
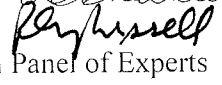


## MEMORANDUM

TO: **Boards of Directors**

FROM: Daniel D. Bradlow, Chair,   
Richard E. Bissell, Member,   
Independent Review Mechanism Panel of Experts

SUBJECT: Review of "PROBLEM SOLVING REPORT: Request No.:  
RQ2010/01 Request for Compliance Review and Problem Solving  
Project: Construction of the Marrakech – Agadir Motorway Morocco"

DATE: 19 January 2012

On 15 December 2011 we received a copy of the above referenced report (the Report) from Mr. Per Eldar Sovik, Director of the CRMU.

In this Report, he states that "Since the request is registered for compliance review, and taking into consideration the totality of actions, outcomes and the unresolved pending issue, the Director of CRMU does not recommend a compliance review for the several reasons. First, all the complaints except for that from El Bour have been resolved to the satisfaction of the Requestors. This problem in El Bour is caused by the contractor's non-fulfillment of its contractual obligations and does not amount to a violation of any of the Bank's applicable policies *per se*. Secondly, the Bank agrees to continue following up in order to ensure that ADM undertakes its commitments under the action plan agreed upon with the Requestors, notably, to restore the affected agricultural lands at El Bour. Thirdly, the costs of conducting a compliance review outweigh the costs to be incurred for restoring the affected lands at El Bour. Finally, the compliance review would not provide the Bank with different lessons than those concluded by the problem solving exercise."

Pursuant to paragraph 48 of these IRM Rules, any recommendation by the Director of CRMU against a compliance review must be referred to the IRM Experts to determine "the eligibility or otherwise" of the Request. Pursuant to paragraph 49 of the IRM Rules, the IRM Experts are required to inform the Boards, in cases where the project has been approved by the Boards, of their decision regarding the eligibility of the request for a compliance review. It should be noted that currently, there are only two members on the IRM Roster of Exerts. Consequently, we constitute "the IRM Experts" for the purpose of conducting the review of the Report required under paragraphs 48-49 of the IRM Rules.

The purpose of this memorandum is to inform you of our decision on the "eligibility or otherwise" of the Requests.

In making our determination on this matter, we have reviewed the following document:

- 1) Problem Solving Report: Request No.: RQ2010/01 (Request for Compliance Review and Problem Solving Project: Construction of the Marrakech – Agadir Motorway Morocco, November 21, 2011). This Report includes as annexes:
  - a. Annex 1: The Request, consisting of a set of letters from project affected people
  - b. Annex 2: Management Response: A Management Response to the Request for Verification of Conformity and Mediation Request 2010/01 Related to the Construction of the Marrakech – Agadir Highway in Morocco

Based on these documents, we find that Request RQ 2010/01 is not eligible for a compliance review because, according to the documents referred to above:

- 1) All the complaints except for that from El Bour have been resolved to the satisfaction of the Requestors.
- 2) The problem in El Bour is caused by the contractor's failure to fulfil all its contractual obligations and does not relate to the possible failure of Bank staff or Management to comply with any of the Bank's applicable policies *per se*.
- 3) The Bank has agreed to continue monitoring the situation to ensure that the executing agency, ADM, fulfils its commitment to restore the affected agricultural lands at El Bour as agreed with the Requesters.

We note that the CRMU has agreed to review the situation in twelve months and that should the situation in El Bour not be fully resolved at that time, the Requesters will have the right to resubmit their Request for a Compliance Review. This qualification should not be interpreted as implying anything about the eligibility or ineligibility of any request that may be filed at that time.