

## COURSE OF ACTION

### 1. Background

1. On 20 September 2010 the Office of the Special Project Facilitator (OSPF) received a complaint concerning the Bishkek-Torugart road<sup>1</sup>, which is part of the Central Asia Regional Economic Cooperation (CAREC) Corridor 1 linking the Kyrgyz Republic and the People's Republic of China and other Central Asian countries. The complaint was from three affected persons. Two of them requested fair compensation for losing shops. The third AP was seeking compensation for land and trees. On 12 November 2010 OSPF determined the complaint eligible for the consultation phase, an 8-step process as required by the ADB's Accountability Mechanism policy. In December 2010 OSPF conducted a review and assessment, issued a review and assessment report (RAR) and distributed it to the stakeholders for comments. The RAR included a proposed course of action consisting of 8 activities,<sup>2</sup> and a time frame. From 28 March to 4 April OSPF conducted a mission<sup>3</sup> to work out a course of action together with the parties and based on the latest information and developments. The Mission met with the parties involved in the complaint to (i) discuss the status of the preparations for the Land Acquisition and Resettlement Plan (LARP); (ii) confirm timeframes, (iii) listen to experiences of the past months, concerns, and obstacles related to the preparation and implementation of the LARP; and (iv) take note of suggestions for improvements.

2. The Ministry of Transport and Communication (MOTC) is the executing agency of the project, which is implemented by a project implementation unit within the Investment Projects Implementation Group (IPIG) of MOTC. A safeguards group is part of IPIG. In the Asian Development Bank (ADB) the Central and West Asia Department (CWRD) is administering the project.

### 2. Status of LARP Preparation

3. The Prime Minister of the Kyrgyz Republic set up an interdepartmental commission tasked with the preparation of a list of properties falling into the right of way (ROW), prepare a report agreed with the At-Bashy District Council, where the impacted sections are located, and the owners of properties, and submit their conclusions to the Government. The Chairman of this commission is Mr. K.A. Mamaiev, State Secretary in MOTC.<sup>4</sup> The commission went to the project area and prepared a list of properties concluding that a total of 31 persons are affected,

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<sup>1</sup> Grant No. 0123-KGZ for \$20 million, approved on 14 November 2008.

<sup>2</sup> These activities were (i) In consultation with the complainants, MOTC will prepare a LARP that will detail the exact entitlements, The LARP is due by 15 January 2011. (ii) CWRD's resettlement specialist will provide advice to MOTC, oversee the preparation of the LARP and approve the LARP prior to its implementation. (iii) MOTC will establish a grievance redress mechanism. (iv) The three lead complainants will be kept informed by MOTC about the progress of the LARP, and they will be able to contact the Kyrgyz Resident Mission's external relations coordinator for further information. (v) Provision of the compensation and assistance should be completed by 31 March 2011 so that MOTC can continue the construction works, and the contractor can mobilize again on 1 April 2011 after the winter season. (vi) The Parties agree to follow the ground rules shown in the Appendix (of the RAR). (vii) OSPF will conduct meetings and consultations with the parties as needed. (viii) OSPF will monitor the implementation of this course of action and close the complaint once the compensation and assistance has been provided.

<sup>3</sup> The Mission consisted of Karin Oswald, OSPF, Principal Facilitation Specialist, Raya Kadyrova from the Foundation for Tolerance International, a nongovernment organization based in Bishkek as local facilitator and Clarisa Mavlyanova as interpreter and translator of documents for OSPF.

<sup>4</sup> The decree is dated 24 February 2011 in Kyrgyz and Russian language and is shown in attachment 1 together with an unofficial English translation.

including the three OSPF complainants. The impact has been identified in two sections of the road: from km 409 to km 411 and from km 417 to km 419. All 31 persons will be treated equally under the LARP preparation and implementation.

4. The complainants have decided to assign Maya Eralieva as their representative.

5. MOTC and CWRD have been in close contact over the last months to assure a timely LARP preparation and implementation while at the same time allowing road construction to resume in sections without impact. MOTC and CWRD agreed that no construction will take place in the two impacted sections until the LARP implementation is concluded and compensation has been paid. Meanwhile also a resettlement specialist under the supervision consultant's package has been recruited to support the MOTC safeguard team in the preparation of the LARP.

### 3. Updated Course of Action

6. CWRD will provide support to MOTC in the preparation of the LARP, and conduct capacity building. MOTC will follow the requirements as provided in Kyrgyz laws and regulations and the requirements as specified in the ADB Policy on Involuntary Resettlement (1995). The LARP implementation schedule (Attachment 2) is agreed between CWRD and MOTC and part of the course of action.

7. Parties have suggested additional activities to support the timely preparation and implementation of the LARP, improve communication, enhance understanding, and provide involved persons with skills needed in the LARP process. These activities will take place in the second half of May 2011 and include:

- Two 2-hour orientation sessions for members of the interdepartmental commission on (i) the ADB Safeguards Policy Statement; (ii) the grant agreement between the Government of the Kyrgyz Republic for the project; (iii) the ADB Accountability Mechanism; and (iv) principles of communication, disclosure of information, and conduct of meetings;
- Two ½-Day orientation sessions for the two impacted communities, local leaders, elders, village organizations, members of the village council, the local police, members of the interdepartmental commission based in Naryn, members of the provincial (oblast) advisory committee,<sup>5</sup> the provincial (oblast) ombudsman,<sup>6</sup> district (raion) parliament members, and local NGOs on (i) the ADB Safeguards Policy Statement and the Accountability Mechanism; (ii) the grant agreement between the Government of the Kyrgyz Republic for the project; (iii) the Kyrgyz laws and regulations; (iv) principles of communication, disclosure of information, and conduct of meetings, and; (v) the design, status and deadlines for the road construction.
- 1-day training for commission members, the MOTC safeguard specialists and other participants (to be specified) on communication and negotiation skills.
- Two 2-day training sessions for the two impacted communities, local leaders, elders, village organizations, members of the village council, the local police, members of the

<sup>5</sup> The provincial advisory committee is a local mechanism established as part of the UN Peace Development Program in the Kyrgyz Republic, trained in conflict analysis, conflict prevention and reconciliation, headed by the governor of a province and including among others members of civil society, media, law enforcement and the provincial ombudsman.

<sup>6</sup> Under the Kyrgyz Constitution 2003, ombudsmen have been established at National and provincial levels. Their responsibilities include the protection of citizens' rights.

interdepartmental commission based in Naryn, members of the provincial (oblast) advisory committee, the oblast ombudsman, district (raion) parliament members, and local NGOs on communication and negotiation skills.

8. The parties have agreed to a basic set of ground rules (Attachment 3). Ground rules can always be revised if and when the parties consider that changes are necessary.

9. OSPF will organize and facilitate the proposed orientation and training sessions in close cooperation with MOTC and CWRD, and will prepare the documentation of these sessions. OSPF will cover the complainants' costs for participating in the proposed sessions, if required. OSPF will monitor the implementation of the course of action and close the complaint once the compensation and assistance has been provided to the complainants.

**Government of the Kyrgyz Republic**  
Decree dated 24 February 2011, No. 43-p

1. Establish an interagency commission to prepare an inventory of properties falling into the right-of-way of the Bishkek-Naryn-Torugart Road being constructed; section Km 400 to 439 as follows:

K.A.Mamaev	State secretary, Ministry of Transport and Communications of the KR, Chairman
Y.D.Turdumambetov	Director, Road Economic Department under MOTC KR, Deputy Chairman
J.A. Aaliev	Head, Bishkek-Naryn-Torugart Road Department, MOTC KR
E.A. Jamalov	Specialist, Transport, Communication, Fuel-energy complex and Tourism financing Unit, Ministry of Finance of the KR
Ch.A.Sarybaev	Head, Legal Unit, Ministry of Labour, Employment and Migration of the KR
N.O. Mamanov	Head, Methodology on tax legislation Unit, Department on working with taxpayers, State Tax service under Government of the KR
S.A. Akhmatov	Head, At-Bashy rayon department on land management and registration of title to real property, State Registration Service under Government of the KR
V.A. Chortekova	Head, State Architectural Construction Supervision on Naryn oblast, State Agency of Architecture and Construction under the Government of the KR
R. S. Shaltaev	Head, Industry, construction, Transport and Communication Unit, State administration, Naryn oblast
A.Mukeev	Engineer, DI "Kyrgyzdortransproject"
J. Tentimishov	First Deputy Head, State administration, At-Bashy rayon, Naryn oblast
Sh. Shamshiev	Head, Kara-Koyun rural district, At-Bashy rayon, Naryn oblast

2. This interagency commission within one month should have visited the site and identified the property owners within the right-of-way, prepare a final report agreed with At-Bashy district council and property owners and submit the relevant findings for the Kyrgyz Government's consideration .

3. Impose the control of the implementation over this Decree on the Transport, Construction, Communication and Emergency Situation Unit, Office of the Kyrgyz Government.

Prime-minister

A.Atambaev



**БУЙРУК РАСПОРЯЖЕНИЕ**

2011-жылдын 24-февралы, № 43-6

1. Курулуп жаткан Бишкек-Нарын-Торугарт автомобиль жолунун баштапкы тилкесинин 400 - 439 км жерине туш болгон муздуктун тизмесин аныктоо боюнча ведомстволор аралык комиссия төмөнкү курамда түзүлсүн:

- |                    |  |
|--------------------|--|
| Мамаев К.А.        | - Кыргыз Республикасынын Транспорт жана коммуникациялар министрлигинин статс-катчысы, комиссиянын төрагасы,  |
| Турдумамбетов Ы.Д. | - Кыргыз Республикасынын Транспорт жана коммуникациялар министрлигинин алдындагы Жол чарбасы департаментинин директору, комиссиянын төрагасынын орун басары,                             |
| Аалиев Ж.А.        | - Кыргыз Республикасынын Транспорт жана коммуникациялар министрлигинин алдындагы "Бишкек-Нарын-Торугарт" автомобиль жолу башкармалыгынын начальниги,                                     |
| Жамалов Э.А.       | - Кыргыз Республикасынын Филансы министрлигинин транспортту, байланышта, ОЭКти жана туризмди каржылоо бөлүмүнүн начальниги,  |
| Сарыбаев Ч.А.      | - Кыргыз Республикасынын Эмгек, ишке орноштуруу жана миграция министрлигинин юридика бөлүмүнүн начальниги,   |
| Маманов Н.О.       | - Кыргыз Республикасынын Өкмөтүнө караштуу Мамлекеттик саясат кызматынын саясат телеөтүлөр менен иштөө боюнча башкармалыгынын саясат кызматкери боюнча методология бөлүмүнүн начальниги, |
| Акматаев С.А.      | - Кыргыз Республикасынын Өкмөтүнө караштуу Мамлекеттик каттоо  |



**БУЙРУК РАСПОРЯЖЕНИЕ**

от 24 февраля 2011 года № 43-р

1. Образовать межведомственную комиссию по определению перечня имущества, подлежащего в полосу отвода строящейся автомобильной дороги Бишкек-Нарын-Торугарт с 400 по 439 км, в следующем составе:

- |                    |  |
|--------------------|--|
| Мамаев К.А.        | - статс-секретарь Министерства транспорта и коммуникаций Кыргызской Республики, председатель комиссии,   |
| Турдумамбетов Ы.Д. | - директор Департамента дорожного хозяйства при Министерстве транспорта и коммуникаций Кыргызской Республики, заместитель председателя комиссии,   |
| Аалиев Ж.А.        | - начальник управления автомобильной дороги «Бишкек-Нарын-Торугарт» Министерства транспорта и коммуникаций Кыргызской Республики,  |
| Жамалов Э.А.       | - специалист отдела синхронизация транспорта, связи, ТЭК и туризма Министерства финансов Кыргызской Республики,  |
| Сарыбаев Ч.А.      | - начальник юридического отдела Министерства труда, занятости и миграции Кыргызской Республики,  |
| Маманов Н.О.       | - начальник отдела методология по налоговому законодательству управления по работе с налогоплательщиками Государственной налоговой службы при Правительстве Кыргызской Республики,           |
| Акматаев С.А.      | - начальник Ат-Башинского районного управления по землеустройству и регистрации прав на недвижимое имущество Государственной регистрационной службы при Правительстве Кыргызской Республики, |

- Чортокова Е.А.
- начальник государственного архитектурно-строительного надзора по Нарынской области Государственного агентства архитектуры и строительства при Правительстве Кыргызской Республики,
  - заведующий отделом промышленности, строительства, транспорта и коммуникаций государственной администрации Нарынской области,
  - инженер проектно-изыскательского института «Кыргыздортранспроект»,
  - первый заместитель главы государственной администрации акыма Ат-Башинского района Нарынской области,
  - глава Кара-Койонского сельского округа Ат-Башинского района Нарынской области.

Шалтаев Р.С.

Мукеев А.

Тентимшиев Ж.

Шамшиев Ш.

2. Межведомственной комиссии в месячный срок с вводом на место определить перечень имущества, попавшего в полосу автомобильного овода, подготовить окончательный отчет, согласованный с Ат-Башинскими районными жешем и владельцами имущества, и в установленном порядке внести на рассмотрение Правительства Кыргызской Республики соответствующее заключение.

3. Контроль за исполнением настоящего распоряжения возложить на отдел транспорта, строительства, коммуникаций и чрезвычайных ситуаций Аппарата Правительства Кыргызской Республики.

Премьер-министр

А. Атамбаев

- кызматынын Ат-Башы райондук жер жайгаштыруу жана кыймылсыз мүлккө укуктарды каттоо башкармалыгынын камчылыгы,
- Кыргыз Республикасынын Өкмөтүнө каржылуу Архитектура жана курулуш мамлекеттик агенттигинин Нарын облусу боюнча мамлекеттик архитектура-курулуш кеземелдүүн начальниги,
  - Нарын облусунун мамлекеттик администрациясынын өнөр жай, курулуш, транспорт жана коммуникациялар бөлүмүнүн башчысы,
  - "Кыргыздортранспроект" долбоордук-инженер институтунун инженер,
  - Нарын облусунун Ат-Башы районунун мамлекеттик администрация башчысынын биринчи орун басары,
  - Нарын облусунун Ат-Башы районунун Кара-Койон айылдык округунун башчысы.

Чортокова Е.А.

Шалтаев Р.С.

Мукеев А.

Тентимшиев Ж.

Шамшиев Ш.

2. Ведомстволор аралык комиссия бир айлык мөөнөт жерине чыгуу менен бөлүнгөн аялжол тилкесине туш болгон муздуктун тилкесин аныктасын. Ат-Башы райондук жешин жана муздуктун ээлерин менен макулдашылып толук бүткөн отчетту даярдап жана белгилелген тартипте Кыргыз Республикасынын Өкмөтүнүн кароосуна тийгилүү корутунду келтирсин.

3. Бул бүтүрүктүн аткарылышын контролдоо Кыргыз Республикасынын Өкмөтүнүн Аппаратынын транспорт, курулуш, коммуникациялар жана ошого кырдандар бөлүмүнө жүктөлсүн.

Премьер-министр

А. Атамбаев

**KGZ: G0123 – CAREC Corridor 1 (Bishkek – Torugart), Project 1  
Agreed LAR Action Plan Schedule  
As of 11 April 2011**

<b>No</b>	<b>Action</b>	<b>MOTC Original Schedule (as of 1Apr 2011)</b>	<b>MOTC-ADB Revised Schedule</b>	<b>Responsible Party</b>
1.	Submission of Due Diligence Report (DDR) to ADB (assurance of no LAR impacts for sections where the civil works are to be done)	7 Apr 2011	7 April 2011	MOTC
2.	LARP Survey and APs consultation	7–20 Apr 2011	4-20 Apr 2011	JOC and MOTC
3.	Initiation of 2 <sup>nd</sup> Governmental decree on recruitment of independent evaluator	6 Apr 2011	25 Apr 2011	MOTC + LARC
4.	Issuance of 2 <sup>nd</sup> Governmental decree on recruitment of independent evaluator	29 Apr 2011	23 May 2011	LARC + MOTC
5.	Recruitment of independent evaluator	2 May 2011	30 May 2011	LARC
6.	Receiving an Independent evaluator conclusion/evaluation results	16 May 2011	6 Jun 2011	LARC +MOTC
7.	Submission of evaluator's conclusion to Gosarchstroy for expertise review	18 May 2011	8 Jun 2011	LARC + MOTC
8.	Receiving the Gosarchstroy expertise result	1 Jun 2011	15 Jun 2011	LARC + MOTC
9.	Submission of first draft LARP to ADB safeguard specialist for review before formal submission from MOTC to ADB	1 Jun 2011	20 Jun 2011	MOTC
10.	ADB comments on the draft LARP	7 Jun 2011	24 Jun 2011	ADB
11.	Consultation meetings for agreement on LARCs' conclusion with APs (Final consultation with AP and NGO is welcome to observe)	8 Jun 2011	28 Jun 2011	MOTC + LARC
12.	Finalization and submission of LARP to ADB	17 Jun 2011	1 Jul 2011	MOTC
13.	Issuance and publication of Government Decree on compensation payment	18 Jul 2011	29 Jul 2011	LARC/GKR + MOTC
14.	Compensation money allocation	19 Sep 2011	30 Sep 2011	KGR+LARC
15.	Payment of compensation to AP – implementation of LARP	26 Sep 2011	7 Oct 2011	LARC + MOTC
16.	Submission of LARP implementation Report	3 Oct 2011	14 Oct 2011	MOTC
17.	Issuance of ADB's no objection letter	10 Oct 2011	20 Oct 2011	ADB

## **GROUND RULES**

Interactions of all parties involved in the consultation process will be as follows:

- (i) Parties address one another in respectful ways, avoid side conversations and keep the discussion focused and constructive.
- (ii) Parties will not make personal attacks and will respect each others' views.
- (iii) Any disagreement must be focused on the issues, not on one another.
- (iv) In order to allow for maximum participation, parties will keep their comments short and to the point.
- (v) Only one person will speak at a time and no one will interrupt when another person is speaking.
- (vi) Each person will express his or her own views, or the views of his or her organization rather than speaking for others.
- (vii) No party will give interviews, make statements in the media or try to get messages across using the media.

The parties should discuss and agree on the ground rules, and add or remove or change them as they work out the course of action. Ground rules can always be revised if and when the parties consider that changes are necessary.