



# Final Report of the Special Project Facilitator

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## **CONFIDENTIAL**

Project Number: 41121  
Loan Number: 2562-KAZ  
September 2012

**KAZAKSTAN: CAREC TRANSPORT CORRIDOR I  
(Zhambyl Oblast Section) [Western Europe–Western  
People's Republic of China International Transit  
Corridor] INVESTMENT PROGRAM – Project 2**  
(Complaint Received 5 November 2009)

## ABBREVIATIONS

ADB	–	Asian Development Bank
CAREC	–	Central Asia Regional Cooperation
CWRD	–	Central and West Asia Department
CWTC	–	Transport and Communications Division, Central and West Asia Department
KARM	–	Kazakhstan Resident Mission
km	–	kilometer
MFF	–	multitranche financing facility
MOTC	–	Ministry of Transport and Communications
NGO	–	nongovernment organization
OD	–	operations department
OSPF	–	Office of the Special Project Facilitator
RAR	–	review and assessment report

The original English version of this report was translated by the Office of the Special Project Facilitator (OSPF) consultants into Russian and Kazakh. In case of discrepancy, the English version will prevail.

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## EXECUTIVE SUMMARY

The CAREC Transport Corridor I (Zhambyl Oblast Section) [Western Europe–Western People's Republic of China International Transit Corridor] Investment Program – Project 2 aims to improve road sections in the Kazakhstan portion of the Central Asia Regional Economic Cooperation (CAREC) Transport Corridor and to construct bypasses and new alignments to make the corridor suitable for international traffic. The Asian Development Bank (ADB) approved the first tranche comprising a \$340 million loan on 30 December 2008 to improve 125 kilometers (km), and the second tranche of \$187 million on 7 October 2009 to improve 79 km.

On 5 November 2009, the Office of the Special Project Facilitator (OSPF) received a complaint, acknowledged receipt, and registered the complaint on 10 November 2009. The complainants raised concerns about the number of cattle passages and a bridge for their agricultural machinery, which they were not sure would be provided. On 3 December 2009, OSPF determined the complaint eligible and conducted a review and assessment.

The formal complainants are two signatories to the initial complaint letter. They represent at least 30 other villagers who signed a request for two cattle passages and a bridge or underpass for agricultural machinery, which they had requested in earlier consultations. At the time, they were concerned about access to grazing pastures; the safe passage of agricultural equipment; adequate means of water flow from the south side to the north side of the road, where the village is located; accessing the highway; and obtaining information about the project. OSPF concluded that there was reasonable probability that the complaint issues could be resolved through a consultation process.

The proposed course of action suggested three consultations to address the design and construction of the passages and the roles and responsibilities of the various stakeholders in the implementation and monitoring of the course of action. Monitoring activities in 2010 and 2011 consisted of (i) two OSPF missions, one in July 2010 and one in November 2010; (ii) regular communication with the complainants through the Taraz Press Club; and (iii) Central and West Asia Department safeguard specialists' communication and visits during regular safeguard missions to the project.

On 11 July 2012 we received a message from the complainants through the OSPF consultant reporting that all outstanding issues had been completed. In particular, a well had been constructed to the satisfaction of the complainants. They are now awaiting autumn to use the well for agriculture. While the ownership of and operation and maintenance issues concerning the well have yet to be defined, the complainants felt that they could continue these discussions on their own with the relevant government offices and ADB. With this, the complainants consider this complaint closed.



## I. BACKGROUND

### A. The Project

1. The CAREC Transport Corridor I (Zhambyl Oblast<sup>1</sup> Section) [Western Europe–Western People's Republic of China International Transit Corridor] Investment Program – Project 2 aims to improve road sections in the Kazakhstan portion of the Central Asia Regional Economic Cooperation (CAREC) Transport Corridor and to construct bypasses and new alignments to make the Corridor suitable for international traffic. The Asian Development Bank (ADB), along with the Japan International Cooperation Agency and the Islamic Development Bank, is financing 470 kilometers (km) in Zhambyl Oblast using a Multitranche Financing Facility (MFF) as the financing modality.<sup>2</sup> Other sections are financed by the European Bank for Reconstruction and Development and the World Bank. ADB approved the first tranche comprising a \$340 million loan on 30 December 2008 to improve 125 km, and the second tranche of \$187 million on 7 October 2009 to improve 79 km. The Ministry of Transport and Communications (MOTC) is the executing agency, and the Committee of Roads under MOTC is the implementing agency, with the Zhambyl Oblast Committee of Roads being the implementing unit for the tranche 2 loan (the project).

### B. The Complaint

2. On 5 November 2009, the Office of the Special Project Facilitator (OSPF) received a complaint from Janaturmis, a village under the second tranche of the project. Janaturmis is in the *raion*<sup>3</sup> of Turar Ryskulov, Zhambyl Oblast. The complaint was in Russian, signed by three persons and sent by mail to OSPF in Manila. An explanatory letter from the Taraz Press Club Public Union, a nongovernment organization (NGO) based in Taraz, Zhambyl Oblast, and a handwritten letter in Russian were also part of the complaint. The NGO letter also mentioned another NGO called the DUK Public Union. OSPF acknowledged receipt and registered the complaint on 10 November 2009 after translating the documents. The complainants raised concerns about the number of cattle passages and a bridge for their agricultural machinery, which they were not sure would be provided under the project. They mentioned that they had raised these issues in public consultations earlier, but were not sure whether their request would be considered.

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<sup>1</sup> An *oblast* is the administrative unit below the national level in Kazakhstan.

<sup>2</sup> "A Multitranche Financing Facility is a financing modality that supports the client's medium- to long-term investment program or plan. ADB's Board of Directors approves a maximum amount for an MFF, and the conditions under which financing will be provided. On the basis of the Board's approval, and at the client's request, ADB Management converts portions of the facility amount into a series of tranches to finance eligible investments. A tranche can be a loan (other than program or a sector development program loan), grant, guarantee, or ADB-administered cofinancing. Financing terms and conditions can differ between tranches. The overall amount of the MFF is not recorded as a legally binding commitment on the part of either ADB or its clients; only the amounts converted (into loans, grants, guarantees or ADB-administered cofinancing) are recorded as committed, if and when approved." <http://www.adb.org/projects/mff.asp>. ADB's Board Paper on Mainstreaming the Multitranche Financing Facility provides more information at <http://www.adb.org/Documents/Policies/Multitranche-Financing-Facility/r121-08.pdf> (English only). The Government and ADB entered into a framework financing agreement with an aggregate amount not exceeding the equivalent of \$700 million. ADB approved the MFF on 12 November 2008.

<sup>3</sup> A *raion* is an administrative subdivision of an oblast.

### C. Determination of Eligibility

3. OSPF held discussions with the Transport and Communications Division (CWTC) of ADB's Central and West Asia Department (CWRD) and the department's environment specialist on the complaint and fielded an eligibility mission to Kazakhstan from 20 to 24 November 2009. The mission consisted of the principal project facilitation specialist and an interpreter. The mission met with the two NGOs that had facilitated the complaint, and conducted a joint meeting with the two NGO representatives, the two eligible signatories of the complaint, and a group of nine villagers – 11 complainants in total – on 22 November 2009. At this meeting, the villagers provided to the mission a written request that further specified their concerns. This request was signed by 30 villagers, with some of them being present at the meeting. The mission also met the engineers of two engineering design organizations in Almaty and held a meeting with the Zhambyl Oblast Road Committee in Taraz. After checking the various exclusions of the Accountability Mechanism Policy, reviewing the eligibility requirements of the Consultation Phase, and initially assessing the probability of resolving the problem, the mission found that the complaint met all of the eligibility requirements of the Consultation Phase.

## II. REVIEW AND ASSESSMENT

### A. Objectives and Methodology

4. In January 2010, a mission was fielded to conduct the review and assessment (RAR). The objectives of the RAR were to (i) explore the history of the complaint, (ii) confirm the key stakeholders, (iii) identify the key issues of the complaint, (iv) explore the stakeholders' readiness for joint problem solving, and (v) recommend a course of action.

5. The RAR included (i) a desk-based review of project documents, including the report and recommendation of the President, the periodic financing request report for the second tranche, and the environmental management plan; (ii) interviews with ADB staff involved in the project; (iii) interviews with the national and *oblast* committees of roads and local government representatives; (iv) meetings with design and project management consultants; (v) meetings with NGOs; and (vi) a field-based assessment consisting of site visits; individual interviews and small group discussions with 30 villagers, including 23 signatories of the request provided to the eligibility mission on 22 November 2009, and 7 nonsignatories, of whom 2 were women; and interviews with government stakeholders, the implementing agency, the *akims*<sup>4</sup> at the *raion* and village level, and ADB staff. The interviews were conducted using semistructured questionnaires. The team, led by OSPF, included an international Russian-speaking facilitator, two independent interviewers, and an interpreter.

### B. Identification of Stakeholders

6. The formal complainants are the two signatories to the initial complaint letter who live in the village of Janaturmis. The two complainants represent at least 30 other villagers who signed the request for two cattle passages and a bridge/underpass for agricultural machinery (harvesters, combines, tractors, etc.) for the new rehabilitated highway. Other stakeholders are (i) a number of government agencies and entities involved in making decisions and/or providing input and expertise on the issues related to the complaint; (ii) the *akim* of Janaturmis village; (iii) the *akim* of Turar Ryskulov *Raion*; (iv) the Zhambyl Oblast Committee of Roads, located in Taraz, the capital of Zhambyl Oblast; (v) the Committee of Roads of MOTC located in Astana;

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<sup>4</sup> *Akims* are the heads of raions and villages.

(vi) the project management consultant and the consultants; (vii) the NGO representing the complainants based in Taraz; this NGO is engaged in monitoring project implementation and providing advice and assistance to local citizens; and (viii) CWTC and the Kazakhstan Resident Mission (KARM).

### **C. Findings and Recommendations**

7. The RAR identified the following issues/needs of the complainants:

- (i) maintaining easy access to grazing pastures for livestock;
- (ii) ensuring adequate and safe passage of agricultural equipment from one side of the road to the other;
- (iii) maintaining an adequate means for water to flow from the south side to the north side of the road for a variety of purposes (e.g., watering kitchen gardens near their homes, watering their animals, managing water during peak flows and floods, etc.); the villagers interviewed believe that there currently are an adequate number of existing culverts for this purpose;
- (iv) accessing the highway in both directions for their cars and agricultural equipment;
- (v) obtaining timely and accurate information about the project overall (e.g., construction schedule, construction-related employment opportunities, design details, etc.); and
- (vi) making the road safe for all users.

8. There was broad acknowledgement that the complaint issues were legitimate issues for discussion. All stakeholders interviewed (complainants, government and related agencies, NGOs, technical experts and consultants, ADB resident mission project staff) for the review and assessment were willing to participate in meetings or other forums with other stakeholders to address issues and solve problems. With this, OSPF concluded that the complainants' issues could be resolved through a consultation process.

9. On 10 February 2010, OSPF received confirmation that the complainants had received the RAR and had agreed to continue with the consultation process.

### **D. Proposed Course of Action**

10. The proposed course of action was a compilation based on stakeholders' suggestions to address the complainants' concerns.

11. The proposed course of action recommended three consultations with specific objectives as follows:

**Consultation 1** objectives: (i) review the existing detailed design, including numbers of cattle passes, crossings for agricultural machinery, culverts, and access to the road for the villagers of Janaturmis; and reach agreement on any required changes; (ii) clarify the planned start of construction in the Janaturmis area; and (iii) agree on the future flow of communication, sharing of information, and submission of concerns.

**Consultation 2** objectives: (i) explain project implementation and the monitoring systems in place (design, construction, safeguards); (ii) clarify the ADB operations department's (OD) role in project implementation; (iii) explain how the OD deals with complaints – the OD process of seeking clarification, responding to concerns, and realistic timeframes; and (iv) agree on the future flow of communication, sharing of information, and submission of concerns. The NGOs

will commit to providing profiles of all organizations involved in the monitoring of the ADB section to OSPF. OSPF will translate and distribute these profiles to the OD before the consultation. The NGOs will also formulate and submit their expectations from the consultation and a list of questions and concerns to OSPF to allow the OD to prepare for the consultation.

**Consultation 3** objectives: (i) explain the roles and responsibilities of the OD (in implementation, including safeguards and the role of KARM), (ii) clarify the roles and responsibilities of MOTC and the Committee of Roads in the implementation of the project, (iii) explain the roles and responsibilities that the NGOs assume in the implementation of the project, and (iv) agree on a mode of cooperation within the frame of these responsibilities. The most conducive location for this consultation would be Taraz.

### III. COURSE OF ACTION

12. From 2 to 4 March 2010, OSPF conducted the three consultations, each involving different stakeholders. The first consultation included the CWRD project staff, complainants, government, and the NGO representatives as observers. The second consultation involved CWRD and NGOs, while the third included CWRD, NGOs, and government representatives.

13. The process of each consultation was designed and managed as a multiparty, facilitated, collaborative problem-solving consultation. OSPF opened all the consultation meetings by welcoming everyone and reviewing the objectives. After the participants had introduced themselves, OSPF explained the various roles of the stakeholder groups and confirmed agreement on ground rules for the meeting, including confidentiality of the process. The consultations proceeded to discuss the main issues as stated in the objectives. At the end of each consultation, participants were asked to sign the agreement and complete a written survey on the consultation process, outcome, and facilitation.

14. OSPF facilitated three multiparty, collaborative problem-solving consultations from 2 to 4 March 2010. In the consultation on 2 March 2010, the parties agreed to (i) the location of an underpass at km 382.280 as per design, (ii) an additional underpass at km 382.977, (iii) the construction of a dirt approach road for agricultural machinery south of the new road alignment, (iv) retaining the location of the culverts, (v) providing information on the project, and (vi) OSPF monitoring the implementation of the agreement reached. In the consultation on 3 March 2010, CWRD and the NGOs that are monitoring the ADB section of the road discussed project implementation; and monitoring systems; clarified CWRD's role in project implementation, explained how CWRD deals with complaints; and agreed on a future flow of communication, sharing of information, and submission of concerns. During this consultation, the issues for the consultation on 4 March 2010 with MOTC were clarified. The consultation on 4 March 2011 further refined roles and responsibilities and discussed communication channels. Many participants noted that the meetings helped improve mutual understanding and relationships.

15. Monitoring activities in 2010 and 2011 consisted of (i) two OSPF missions, one in July 2010 and one in November 2010; (ii) regular communication with the complainants through the Taraz Press Club; and (iii) CWRD safeguard specialists' communication and visits during regular safeguard missions to the project.

16. The mission in July 2010 confirmed OSPF's role in monitoring the implementation of the agreement and found that the complainants were confused about the detailed design of the underpass they had negotiated and were still worried about crossing the new road with wider agricultural machinery. These issues were remedied through a phone conversation with the

Oblast Committee of Roads. Information was still an issue, and the Committee of Roads in Astana felt that more efforts could be made to keep the communities informed. The Oblast Committee of Roads reported that the contract for the section, where Janaturmis is situated, had been signed and estimated that the civil works would start approximately at the end of July/early August 2010. The OSPF mission in November 2010 visited the project site and met with complainants, the Taraz Press Club, and the Oblast Committee of Roads in Taraz. The mission found that clearing and some excavation and leveling had already been undertaken.

17. Implementation of the agreement has been smooth. Small issues arising out of insufficient information were solved quickly through phone calls or talks between the contractor and the complainants. On 18 June 2012, we received confirmation from the complainants that the last issue (well construction) was completed and that water would be provided to the farmers immediately. At the same time, we were informed that ownership of the well including operation and maintenance was still to be decided.

18. OSPF asked all stakeholders if they would find useful a consultation regarding the ownership of the well including operation and maintenance, and offered to facilitate the consultation. Responses from the complainants and CWRD indicated that a facilitated consultation by OSPF would not be necessary, as they see all stakeholders dealing with this issue by themselves. With this, it was concluded that the complaint could be closed.