness. IAG's members must therefore be of international stature and unimpeachable personal integrity, able to resist any pressure that might be brought to bear on their conclusions. "

Comments: In addition to the above, to assure the independence of the IAG, its members should not currently be engaged in positions or consultancies at the Bank Group, the companies, or the governments of Chad and Cameroon, and the TOR should prohibit them from taking any position to consult with or work for any of the parties during the five years following the end of their tenure on the IAG.

TOR: (Para 9) The IAG shall consist of four persons:

- (i) A Convenor, with extensive personal experience of governance issues in the African context;

- (ii) An economist/financial analyst with extensive knowledge of national planning and programming of public resources and the use of these resources for effective poverty alleviation in Africa;
- (iii) An environmental/social specialist who is familiar with the consequences of major infrastructure projects in the African context and the ways in which these consequences play into the poverty-alleviation agenda; and
- (iv) A community development expert who has strong listening and interpretive skills. It is also highly desirable that group members be fluent in French.

Comments: The above description reflects the recommendations in the Appeal. However, it would also be important that someone in the group have specific expertise in human rights issues. It is imperative that all members speak French. In addition, the IAG must be able to draw upon additional expertise as needed. This may especially be the case with regards to public health as the spread of AIDs as well as other diseases as a result of the project represent a serious threat. A group member -- particularly the community development expert -- who can speak the local languages would also be desirable. All Group members should be knowledgeable about World Bank and IFC Environmental and Social Policies and Guidelines.

Budget and Selection Process

TOR: (Para 10) " The Bank Group has agreed to make available the resources needed for the effective functioning of the IAG. It has also confirmed the interest of other donors in supporting the IAG. The selection process will be managed by the COC appointed by the President."

Comments: The credibility of the IAG process depends in the integrity of those who become its members, and their acceptability to civil society, particularly the communities affected by the pipeline. Therefore, we highly recommend that there be an explicit mechanism for civil society input into the process of appointing the IAG. The following process is suggested:

- i) Announce publicly the members of the COC. The COC should include a current or former member of the Inspection Panel, and/or the IFC CAO/ Ombudsman; and a member of the NGO community. (The process for selecting the IFC CAO/Ombudsman can serve as a model for candidate selection)
- ii) Set a deadline and establish a transparent and participatory process for candidates names to be recommended to the COC.
- iii) Publish the short list of candidates and give civil society the opportunity to comment on a final slate of candidates to recommend to the Bank's President.
- iv) The final decision should be made by the President.

Regarding the budget, we are pleased that the Bank is committed to making sufficient resources available so that the IAG can function effectively. However, given budget cuts at the Bank, we recommend that the IAG budget be independent from the region, and that the IAG be allowed to determine its own budget needs.

Additional Points

1. The TOR do not mention the IAG's access to information. Our Appeal specifically noted that the IAG should have access to all relevant project documents, both belonging to the Bank and to the consortium. This access should be explicitly outlined in a separate paragraph under "Scope of Work".
2. Contact information about the IAG, and a mechanism by which citizens can make contact with its members, must be widely distributed in the project area as well as on the internet and by other means, as soon as it is established. The final TOR should be publicly available, as should the schedule of , and must have access to all information and plans once they have been agreed to, in order to ensure that actions are carried out effectively field visits. The scheduled field visits should be announced to the local people at least two weeks in advance.

Comments Submitted by:

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