

## The Power of the Bujagali Falls—Uganda: Third Power Project, Fourth Power Project, and Proposed Bujagali Hydropower Project

“Forget about rebel attacks and malaria. Uganda is currently reveling in its second decade of boom-time growth and steadily regaining its status as the pearl of Africa. When you stand next to the Nile river, you feel like a character from a Hemingway novel. All around sweeping stretches of tropical forests cascade down to the water’s edge, where open-billed storks wade and crocodile lurk,” states an Internet advertisement for white-water rafting at the Bujagali Falls in Uganda.

However, the Bujagali Falls also represent a special potential of hydropower—a source to meet Uganda’s electricity requirements. According to the World Bank, at the time of the Bujagali Project’s appraisal, only about 3 percent of Uganda’s population had access to electricity. Recent surveys indicate that the quality and adequacy of power supply is the most binding constraint on private investment in Uganda. Ugandan private firms reported in 1998 that they incurred on average about 89 days of power outages per year. The electricity shortages are estimated to cost Uganda an annual economic loss of approximately US\$100 million. The World Bank Group’s involvement was and still is crucial for the expansion of adequate and reliable electricity to support Uganda’s growth. However, the Bank’s investment in Uganda’s hydropower sector—particularly



E. Ashort

Uganda: Bujagali Hydropower—The Living Bujagali meeting with Inspection Panel members at the project site.

the Third and Fourth Power Projects as well as the proposed Bujagali Hydropower Project—was the subject of the 24th Request for Inspection that the Inspection Panel received since its establishment.

## Power Projects and Financial Arrangements

To develop Uganda's hydropower resources and expand its transmission and distribution system, the World Bank's lending affiliate for the poorest countries, the IDA, is supporting the Third Power Project. This project, also known as the Owen Falls Extension, included the construction of a powerhouse, the installation of two 40-megawatt generating sets, the provision of remedial works at the Owen Falls Dam, and the provision of technical assistance to the Uganda Electricity Board. The Bank's financial support consists of an original credit equivalent to US\$115 million (in 1991) and a supplemental credit equivalent to US\$33 million in 2000 (2268-UG).

The World Bank is also supporting the Fourth Power Project by providing a credit equivalent to US\$62 million in 2001 (3545-UG). The objectives of this hydropower project were to expand Uganda's power supply to meet the country's electricity demand and to strengthen its capabilities for managing the energy reform and privatization process.

The other project that was the subject of the 24th Request was the proposed Bujagali Hydropower Project. It represented a new modality of support for investments in infrastructure and involved the joint participation of the IDA and the IFC—the affiliate of the World Bank that supports private sector development. The project was the first hydropower operation of its size to be developed in sub-Saharan Africa and the first major power sector investment in Uganda to be carried out entirely by the private sector. The project, whose total cost was estimated at US\$582 million, was designed to promote Uganda's economic growth by providing power in an environmentally sustainable and efficient manner. It was also expected to mobilize private capital, promote private sector ownership, and support management of the power sector and its reform.

As conceived, the project involved the installation of a 200-megawatt run-of-the-river power plant at Bujagali Falls, a small reservoir, and a rock fill dam spillway, as well as the construction of approximately 100 kilometers of transmission lines and associated substations.

The Bank considered supporting the proposed project by issuing a partial risk guarantee as opposed to an IDA credit. The partial risk guarantee mechanism covers specific risks arising from nonperformance of sovereign contractual obligations or certain force majeure events. However, at the time the Request was filed, the World Bank Group's package of financial assistance had not been approved. This case illustrates that Requests for Inspection may be submitted at any time during the project cycle.

The Bujagali Project's financing plan envisioned an equity contribution of US\$111.3 million from a private sponsor, the AES Corporation, as well as contributions from other financiers such as the African Development Bank (US\$55 million) and export credit agencies (US\$219.5 million). The proposal envisioned that a privately owned and

operated project company, AES Nile Power (AESNP), would construct the hydropower plant on a build-own-operate-transfer basis and would sell electricity to a fully state-owned company under a 30-year power purchase agreement.

The preparation and design of the project encountered several obstacles. In particular, the cultural significance of the Bujagali Falls, its value for ecotourism, the resettlement of people living on the shore of the falls, and Uganda's legal obligations under the power purchase agreement provoked resentment toward the project from various parts of the country's civil society. Such critics in particular questioned the lack of competitive bidding for the project; the absence of official information about the project's financial arrangements; and, as a consequence, the project's potential for corruption in the development, construction, and implementation phases. The World Bank took this matter seriously and engaged its own antifraud unit to investigate the allegations.

### Submitting a Request for Inspection

Several Ugandan NGOs, meanwhile, wrote to the Bank's Management and asked for remedial actions. Because the local groups considered the Bank's answers unsatisfactory, the National Association of Professional Environmentalists of Kampala (NAPE), Uganda Save Bujagali Crusade (SBC), and other local institutions and individuals (the Requesters) submitted a Request for Inspection on July 25, 2001—almost 5 months before the Bank's Board of Executive Directors was to consider financial support for the Bujagali Hydropower Project.

The Panel registered this Request concerning the Third and Fourth Power Projects as well as the proposed Bujagali Hydropower Project on August 7, 2001. Since the Inspection Panel's jurisdiction only covers IDA and IBRD operations, the organizations also filed a claim with the compliance adviser ombudsman of the IFC.

The Requesters claimed that the World Bank's failures in the design, appraisal, and implementation of the projects had materially affected their rights and interests and were likely to jeopardize their future social, cultural, and environmental security. More specifically, they alleged that the Owen Falls Extension and the proposed implementation of the Bujagali Hydropower Project had resulted—or were likely to result—in social, economic, and environmental harm to the local population, such as negative effects on tourism activities, adverse impacts on fisheries, and increased electricity tariffs.

In its allegations of the World Bank's failures, the Request cited a failure to require an environmental assessment of the Owen Falls Extension, the lack of a cumulative environmental assessment related to the existing and proposed dams, and an inadequate involuntary resettlement plan (including inadequate compensation arrangements). The Request also alleged inadequate consultation and disclosure of information and a lack of satisfactory economic and technical analysis, including a lack of economic analysis of project alternatives, especially with respect to the Owen Falls Extension.

According to the Request, the World Bank was not in compliance with its own policies and procedures on environmental assessment (OD 4.01), involuntary resettlement (OD 4.30), natural habitats (OP/BP 4.04), safety of dams (OP 4.37), poverty reduction (OD 4.15), indigenous peoples (OD 4.20), forestry (OP 4.36), disclosure of operational



information (BP 17.50), economic evaluation of investment operations (OP 10.04), project monitoring and evaluation (OD 10.70), project supervision (OD 13.05), and management of cultural property in Bank-financed projects (OPN 11.03).

### The Inspection Panel's Involvement

Management's Response to the Request acknowledged some deficiencies that went beyond those enumerated in the Request for Inspection, and it also acknowledged that the staff appraisal report and the development credit agreement for the Third Power Project were not fully consistent in their description of the extension capacity, and that documents regarding the Third and Fourth Power Projects presented to the Bank's Board of Executive Directors did not reflect project modifications previously incorporated. Furthermore, Management's Response also noted that the required sectoral environmental assessment for the Third Power Project had never been carried out. With regard to the distribution of copies of the environmental assessment in Uganda, Management's Response acknowledged that the dissemination had not taken place until after project appraisal—in violation of the Bank's policy on environmental assessment.

The Response, however, questioned the Inspection Panel's jurisdiction regarding the Bujagali Hydropower Project because the lending instrument consisted of a partial risk guarantee as opposed to direct lending. Management further noted that the role of the guarantor is merely to appraise and assess the risks of an existing operation as opposed to cooperating with the borrower in designing and implementing an operation in the financing of a public sector project. This position, however, was not consistent with that taken by the Board in 1995, which gave the Inspection Panel jurisdiction over all projects—broadly defined in the Bank's practice—financed by the World Bank regardless of the nature of



Uganda: Bujagali Hydropower—Jaja Bujagali shows documents acknowledging him as the Living Bujagali.

the specific financial instrument used. That position was subsequently ratified in the 1996 Clarifications of the Resolution.

### World Bank Divided over Bujagali Project

After the Inspection Panel determined the Requesters' eligibility, the Board of Executive Directors approved on October 26, 2001, the Panel's recommendation that a full investigation be conducted into the allegations.

The months following the approval of an investigation by the Board were filled with uncertainty and debate over whether the World Bank would or should—despite the ongoing investigation—approve the proposed Bujagali Hydropower Project. During this period, the Ugandan media focused on the planned investments at the Bujagali Falls. On Friday, November 16, 2001, Uganda's leading daily, the *New Vision*, published a 26-page supplement with information about the World Bank's involvement in Uganda. Eight days later, the front page of Uganda's *The Monitor* read, "World Bank Divided over Bujagali Project."<sup>11</sup> However, despite the ongoing investigation, on December 28, 2001, the World Bank approved the equivalent of US\$115 million to support the Bujagali Hydropower Project.

### *Spiritual Issues at Bujagali Falls*

The Panel's investigation encompassed the Third Power Project (the Owen Falls Extension), including the supplemental credit, the Fourth Power Project, and the Bujagali Hydropower Project. The Panel focused on environmental, economic, social, and spiritual issues. Beyond the determination of whether the Bank had followed its own policies and procedures, the Panel also raised concerns regarding the three hydropower projects and the World Bank's contribution.

Without doubt, the Bujagali Falls site has a highly religious significance for Uganda's 2.5 million Busoga, who believe that their spirits reside in the churning waters at the Bujagali Falls. The site is considered the habitation of a high priest, Budhagali, who is the Busoga's communicator with the spirits of the Bujagali rapids.

The implementing company, AES, had previously claimed that the chief priest and spirit medium, Jaja Bujagali, had agreed to a "relocation" of the river's spirits at a public hearing. Jaja denied that claim: "If they want to relocate [spirits] to another place, will they carry the whole river or falls to that place? [Do] they really think that a [spirit] is like a goat that can be transferred from place to place?" "The spirits," he added, "would never allow the dam to be built."<sup>12</sup>

The Inspection Panel investigated the World Bank's appraisal of the cultural property with regard to the islands in the Nile River, as well as rocks or trees that were associated with recognized spiritual forces. It acknowledged the World Bank's efforts to permit consultations with local people and religious leaders, as well as the Bank's good faith in attempting to mitigate the cultural consequences of losing the Bujagali Falls. However, the Panel expressed concern that the World Bank had made no arrangements to minimize the realistic possibility of disturbance to the local communities.





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Uganda: Bujagali Hydropower—The Living Bujagali at the Bujagali Falls.

***Environmental Impacts***

The Panel’s investigation revealed that the Bank’s environmental assessment for the Third Power Project did not involve affected groups and did not use an environmental advisory panel. As a result, the Inspection Panel found the Bank only in partial compliance with the procedural aspects of the World Bank’s policy on environmental assessment (OD 4.01). Under the supplemental credit and the Fourth Power Project, appropriate consultations were carried out that met the requirements of the applicable Bank policies.

The Panel’s report also pointed out that the Bank had failed to perform a sectoral environmental assessment for the Third Power Project and that this failure constituted

a violation of the terms and conditions under which the Bank's Board of Executive Directors had approved the credit. In addition, the Bank did not comply with its policy on project supervision (OD 13.05) with respect to the sectoral environmental assessment because it did not address the project's cumulative impacts.

With regard to the Bujagali Hydropower Project, the Inspection Panel found the World Bank not in compliance with the policy on environmental assessment (OD 4.01). In this context, the Panel expressed concerns that a cumulative impact assessment of hydroelectric projects on the Nile was not properly completed.

In terms of dam safety issues, the Inspection Panel found the World Bank in compliance with its policy (OP 4.37).

Another topic discussed in the Panel's report concerned the protection of the Kalagala Falls as a natural habitat in view of its religious, cultural, and tourism importance. Bank staff had stressed during interviews with the Panel the importance of the Kalagala site as a valid environmental offset. However, the Inspection Panel's close examination—supported by a legal opinion issued by the Bank's legal department—revealed that the Ugandan government had assumed no obligation to preserve the Kalagala Falls as an offset. Therefore, the Bank had failed to ensure appropriate and technically justified mitigation measures, and it was not in compliance with its policy on natural habitats (OP/BP 4.04).

### *The Power Purchase Agreement*

Another controversy expressed by civil society and raised in the Request for Inspection concerned the Bujagali Project's legal framework, particularly the power purchase agreement between the government of Uganda and the private investor, AESNP. The agreement included, among other things, a clause requiring that the Ugandan government buy all the power that could potentially be produced, based on the plant's capacity, at a fixed price for 30 years, regardless of whether the power was actually produced or needed.

The Panel's report highlighted the two strategic risks of the agreement to the Ugandan Electricity Tariffs Committee and its guarantors: the shortfall in the projected demand for electricity and the nonaffordability of the electricity rates. The Panel's report suggested two possible additional risk mitigation measures to provide flexibility and a mutually acceptable way of sharing and reducing stranded costs.<sup>13</sup>

As far as consideration of project alternatives was concerned, the Panel found Management in compliance with the Bank's policies; however, the Panel noted that a greater degree of quantified analysis would have been desirable and would have added greater weight and certainty to the comparative assessments.

### *8,700 People to Be Resettled*

The Request also questioned the Bank's supervision of the resettlement of people in the project area. Some affected people voiced concern that, "unethical intimidation has been used to help guarantee local support." Moreover, the resettlement process had already started in 2000—before the Bank's approval for financing.

The Panel's investigation revealed that approximately 8,700 people had to be resettled. Because there was no evidence that minorities were involved, the Panel found the Bank's policy on indigenous peoples (OD 4.20) did not apply.

Because a significant number of affected people continuously disputed valuations of and payment for crops, the Panel expressed concerns regarding the Bank's resettlement Action Plan. It also found that the Bank's community development program set out neither long-term targets nor projects for institution building. In this respect, the Panel found the Bank not in compliance with its policy on involuntary resettlement. However, with regard to compensation, the Panel found that most of the affected people ended up better off than they were before their physical relocation and that the objective of the Bank's policy on involuntary resettlement had been achieved.

The Inspection Panel also focused on the economic and financial appraisal of the project and found that forecast of future electricity demands and the analysis of tariff affordability used by the project were flawed and, therefore, not consistent with the Bank's policy. In fact, the Panel raised several concerns relating to whether the project's appraisal gave sufficient consideration to project alternatives and to the project's downside risks and their mitigation. The Panel identified as a key area of concern the narrow range of the load forecast, although international experience and the potential for problems of affordability and distribution sector performance suggested wide tolerances. The Panel concluded that a wider range of the load forecast would have been needed to fully satisfy the requirements of the Bank's policy on economic evaluation of investment operations (OD 10.04).

The Panel's report also showed that a 10 percent per year depreciation of the Ugandan currency against the U.S. dollar could double the electricity tariff to Ugandan consumers over 7 years to the equivalent of 13–15 cents wholesale. The Panel questioned whether these tariff levels would be affordable for Uganda's population and pointed out that the effects of currency depreciation should have formed part of the risk analysis with regard to affordability in the project appraisal document.

The Panel also found that a thorough examination of the institutional risk of a delayed or under-performing privatization of the distribution system and its impact on the robustness of the Bujagali Project's affordability was missing from the economic appraisal, although such an examination was needed for full compliance with OD 10.04.

### ***Disclosure of Information and Consultations***

The Request also alleged the Bank's failure to disclose relevant documents related to the projects. The Panel found that, by not disclosing the "Economic Review of Bujagali Hydropower Project," a report of November 2001, the Bank was in noncompliance with BP 17.50 on disclosure of operational information.

The Inspection Panel addressed the nondisclosure of the power purchase agreement between the private company, AES, and the Ugandan government in its report. Although no specific requirements exist for the World Bank to disclose information to which it is not a party, the Panel noted that the disclosure of the document was critical for the public to understand and participate in an informed discussion.



Also, the Inspection Panel requested that the Board of Executive Directors clarify the Bank's policy on disclosure of operational information relating to Bank-supported private sector investments.

The Inspection Panel found no evidence of serious efforts on the part of the World Bank to actively engage with project-affected groups or NGOs and accordingly found the Bank not in compliance with its policy on environmental assessment with respect to public consultations regarding the Fourth Power Project.

### *The Aftermath*

The Bank's Management responded to the Panel's findings and proposed in its report specific actions that would remedy any cases of noncompliance.

The most notable outcome was the Bank's commitment to amend the agreement between Uganda and the Bank regarding the protection of the Kalagala Falls. The Ugandan government also reaffirmed its commitment not to develop the Kalagala Falls for hydropower but to set it aside exclusively as a natural habitat and for tourism.

In response to the Panel's findings, Management agreed to provide support for multistakeholder consultations on the three hydropower projects and to promote informed and comprehensive discussion. The World Bank also affirmed support for a strategic and sectoral environmental assessment, as well as social assessments that would be a prerequisite to any future World Bank financing of investments in Uganda's power generation facilities. The Bank would also monitor future growth in electricity demand and the implementation of agreements to be signed with tourism operators. The Bank would further support measures to address reemployment of Ugandan citizens affected by loss of tourism-related jobs. The Bank agreed to assist the government in examining alternatives in power generation and proposed financing of geothermal exploration and possible drilling in western Ugandan areas.

With regard to the social aspects addressed by the Inspection Panel, the Bank agreed to request that the private company, AESNP, conduct surveys that would support implementing and monitoring the project's community development Action Plan.

Although the Panel did not find violations of Bank policies that would warrant the termination of the World Bank Group support for the project, the project's implementation has been delayed because of some issues identified by the Panel in its report. Through the Panel's involvement, the Bank was making notable progress toward achieving full compliance with its own policies and procedures.

## Breaking New Grounds: The Pipeline of Hope?— Chad: Petroleum Development Project, Management of the Petroleum Economy Project, and Petroleum Sector Management Capacity Building Project

“Some have regretted the controversy which surrounded this project. But we feel that the international debate was necessary and valuable, and that the project is sounder as a result. Having to give clear answers to tough questions—even when we are confident that the project design should speak for itself—was a useful discipline,” said Callisto Madavo (then the World Bank’s vice president for the Africa Region) in October 2000 at the groundbreaking ceremony for the pipeline construction in Komé, Chad.<sup>14</sup>

Without doubt, the Chad–Cameroon Pipeline Project, the largest private sector investment on the African continent, initiated an intense debate involving local communities, international NGOs, and academics. The Project generated two Requests for Inspection: the first from a local group and individuals in Chad in March 2001 and the second from a local group and individuals in Cameroon in September 2002. The first Request from Chad concerned the Chad Petroleum Development and Pipeline Project, the Management of the Petroleum Economy Project, and the Petroleum Sector Management Capacity Building Project. The Board approved the Panel’s recommendation



Cameroon: The Pipeline Project—Panel Chairman standing in the middle of the pipeline corridor near Yaoundé.

of an investigation and considered the Panel's Investigation Report in September 2002. The Board also approved an investigation in response to the Panel's recommendation on the Cameroon Request, and the Panel's Investigation Report will be considered by the Board in late July 2003. The case study in this book focuses on the Chad Investigation.

### First-of-Its-Kind Program

According to World Bank literature, the Chad–Cameroon Petroleum Development and Pipeline Project set an unprecedented framework to transform oil revenue wealth into direct benefits for the respective national economies. The project aimed at serving as a new model with the potential to reduce poverty and increase public investments in health, education, and basic infrastructure.

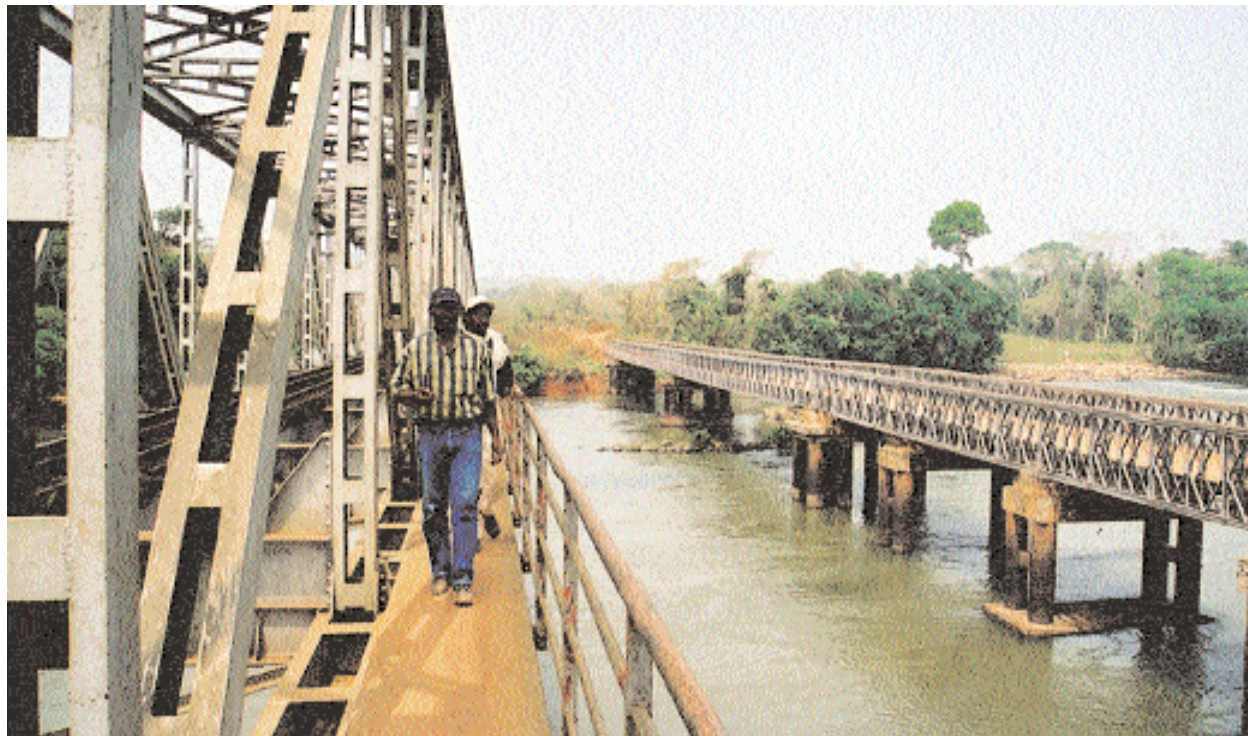
However, as history shows, natural resource booms are difficult to manage. Therefore, the pipeline project included a first-of-its-kind program to direct new revenues to support economic and social development in Chad. Approval of World Bank funding depended on clear commitments from the government that resources would be used to improve the lives of the poor. Chad's parliament approved a law that set out the government's poverty-reduction objectives and detailed arrangements for revenue use. For instance, under the law, out of the net revenues allocated to Chad, 10 percent of the royalties and dividends were designated to be held in trust for future generations. Five percent were earmarked for regional development in the oil-producing area, and a substantial proportion of the royalties was devoted to education services, health services, social services, rural development, infrastructure, and environmental and water resource management.<sup>15</sup> The new approach—to include revenue management commitments as a condition for the project's approval—represented an innovative modality for the international development arena.

Chad's oil wealth is located in the southern part of the country, in the Doba Basin. The area is estimated to contain about 900 million barrels of recoverable oil. As envisioned by the pipeline project appraisal documents, an international consortium of oil companies would develop oil fields in the basin by drilling some 300 wells and constructing a 1,070-kilometer (663-mile) underground pipeline to offshore oil-loading facilities on Cameroon's Atlantic Coast. During peak production, 225,000 barrels of oil could be produced daily. Depending on world oil prices, the pipeline project could yield up to US\$2 billion in revenues for Chad and US\$500 million for Cameroon over a 25-year production period, thereby increasing current annual government revenues by 45–50 percent per year.

### Private and Public Sector Investments—the Package of Support

Private sector investment is fundamental for this project. A consortium, consisting of ExxonMobil, Petronas, and Chevron, covered almost all of the US\$3.7 billion pipeline project costs. The World Bank Group contributed only 4 percent of the total expenses. The IBRD provided loans of US\$39.5 million for Chad and US\$53.5 million for





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Cameroon: The Pipeline Project—Right: A project-built bridge over the Lom River. At the left is a railway bridge with walking path.

Cameroon to finance the governments' equity share in the project. The IFC, the private sector affiliate of the World Bank Group, provided a loan of US\$100 million to the joint-venture pipeline companies, as well as up to US\$100 million in syndicated loans to the oil transportation companies. The IFC's involvement—or the participation of any other financier—does not remove the operation from the purview of the Inspection Panel; the Bank's involvement is at all times subject to the Panel's process notwithstanding the involvement of actors that are not included in the Panel's mandate.

In addition, the IDA, the World Bank's lending affiliate for the poorest countries, granted a credit equivalent to US\$23.7 million for the Petroleum Sector Capacity Building Project and a credit equivalent to US\$5.8 million to support the Management of the Petroleum Economy Project. These credits aimed to strengthen Chad's (and Cameroon's) institutional framework related to the pipeline project, including environmental management and monitoring.

### International Public Debate

Despite—or because of—the project's new model, the project provoked many controversial debates within Chad and Cameroon, as well as around the world. While acknowledging the discussion surrounding the project, World Bank President James Wolfensohn expressed his strong support: "The Chad–Cameroon project reflects an unprecedented effort between the Bank Group, the consortium of private companies and the two governments. While some may still have doubts, I believe that the hard work of specialists from the Bank Group, the private companies and the two countries,

combined with the strong participation of civil society within Chad and Cameroon and around the world, have made this a better, stronger project. The real challenge is about to begin. We intend to pursue it, with our partners, with the same openness and thoroughness we have brought to the process so far."<sup>16</sup>

NGOs both in Chad and around the world, as well as civil society groups and academics, participated in a very heated debate. U.S. law schools assessed Chad's law on revenue management. Many international NGOs posted their positions regarding the pipeline project on the Internet and launched campaigns against the pipeline project through the press. A full-page advertisement in the *New York Times*, an appeal to stop the project, was only one example of the activities' dimensions. In the fall of 2000 and January 2001, the international media reported that the government of Chad had purchased weapons with part of a US\$25 million bonus paid by Chevron and Petronas after they joined the consortium of oil companies in mid-2000. Chad had thus broken its promise to the Bank on how it would spend its income from the oil project. The World Bank reacted immediately and froze the debt-relief program for Chad until the government stopped further spending of oil funds and made all government expenditures more transparent.

The intense discussion that took place during the project design phase also focused on the significant environmental risks of the pipeline. National experts, Bank Group specialists, and consortium personnel provided material for a 19-volume Environmental Impact Assessment and Management Plan. For 18 months, local and international organizations exchanged views with World Bank staff members to ensure that the project planners were considering the full range of potential risks and applying the appropriate standards of environmental and social protection. Nevertheless, the outcome was soon under fire by international critics: 200 organizations in 55 countries called for a World Bank moratorium, arguing that additional time was needed to strengthen local institutional capacity and create conditions in which a project of that magnitude and risk could be carried out in an environmentally sustainable and socially just manner.

The public debate also shed light on Chad's human rights situation. Amnesty International released information about an opposition leader in Chad's parliament, Ngarlejo Yorongar, who was jailed and reportedly tortured after he spoke out against the pipeline project in May 2001. World Bank President James Wolfensohn himself telephoned President Idriss Deby, and Mr. Yorongar was released from prison immediately afterward.

To address some of the concerns of civil society, the Bank established an international advisory group (IAG) in February 2001 consisting of reputable international experts to monitor the project, with particular attention to social and environmental safeguards. The IAG's mandate also included advising the Bank and the two governments on the overall progress in the project's implementation, with special attention to the key objective of reducing poverty in Chad. Nevertheless, frustration about the situation constantly arose among affected people in Chad. The so-called Pipeline of Hope, which was meant to serve as a model for sustainable development on the African continent, was at stake.

## Receiving the Request for Inspection

Against this background scenario, the Inspection Panel received, on March 22, 2001, a Request for Inspection signed by Ngarleji Yorongar, who was acting on behalf of more than 100 residents living in the vicinity of the three oil fields in the Doba Basin of southern Chad. “We hold the Bank accountable for what it has done and/or omitted to do in this case. If the Bank had taken our observations into account, we would not be in the present mess,” read the Request, clearly marking the people’s demand for the Bank’s accountability.

In the Request, the local residents alleged that the Bank’s failure to comply with its policies and procedures would result in adverse direct or indirect impacts on their communities. The Request identified the impacts as pollution of water sources, degradation of the environment, lack of compensation for expropriation, violations of human rights, and threats to cultural property.

The Request accused the Bank of failing to conduct proper consultations and not including the NGOs in the consultation process. Reportedly, the Bank had not adequately disclosed all relevant information to the local communities. The Request also declared that the Bank had neither ensured that the borrower conducted an overall satisfactory assessment of possible environmental impacts nor ensured that the implementing agencies compensated people for the loss of medicinal plants or property during project implementation. Regarding the oil revenue management, the Request claimed that the Bank had “ridden roughshod over the legislation” in Chad, which had designated only a “laughably small quota” of the revenues for the production zone. Moreover, the Requesters claimed that the Bank’s monitoring and supervision efforts were insufficient.

Specifically, the Request alleged the Bank’s noncompliance with its own policies and procedures on environmental assessment (OD 4.01), involuntary resettlement (OD 4.30), natural habitats (OP/BP 4.04), pest management (OP 4.09), poverty reduction (OD 4.15), indigenous peoples (OD 4.20), forestry (OP 4.36), disclosure of operational information (BP 17.50), economic evaluation of investment operations (OP 10.04), project monitoring and evaluation (OD 10.70), project supervision (OD 14.05), and management of cultural property in Bank-financed projects (OPN 11.03).

## Processing the Request

The processing of the Request, which was filed by an opposition leader, coincided with the electoral and post-election period in Chad. Both the UNDP and the U.S. Department of State did not recommend traveling to Chad at the initially planned time for the Panel’s mission to ascertain the eligibility of the Request and the Requesters. Therefore, the Panel’s recommendation to the Board of whether to conduct a full investigation was delayed for 90 days, and the Panel’s field visit to the project site finally took place in August 2001.



After determining that both the Requesters and the Request met the eligibility criteria set forth in the Resolution, the Panel recommended an investigation to the Board of Executive Directors. The Board approved that recommendation on October 1, 2001.

The Panel then returned to the project area in January 2002 and met with Mr. Yorongar and with other people living along the pipeline route, as well as with government officials and NGO representatives. This visit particularly revealed the high degree of exasperation and distrust among the affected people with respect to the pipeline project. “The people’s reaction is understandable,” said the Panel’s chairman and lead inspector, Edward S. Ayensu, after his trip to Chad in an interview with this author. “We need to listen to them carefully. That is part of our work at the Inspection Panel.” Mr. Ayensu’s strong commitment was highly appreciated in the field: “Finally, somebody listens to us. And I am sure, Mr. Ayensu will make our voices heard,” said a local resident in Chad.

### The Panel’s Investigation Report

The Panel then investigated the issues raised in the Request, and, in addition to the field visit, the Panel researched Bank files and conducted interviews with Bank staff members and consultants. Regarding the environmental concerns, the Panel found that the Bank was not in compliance with its policy on environmental assessment (OD 4.01), because it had neither considered the spatio-temporal aspects of the project nor completed a cumulative impact assessment and regional environmental assessment for the impacts on the region as a whole. In addition, the Panel did not find any relevant records reflecting the work or conclusions of an external advisory panel, which would have been required under the Bank’s policy. Therefore, the Panel found that the Bank did not comply with OD 4.01 in this respect.

The Request alleged that the Bank did not comply with its forestry policy (OP 4.31); however, the Panel was satisfied that the project’s design avoided or minimized the clearing of riverbank gallery forest. The Panel found the Bank in compliance with the related policy on pest management (OD 4.09). However, the Panel’s investigation highlighted the need to ensure the provision of safe and clean water to those living in the project area.



Chad: The Pipeline Project—Villagers in southern Chad gathering for discussion with the Inspection Panel.

E.S. Ayensu

Although the Bank had acknowledged the project's complexity, the Panel found only a very brief discussion of sustainability and risks in Bank documents. Therefore, the Panel considered the Bank not in compliance with its policy on environmental assessment (OD 4.01) in this respect.

### *Resettling 80,000 Residents?*

Another question raised in the Request pertained to possible involuntary resettlement: "Are the 80,000 to 100,000 people inhabiting this district to be displaced?" Resettlement was a profound concern for the local residents. In this regard, the Panel's report confirmed the pipeline project's difference from other oil development projects. Only about 50 households had to be moved to new villages and they had successfully been accommodated within existing villages and lineage-based land resources.

Concerning the alleged failure to compensate affected persons, the Panel found the applied method (compensating the concerned community rather than the individual for fallow land) to be sensible and consistent with applicable Bank policies. With respect to the allegations of noncompliance with the Bank's policy on indigenous peoples, the Panel found that this policy did not apply to this project because the people living along the pipeline in Chad did not constitute indigenous peoples.

### *Reallocation of Revenues and the Panel's Access to Information*

Because the Inspection Panel did not find any analysis that could have underpinned the justification of the allocation of revenues among Chad, Cameroon, and the consortium, it raised concerns about the adequacy of allocation of revenues to Chad.



Anonymous

Chad: The Pipeline Project—Pipeline construction staff members explain details of the oil prospecting to the inspectors.

Unfortunately, it later became clear that the Bank's Management had deprived the Panel from accessing some important documents with regard to the oil revenue shares for Chad. Although the Resolution establishing the Panel provides for the Panel to have access to all "pertinent records," this clause had been disregarded by the Bank's Management. As a result of the Board's discussion of the Panel's and Management's reports, the Bank's general counsel issued a legal opinion in early October 2002 confirming that "Inspection Panel members may have access to pertinent proprietary information in the course of their work" to ensure strict observance of the legal framework as well as to ensure the Panel's integrity and future investigations.

### *Increasing Poverty Problems*

The Panel also confirmed serious concerns about the Bank's failure to assist in the timely development and strengthening of the institutional capabilities of the government of Chad to monitor the project effectively before revenues were expected to flow. The capacity building project was running significantly behind schedule, while oil field and pipeline development were running ahead of schedule. In the Panel's view, these delays could compromise the attainment of poverty reduction goals in the later stages of construction and the early stages of operation of the pipeline project: "Obviously, Management must renew and invigorate its efforts to ensure that the structures created are fully operational before the expected earnings arrive." The Inspection Panel added: "Furthermore, it was not obvious . . . that there is sufficient communication and coordination between the two projects to rule out the one possibility of their becoming poverty-increasing problems."

### *Presence of Security Forces*

The Panel's report also revealed that the Bank's consultations were—at least prior to 1997—conducted in the presence of security forces, which was certainly incompatible with Bank policy requirements. In its report, the Panel emphasized once again that full and informed consultation was impossible if those consulted perceive that they could be penalized for expressing their opposition to or honest opinions about a Bank-financed project. However, the Panel recognized that, since 1999, the Bank has made significant efforts and encouraged frequent consultations with local communities and civil society in an environment more conducive to an open exchange.

### *Human Rights*

The Request also alleged violations of Bank directives on proper governance and in regard to human rights and thereby touched a delicate topic for the Bank as well as for the Panel. The Articles of Agreement of the World Bank state that "only economic considerations shall be relevant to [the Bank's] decisions." As two legal opinions (in 1990 and 1995) by the Bank's general counsel and senior vice president state with respect to human rights, the prohibition of political activities in the Bank's work translates into a prohibition to interfere in a manner in which a country deals with political human rights, as long as this has no demonstrable effect on the country's economy.





A. Mino

Cameroon: The Pipeline Project—Pump Station # 3 in Belabo.

However, in the case of the pipeline project in Chad, the Inspection Panel felt for the first time the obligation to examine whether human rights issues as violations of proper governance would impede the implementation of the project in a manner that was incompatible with Bank policies. The Panel examined several reports addressing the human rights situation in Chad and the extensive exchange of correspondence between the Bank and local and international NGOs. It concluded that this situation was “far from ideal.”

### *Breaking New Ground*

The Inspection Panel’s Investigation Report broke new ground. For the first time, the Bank’s Board of Executive Directors had to consider human rights in the context of a specific operation. The Panel’s Chairman, Edward S. Ayensu, stated during a presentation to the Bank’s Board of Executive Directors on September 12, 2002:

Given the world-wide attention to the human rights situation in Chad . . . and the fact that this was an issue raised in the Request for Inspection by a Requester who alleged that there were human rights violations in the country, and that he was tortured because of his opposition to the conduct of the project, the Panel was obliged to examine the situation of human rights and governance in the light of Bank policies. We are convinced that the approach taken in our report, which finds human rights implicitly embedded in various policies of the Bank, is within the boundaries of the Panel’s jurisdiction. The Panel is pleased that by-and-large Bank Management agrees with the Panel’s approach to this sensitive subject and has pledged to continue to monitor the developments in this area within the context of the applicable Bank policies.<sup>17</sup>

Mr. Ayensu then added:

The Panel . . . believes that the human rights situation in Chad exemplifies the need for the Bank to be more forthcoming about articulating its role in promoting rights within the countries in which it operates . . . [and] perhaps this case should lead . . . to study [of] the wider ramifications of human rights violations as these relate to the overall success or failure of policy compliance in future Bank-financed projects.

Thereby, the Panel put more emphasis on human rights considerations by noting that they are embedded in Bank policies and by supporting the ongoing internal discussion to reconsider the Bank's position concerning respect for human rights in its borrowing countries.

### Beneficial Effects at the Project Level

Most notably, the Panel's work had beneficial effects at the project level because the Bank's Management responded to the Panel's findings with an Action Plan. The proposed activities included the intensification of the Bank's commitment to work with the agencies in Chad to address the environmental and social concerns. The Bank also agreed to intensify its monitoring and supervision efforts, strengthen the Bank's field presence in Chad, and pursue the establishment of a permanent framework for dialogue. To ensure appropriate consultation and disclosure of information, the Bank focused on upgrading radio station facilities in southern Chad and organized regular information caravans to the villages in the project area. The Bank also agreed to address the implementation delays and to support accelerated actions to improve the situation on the ground.

After the Panel's investigation, the Bank's president praised the Panel's positive effects at the project level: "The findings of the Panel will lead to improvements in the ongoing implementation of this challenging project, which has enormous potential to bring great benefits to the people of Chad and Cameroon."<sup>18</sup>

### Notes

1. See "Presidents Inaugurate Yacyretá Dam Amid Ongoing Problems," *NotiSur—Latin American Affairs* 8, no. 24 (July 10, 1998). Available at <<http://ssdc.ucsd.edu/news/notisur/h98/notisur.19980710.html>>.
2. See International Rivers Network, "Paraguayan Dam Victims File Complaint with Development Banks," press release, September 28, 1996. Available at <<http://www.hartford-hwp.com/archives/42/003.html>>.
3. See *Review of Present Project Problems and Assessment of Action Plans* (September 16, 1997), paragraphs 213 and 220.
4. See Panel Report at paragraph 256 (page 58).
5. See "Presidents Inaugurate Yacyretá Dam Amid Ongoing Problems," *NotiSur—Latin American Affairs* 8, no. 24 (July 10, 1998). Available at <<http://ssdc.ucsd.edu/news/notisur/h98/notisur.19980710.html>>.

6. See "World Bank Discusses Report of Advisory Panel on Yacretá Hydro-Electric Project," News Release No. 2000/179/LAC, January 14, 2000. Available at <<http://www.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20013776~menuPK:34466~pagePK:34370~piPK:34424~theSitePK:4607,00.html>>.
7. See "Statement by Elias Diaz Peña (Sobrevivencia) to the World Bank Board of Executive Directors," February 3, 1998. Available at <<http://www.ciel.org/Ifi/elias.html>>.
8. See "TIN Special Report: Development and Population Transfer in Qinghai," April 27, 1999. Available at <<http://www.tibetinfo.net/news-updates/nu270499.htm>>.
9. See office memorandum from Ko-Yung Tung to Jim MacNeill, April 19, 2000, p. 3.
10. See QAG homepage. Available at <<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/QAG/0,,contentMDK:20064785~menuPK:114863~pagePK:109615~piPK:109635~theSitePK:109609,00.html>>.
11. See the *Monitor*, November 24, 2001, p.1.
12. See Marc Lacey, "Traditional Spirits Block a \$500 Million Dam Plan in Uganda," *New York Times*, September 13, 2001. Available at <<http://forests.org/archive/africa/trspbloc.htm>>.
13. See Panel Report paragraphs 60 and 216.
14. See speech by Callisto Madavo, Vice President, Africa Region, World Bank, Groundbreaking Ceremonies Chad–Cameroon Pipeline Project, October 20, 2000, Kribi, Cameroon. Available at <<http://www.worldbank.org/afr/ccproj/news/index.htm>>.
15. For further information, see Project Appraisal Document, Report No. 19343, Annex 11, April 13, 2000, p. 96.
16. See "World Bank Group Approves Support for Chad–Cameroon Petroleum Development and Pipeline Project," News Release No. 2000/395/AFR, June 6, 2000. Available at <<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20058876~menuPK:34465~pagePK:34370~piPK:34424~theSitePK:4607,00.html>>.
17. See Edward S. Ayensu, "Remarks of the Chairman of the Inspection Panel to the Board of Executive Directors on the Chad–Cameroon Pipeline Projects," September 12, 2002. Available at <<http://www.inspectionpanel.org>>.
18. See United Nations Office for the Coordination of Humanitarian Affairs, "Cameroon–Chad: World Bank Sticks with Pipeline Project," Integrated Regional Information Network. Available at <<http://geoweb.fao.org/News/00016489.HTM>>.