



THE WORLD BANK AND THE ENVIRONMENT IN THE CASPIAN

A Case Study of the
Kolkheti National Park



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Introduction

Over the past two decades, the World Bank Group has begun to integrate specific environmental objectives into its operations. This has largely consisted of attempts to limit the negative environmental impacts of individual projects, but it has also involved efforts to proactively finance environmentally beneficial projects such as wind farms and national parks, or to attach environment-related conditions to its standard policy prescriptions. The Bank has also begun to present itself as a “knowledge bank,” a source of quality research and analysis on a range of issues, including “sustainable development.”

But critics of the Bank continue to argue that its standards are far too weak and that it is all too willing to compromise its otherwise laudable environmental objectives. It is argued that the Bank remains committed to the environment only so far as it is politically expedient to do so and that the credibility of the Bank as a source of “knowledge” on sustainable development is unproven, at best.

These two radically different interpretations of the Bank’s environmental credentials are being put to the test in the Caspian Sea region, where corporations and revenue-hungry governments are scrambling to tap into the area’s substantial oil reserves. The World Bank Group is involved in these developments at a number of different levels, most notably through the oil sector reforms that it is promoting at the national level and the direct support that it is providing to private sector corporations involved in oil exploration and transit.

This report focuses on one of the many oil projects that are unfolding across the region—the construction of an oil terminal and related infrastructure inside one of Georgia’s national parks. In this case, the Bank has a

positive environmental objective in helping to finance the establishment of the Kolkheti National Park but it is being undermined by the private development of the Kulevi Oil Terminal. The Bank’s own assessment claims that the development of the oil terminal is a threat to the success of the National Park and other aspects of the World Bank project. Yet despite these findings, the Bank refuses to call for a halt to the terminal’s construction. Rather than openly declare its opposition to the terminal, the Bank proposed a series of actions designed to limit the project’s destructive potential. The Georgian Government seems to have interpreted the Bank’s reaction as a tacit endorsement of the oil terminal. In fact, immediately following the Bank’s mission to Georgia, President Shevardnadze announced during his regular radio interview that the World Bank supports construction of the oil terminal and port in Kulevi.

This case study raises a number of questions about the Bank’s overall commitment to the environment. How environmentally destructive does a project have to be before the Bank is willing to publicly declare its opposition? If the Bank is prepared to restrain itself while its project objectives are fundamentally compromised, what does this tell us about its willingness to defend environmental objectives in other aspects of its work? What message does this send to governments and corporations involved in oil exploitation throughout the Caspian Sea region? Can the Bank credibly claim to be a source of “knowledge” and analysis on environmental issues if it cannot publicly state its opposition to obviously destructive projects? These questions illustrate how the case of the Kolkheti National Park has broader implications for the work of World Bank Group throughout the Caspian Sea region.

Kolkheti National Park Case Study

In June 2001, Green Alternative of Georgia and the Central and Eastern European Bankwatch Network released a report entitled “Kolkheti Lowland Towards Sustainable Development?!” The report outlined a range of problems in Georgia’s Kolkheti Lowland and argued that the World Bank is prioritizing oil transit over the environment. The World Bank responded by sending a special mission to investigate the claims, particularly those surrounding the privately-funded Kulevi Oil Terminal project, which directly impacts the World Bank-funded Georgia Integrated Coastal Management Project. The Kulevi Oil Terminal project involves the dredging of a marine reserve, construction of an oil terminal in an internationally protected Ramsar¹ site, and a railway to transport millions of tons of oil through the World Bank-funded Kolkheti National Park. This development has moved forward without regard for Georgian national, international, or World Bank agreements.

The Bank issued its mission report in September, substantiating most of Green Alternative’s claims but failing to call for a halt to the Kulevi Oil Terminal construction and offering little in the way of resolution of the problems.² The problems presented by the development of the Kulevi Oil Terminal project are paramount—impacting current, and potentially future, Bank projects as well as the Bank’s reputation regarding the environment. The problems addressed in this case study and acknowledged by the World Bank are:

1. There has been minimal coordination with the World Bank-funded Georgia Integrated Coastal Management Project (GICMP) which consists of: a) a commission specifically designed to coordinate Black Sea coastal development; and b) the Kolkheti National Park which is being physically encroached upon by the Terminal project;
2. The project violates the international Ramsar Convention, to which Georgia is a signatory;
4. Georgian Environmental Impact Assessment (EIA) procedures have not been followed, nor have they been enforced;

5. The procurement of land for the project is questionable—the Government is facilitating the privatization of public land that is earmarked for conservation and then backing up the private property owners’ rights to develop the land.

A World Bank supervision mission report dated December 17, 2001 states that “[t]he recent developments in the Georgian’s Black Sea coastline—the construction of Kulevi Oil Terminal, the proposed railway link and marine access channel, the de-listing of 90 ha of land from the RAMSAR designated Kolkheti Lowland without proper notification, and the establishment of a new State Agency for the Protection of the Black Sea and its Utilization/Exploitation of its Resources are putting the overall [GICMP] project development objective at risk.”³ The Bank’s fact finding mission concluded that, “support of the Kulevi Oil Terminal project without the usual adherence to Ramsar Convention practices and without full application of a normal EIA process, indicates the Government’s lack of political will to manage Black Sea coastal resources in an integrated fashion. . . [T]he process by which such energy transit projects are approved appears to demonstrate an apparent lack of commitment to protected areas.”⁴ Despite these findings, the Bank has not suggested that the Kulevi Oil Terminal project be stopped.

By failing to call for a halt to the construction of the Kulevi Oil Terminal, the World Bank is:

- Condoning the development of environmentally destructive projects in protected areas as well as the process of questionable land acquisition and disregard for national legislation and international agreements.
- Violating the spirit and letter of its environmental commitments as documented in the Georgian Country Assistance Strategy (CAS) and loan agreements.
- Sending a message that there are no consequences for the violation of international agreements and commitments, placing the success of future projects at risk.

¹ The Convention on Wetlands of International Importance Especially as Waterfowl Habitat, was signed in Ramsar on 2.2.1971, amended by Paris Protocol of 3.12.1982, recognizing fundamental ecological functions of wetlands as regulates of water regimes and as habitats supporting a characteristic flora and fauna, constitute a resource of great economic, cultural, scientific and recreational value, the loss of which would be irreparable.

² World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Referred to henceforth as World Bank Mission Report (internal World Bank document).

³ World Bank, *Georgia Integrated Coastal Management Project Supervision Mission December 17–21, 2001 Aide Memoire*, Paragraph 2 (internal World Bank document).

⁴ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001, Paragraph 12 and 13 (internal World Bank document).

While the Bank is not funding the Kulevi Project, it has been supporting oil transit projects and sector reform in Georgia for years. The current situation is such that the Georgian Government is supporting oil projects without due regard for the environmental impacts. This

prioritization of oil over the environment calls into question what role the World Bank Group has played in its years of working with the Georgian Government and what is the Bank's real oil transit strategy in Georgia and the Caspian region.

Background

World Bank Involvement in the Georgian Oil Sector

Since 1995 the World Bank Group (WBG) has been deeply invested in the oil sector in Georgia beginning with the International Finance Corporation's (IFC's) Caspian Sea Early Oil Project and the Ninotsminda Oil Project. WBG involvement included: policy advice, the Oil Institution Building Project, and long-term financing from both the European Bank for Reconstruction and Development (EBRD) and the IFC. This long-term financing served to both mitigate the risks associated with private sector investments as well as create a precedent for possible future Bank Group involvement.⁵

The World Bank Georgia Energy Sector Adjustment Credit (ESAC) in 1999 laid the foundation for policy reforms associated with the transit of oil. In particular, laws were adopted providing for eminent domain procedures (compulsory purchase or easements in the public interest) and for environmental liability in the case of transportation of hazardous substances (including oil).⁶

Most recently, in March 2001, the World Bank approved the Georgia-Energy Transit Institution Building (ETIB) project which is a capacity building effort in support of a massive pipeline and other oil transit projects to pump oil from developments in the Caspian Sea. The project documents describe it as "a follow-on to the Oil Institution Building Project (which focused on oil pipeline transit), the gas transit component of the Structural Reform Support Project, and the oil spill component of the Integrated Coastal Management Project."⁷

One of the four main objectives of the Georgian CAS is, "protecting the environment and supporting sustainable natural resource management."⁸ The World Bank funded Georgia Integrated Coastal Management Project (GICMP) was developed to help fulfill this objective. According to Bank documents, the GICMP was designed to "strengthen institutions in Georgia to manage the

coastal resources of the Black Sea by developing, testing and evaluating methods to effectively integrate environmental planning and management into economic development activities along the Black Sea coast," and, "to assist Georgia in meeting its international commitments. . . includ[ing] conservation of biodiversity at sites of international significance on Georgia's Black Sea coast, such as the Kolkheti and Kobuleti wetland Ramsar sites."⁹ The two main components of the GICMP project are the establishment of the Kolkheti National Park and the development and support for the State Consultative Commission on Integrated Coastal Zone Management to integrate development with environmental management.

In August, 2001, the World Bank sent a special fact finding mission to Georgia to investigate the Kulevi Oil Terminal project and issued their report in September (report dated August). A separate mission went to Georgia in December to supervise the GICMP project. The report from this mission indicates that the Bank is taking significant steps to improve the quality of the Kolkheti Park portion of the project, especially with respect to some of the social and organizational problems confronting the project. The report includes a "Draft Concept Note for the Development of a Sustainable Livelihood Program in Kolkheti National Park" and indications that the Bank is interested in improving stakeholder participation. The steps the Bank is taking in this regard should be acknowledged since they are critical to the project's success. However with respect to the impact of the Kulevi Oil Terminal on the GICMP project, and potentially on future projects, the Bank's response has been inadequate.

Kulevi Oil Terminal Project

The Kolkheti Lowland represents one of the most valuable biodiversity hotspots of the Black Sea, providing a critical habitat area for numerous species of migratory and wintering birds, species of flora found only in the

⁵ CEE Bankwatch Network, *Kolkheti Lowland Towards Sustainable Development?!*, Tbilisi, June 2001.

⁶ World Bank, *Memorandum: Georgia—Energy Sector Adjustment Credit, Credit No. 3266-GE, Release of Second Tranche—Waiver of Condition*, May 1, 2001 (internal World Bank document).

⁷ World Bank, *Project Appraisal Document: Georgia—Energy Transit Institution Building*, February 15, 2001, page 8.

⁸ World Bank, *Project Appraisal Document: Georgia: Integrated Coastal Management Project*, Report No: 17131 GE, November 24, 1998.

⁹ Ibid.

region, and unique wetlands. These areas were set aside for conservation under the international Ramsar Convention and Georgia's developing National Park system specifically for their ecological significance and to protect them from future development.

The privately-funded Kulevi Oil Terminal is being built within the Kolkheti Ramsar site and part of the Kolkheti National Park. The Kulevi Oil Terminal will consist of 16 tanks with a capacity of 22,000 cubic meters each¹⁰ serviced by a railway that will transport up to 10 million tons of oil in phase 1 and up to 35 million tons of oil in phase 2 through the National Park. In its final phase, 100,000-150,000 ton tankers will transport the oil through the National Park marine reserve out of the Black Sea. The World Bank reports that "the Black Sea Terminal Limited [the project sponsor] intends to dredge and maintain an access channel that is 16–17 meters deep, 250-300 meters wide and 2.5 kilometers long, to enable ships to approach the harbor. This channel will clearly be within the marine area of the Kolkheti National Park."¹¹

According to the National Institute of Water and Atmospheric Research, dredging poses a significant threat to marine biodiversity. In addition to killing marine life, dredging reduces the complexity of the seafloor.¹² Dredging has also been found to damage fish breeding grounds and overall disruptions in the food chain due to the loss of seabed plants and animals.¹³ In addition to the enormous environmental damage caused by construction of the terminal, there is the constant threat of oil spills and increased pollution due to operations of the facility. None of this has been addressed because, according to the World Bank, "[t]he EIA does not seem to have fully reviewed issues related to the proposed construction of the railway access line or the potential environmental impacts of the project on the marine part of the Kolkheti National Park."¹⁴

The Kulevi Oil Terminal is an environmentally destructive project in an environmentally sensitive area. The World Bank has a responsibility to confront the problems surrounding this project by calling for construction to stop. The key problems and how they relate to the Bank's activities in Georgia are discussed below.

Problems Created by the Kulevi Oil Terminal Project

1. There has been minimal coordination with the World Bank-funded Georgia Integrated Coastal Management Project (GICMP) which consists of: a) a commission specifically designed to coordinate this type of development; and b) the Kolkheti National Park which is being physically encroached upon by the Terminal project.

According to the World Bank, "the review and permitting process followed [for the Kulevi Oil Terminal Project] raises questions about the credibility of the Government's commitment to following good practice procedures in reviewing new investments, and also its commitment to the development objectives of the GICMP."¹⁵ The Kulevi Oil Terminal project has circumvented the GICMP. Not only did the Kulevi developers and the Georgian Government ignore the planning element of the GICMP—the Integrated Coastal Zone Management commission—but the oil terminal and railway also physically encroach upon the National Park

project and were never coordinated with the GICMP. The Bank claims that they did not know about the project and that as late as December 2000, a World Bank supervision team was told the Kulevi project was unlikely to materialize.¹⁶

In addition, the Georgian government has recently established the Georgia State Agency for the Protection of the Black Sea and Exploitation/Utilization of its Resources specifically for the exploitation of oil in the Black Sea. This type of development is clearly in the scope of the GICMP and much of the area to be exploited is within the marine reserve. However, based on Bank correspondence it seems there was no coordination with the GICMP or the World Bank prior to the establishment of this agency. According to the report from the December 17 World Bank mission, the mandate of the agency is still unclear but potentially creates a "conflict between commercial and environmental issues and the potential for duplication of responsibilities with other State structures, namely the Ministry of Environment and State

¹⁰ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001, Paragraph 17 (internal World Bank document).

¹¹ Ibid, Paragraph 33.

¹² National Institute of Water and Atmospheric Research (New Zealand) website: <http://www.niwa.co.nz/pubs/bu/01/fishing.htm>

¹³ Australian Marine Conservation Society website: <http://www.amcs.org.au/issues/facts/htm/fcmpolln.htm>

¹⁴ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Paragraph 28 (internal World Bank document).

¹⁵ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Paragraph 7 (internal World Bank document).

¹⁶ Ibid, Paragraph 5.

Consultative Commission for Integrated Coastal Zone Management.”¹⁷ The head of the agency believes the agency has the mandate to deal with environmental protection of the Black Sea and exploitation of its natural resources which, according to the World Bank, would be against the Georgian Constitution.¹⁸

The Kulevi Oil Terminal involves dredging the marine reserve which is within the boundaries of the World Bank GICMP and running a railway to transport oil through the same World Bank project. It involves the development of an environmentally destructive project in a sensitive and protected area—the development of which should have been coordinated through the State Consultative Commission for Integrated Coastal Zone Management (ICZM) which is also part of the World Bank GICMP project. Yet the Bank has not called for an end to the Kulevi Oil Terminal project. It has not tried to stop or delay the dredging which it reports has already begun. This failure by the Bank essentially condones the actions of the project sponsor and the Georgian Government. It violates the Bank’s environmental commitments as stated in the GICMP and the Georgian CAS. It also sends the message that oil transit projects are more important than the environment and the Bank is not effectively integrating environmental protection and sustainable development into its oil strategy for Georgia.

2. The project violates the international Ramsar Convention, to which Georgia is a signatory.

The World Bank mission report states, “the timing and process followed by the Government of Georgia in this case were not in accordance with the procedures established for signatories under this international convention.”¹⁹ The memo accompanying the report further elaborates that, “it is not clear whether the Government of Georgia intends to undertake the environmental assessment that has been requested by [the] Ramsar Secretariat.”²⁰

In April 1996, Georgia acceded to the Ramsar Convention on Wetlands and designated the Ramsar sites within Georgia including the Kolkheti Ramsar site where

the Kulevi Oil Terminal is being built. On September 8, 1999—prior to any discussion with the Ramsar Secretariat—Presidential Decree #1081 was issued which allocated 96.43 ha of land within the Ramsar site to the project sponsor, the Black Sea Terminal Ltd. company, for the development of the Kulevi terminal. This was a clear violation of the Ramsar Convention. After construction had already begun, Parliament moved to “de-list” the site of the Kulevi Terminal from the Ramsar site—again without notifying the Ramsar Secretariat.

While the Ramsar convention does contain a clause that allows for the “de-listing” of a Ramsar area if it is proven to be a case of “urgent national interest” and if an equivalent area of land is presented as compensation for the area to be “de-listed”, the petition for “de-listing” must happen *before* a project is approved. Not only was the convention clearly violated, but the required criteria have still not been met.

The Ramsar Secretariat was eventually notified of the situation and the State Ecological Department has issued the Terms of Reference for identifying and implementing a compensation area,²¹ however, no work seems to have begun. Despite the issuance of the Terms of Reference and of the 30 April 1996 resolution of the Georgian Parliament which clearly states that the Kulevi Oil Terminal is in the Ramsar area, the Ministry of Environment and the Georgian Parliament committee have apparently made recent public statements that the Terminal is *not* within the borders of the Ramsar site. This supports the doubts raised by the World Bank of whether the Georgian government intends to meet the Ramsar requirements at all.

It is also unclear why this project is considered of “urgent national interest.”²² To the contrary, in addition to threatening Georgia’s ecological heritage, it does not appear to be economically viable. The project sponsor is still seeking a loan of \$56 million to complete the terminal. According to the European Bank for Reconstruction and Development (EBRD), “without having been presented a detailed business plan or feasibility study, and based on preliminary information supplied to us by the company, our initial impression was that it is an overly

¹⁷ World Bank, Georgia *Integrated Coastal Management Project Supervision Mission December 17–21, 2001 Aide Memoire*, Paragraph 11(internal World Bank document).

¹⁸ Ibid, Paragraph 11 footnote 4.

¹⁹ Ibid, Paragraph 36.

²⁰ World Bank, *Memorandum: Georgia: Integrated Coastal Management and Kulevi Oil Terminal Development—Back-to-Office-Report of Mission*, September 18, 2001. Paragraph 9 (internal World Bank document).

²¹ The Ministry of Environment and Natural Resources of Georgia Environmental Licensing and State Ecological Expertise Department, *Terms of Reference: For the preparation of the compensation package for possible restriction of the boundaries of the Central Kolkheti Ramsar site due to the construction of oil-products terminal at the Kkobistkali river estuary (Kulevi Terminal)*, Paragraph 1.6.

²² According to the World Bank’s *Memorandum: Georgia: Integrated Coastal Management and Kulevi Oil Terminal Development—Back-to-Office-Report of Mission*, September 18, 2001, paragraphs 6 and 7, the project received high level support by the President of Georgia just prior to his election. Until March 2001, the National Railway Corporation owned 30% of the project and the head of construction was formerly the Government’s main project manager for large projects similar to this.

large and potentially financially non-viable project.”²³ The World Bank’s mission report states that the economic justification for this project is unclear and seems “an exceedingly risky venture with little chance of payback” unless the maximum capacity can be achieved.²⁴ Neither the funding nor achieving the maximum capacity appear likely given the number of competing transit routes and export terminals for Caspian oil.

The World Bank acknowledges that the development of the Kulevi Oil Terminal project violates the Ramsar Convention. According to international rule of law the project should not be under construction, but the Bank has not upheld this position by calling for it to stop. Instead, the Bank’s proposed solution is to urge the Government to “take prompt action to work with the Secretariat of the Ramsar Convention to identify and agree upon compensation areas that are consistent with the provisions of the Convention.”²⁵ The Bank will “continue to liaise with the Ramsar Secretariat on this matter.”²⁶ But it is not clear that the conditions can be met. A baseline study of the nature of the site cannot be done because damage has already occurred. The Georgian State Ecological Expertise and Permission Department points out that “the area in question has already been heavily modified and [a] major portion of the resources have been lost,” requiring the analysis to be based “as much as possible” on available data and comparisons with other sites.²⁷

As stated earlier, one of the four main objectives of the Georgian CAS is protecting the environment. More specifically, one of the main purposes of the GICMP project is “to assist Georgia in meeting its international commitments. . . include[ing] conservation of biodiversity at sites of international significance on Georgia’s Black Sea coast, such as the Kolkheti and Kobuleti wetland Ramsar sites.”²⁸ One of the key performance indicators for the Energy Transit Institution Building (ETIB) project

is the “fulfillment of legal agreements and legislation.”²⁹ And the adoption of and compliance with international treaties and standards is often a condition for the release of tranches on Bank projects.³⁰ Therefore the Bank is not only condoning the violation of international treaties, but also undermining the CAS and loan agreements.

Finally, by supporting the process of de-listing the site rather than calling for a stop in the project, the Bank is sending a message that ignoring international treaties is a viable process for development.

3. Georgian EIA procedures have not been followed, nor enforced.

The World Bank mission reported that “the Kulevi Oil Terminal project seems to have proceeded through approval and initiation of construction without full application of Georgia’s adopted EIA process and environmental permitting procedures. . . The Government’s decision to proceed with the development of the Kulevi Oil Terminal on an accelerated basis meant that a number of procedures were not applied in a normal manner for a project of this scale and environmental significance.”³¹

While construction site preparation for Kulevi began in November of 1999, there is still no acceptable EIA for the project. The EIA submitted by the project sponsor for the Kulevi Terminal was rejected by the State Ecological Expertise and Permission Department as incomplete due to absent or poor coverage of such critical data as the impact of the terminal and the railway on local wildlife and the lack of a review of the impact of the marine terminal on the marine reserve.³² Due to the lack of an EIA, an environmental permit has not yet been officially issued. Normally, construction without permits

²³ CEE Bankwatch Network, *Kolkheti Lowland Towards Sustainable Development?!*, Tbilisi, June 2001.

²⁴ World Bank, *Memorandum: Georgia: Integrated Coastal Management and Kulevi Oil Terminal Development—Back-to-Office-Report of Mission*, September 18, 2001. Paragraph 8 footnote (internal World Bank document).

²⁵ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, August 2001, Paragraph 37 (internal World Bank document).

²⁶ World Bank, *Memorandum: Georgia: Integrated Coastal Management and Kulevi Oil Terminal Development—Back-to-Office-Report of Mission*, September 18, 2001, Paragraph 9 (internal World Bank document).

²⁷ The Ministry of Environment and Natural Resources of Georgia Environmental Licensing and State Ecological Expertise Department, *Terms of Reference: For the preparation of the compensation package for possible restriction of the boundaries of the Central Kolkheti Ramsar site due to the construction of oil-products terminal at the Khobistkali river estuary (Kulevi Terminal)*.

²⁸ World Bank, *Project Appraisal Document: Georgia: Integrated Coastal Management Project*, Report No: 17131 GE, November 24, 1998.

²⁹ World Bank, *Project Appraisal Document: Georgia- Energy Transit Institution Building*, February 15, 2001.

³⁰ The adoption of all international oil spill conventions was a condition of the Energy Sector Adjustment Credit. World Bank, *Memorandum: Georgia-Energy Sector Adjustment Credit, Credit No. 3266-GE, Release of Second Tranche—Waiver of Condition*, May 1, 2001 (internal World Bank document).

³¹ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Paragraph 7 (internal World Bank document).

³² The Ministry of Environment and Natural Resources of Georgia Environmental Licensing and State Ecological Expertise Department, *Terms of Reference: For the preparation of the compensation package for possible restriction of the boundaries of the Central Kolkheti Ramsar site due to the construction of oil-products terminal at the Khobistkali river estuary (Kulevi Terminal)*, Paragraph 1.6.

would be a prosecutable offence under Georgian Criminal Law.³³

On August 27, 2001, the State Ecological Expertise and Permission Department issued a decision requiring the project sponsor to carry out an additional environmental study, according to the conditions and recommendations of the Ministry of Environment.³⁴ The study should lay the foundation for the preparation of an environmental monitoring plan and its implementation scheme for areas impacted by the terminal construction and operations. The sponsor must also prepare and submit separate EIAs for the railway access line and the marine terminal parts of the project. This study was to be completed within three months of the issue of the decision. According to the World Bank, the EIA for the railway just recently submitted but the study for the marine reserve has not yet been completed.³⁵

The GICMP project is now allocating money for an expert to review the EIA. While this should be a function of the GICMP, it should have been done before the project was started, as a tool in deciding whether the project should move forward. Now, although the Terms of Reference for EIA requires a “no action” or “without project” alternative, it will essentially predict the amount of environmental damage that will be caused rather than help determine if the project should be built.

The commitment of the Georgian Government to enforce its own environmental laws is critical to sustainable development in Georgia. By facilitating the continued development of the Kulevi Oil Terminal rather than calling for its discontinuation, the Bank is condoning this process and, again, violating the spirit and letter of its commitments to the environment as documented in the Georgian CAS and loan agreements.³⁶ In the Energy Transit Institution Building (ETIB) project, one of the critical assumptions for meeting the project objectives is that the “Ministry of Environment remains committed to sound environmental management practices, and is not overruled for political or other reasons.”³⁷ If the Bank does not insist that Georgian environmental laws be enforced on the Kulevi Project, it sends the message that enforcement is not really required for the ETIB or any other project.

4. The procurement of land for the project is questionable—the Government is facilitating the privatization of public land that is earmarked for conservation and then backing up the private property owners’ rights to develop the land.

The legal system for establishing property rights in Georgia is still being defined with potentially conflicting laws still in effect. It appears that local authorities have the right to privatize public land and override special acts of Parliament, such as the establishment of park boundaries.

However, the process of acquisition of land for the Kulevi Oil Terminal project is questionable. The land that is now owned by the project sponsor was previously owned by the State and clearly earmarked by Parliament as Ramsar and National Park territories. The State then organized a land auction on behalf of the project sponsor and sold the land for the Kulevi Terminal to the project sponsor. The sponsor is also claiming legal rights to the marine channel which they also acquired from the State. The State transferred public land to private hands and is now saying that, because it is private, the owners have legal rights to access. Similarly, the boundaries for Kolkheti Park have never been formally registered with land management authorities. This leaves the boundaries in dispute allowing local authorities to potentially privatize the land, especially the right of way for the railway.³⁸

This is a critical issue that may impact other World Bank projects. As the World Bank states, “potential for conflicts of interest between conservation aims for Kolkheti National Park and the business aims of private companies will remain. The entire marine area of the Kolkheti National Park lies within areas licensed out to oil and gas companies and exploration is ongoing. Additional port development projects are also being considered. These possible developments point to the relevance of the GICMP and the need for the Government to demonstrate greater commitment to making it work.”³⁹

³³ CEE Bankwatch Network, *Kolkheti Lowland Towards Sustainable Development?!*, Tbilisi, June 2001

³⁴ The Ministry of Environment and Natural Resources of Georgia Environmental Licensing and State Ecological Expertise Department, *Conclusion of the State Ecological Expertise on the Project*.

³⁵ World Bank, *Georgia Integrated Coastal Management Project Supervision Mission December 17-21, 2001 Aide Memoire*, Paragraph 10 (internal World Bank document).

³⁶ One of the four main objectives of the Georgian CAS is, “protecting the environment and supporting sustainable natural resource management.” Environmental objectives are key components in the GICMP project and claims of environmental interest are a part of various other projects including the Energy Transit Institution Building Project, The World Bank Georgia Energy Sector Adjustment Credit, and others.

³⁷ World Bank, *Project Appraisal Document: Georgia- Energy Transit Institution Building*, February 15, 2001, page 17.

³⁸ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Paragraph 11 (internal World Bank document).

³⁹ *Ibid*, Paragraph 40.

Under the World Bank Georgia Energy Sector Adjustment Credit loan, the Bank required the Government of Georgia to establish a framework for the acquisition of land for the public good. The result was the Law on Rules of Expropriation of Property for Public Purposes. According to the project's Second Tranche Release Memorandum, "the law has allowed Georgia to negotiate provisions in the Baku-Tbilisi-Ceyhan Agreements that significantly reduce the Government's cost exposure in acquisition of land or access rights for the pipeline corridor."⁴⁰ It would appear that the Bank is quite proactive in facilitating the acquisition of land for oil projects. In

the Kolkheti Park case, the Bank has offered legal assistance and urged that the Kolkheti Park land transfer and designation become a priority. But it is not clear why the Law on Rules of Expropriation does not apply to the "public good" of a marine reserve, a Ramsar site, and a National Park; and why the Bank is not willing to advocate for the enforcement of the rule in an environmental case. Again the Bank is sending a message. The Kulevi Terminal is just the first step in the destruction of the Kolkheti lowland—soon the entire marine reserve may be developed into an oil extraction and transit zone.

Conclusion

While the World Bank has been responsive in sending a special mission to investigate the issues at hand and taken steps to address some of the problems facing the Kolkheti Park project, such as the need to work with local communities to create a sustainable livelihood plan and to foster support for the Park project, the Bank's response to the Kulevi Oil Terminal problems has been insufficient.

The World Bank states that "[t]he process used for development of the Kulevi Oil terminal is not consistent with internationally adopted approaches for project planning, evaluation, and supervision. In addition, this process does not adequately integrate environmental issues into project level decision making."⁴¹ "[S]upport of the Kulevi Oil Terminal project without the usual adherence to Ramsar Convention practices and without full application of a normal EIA process, indicates the Government's lack of political will to manage Black Sea coastal resources in an integrated fashion." "[T]he process by which such energy transit projects are approved appears to demonstrate an apparent lack of commitment to protected areas."⁴²

This "lack of commitment" jeopardizes the many current and future World Bank projects whose success depends on the Georgian Government's willingness and ability to enforce its environmental policies and uphold its agreements with the World Bank. Indeed it raises questions about the approval process for the Baku-Tbilisi-Ceyhan oil pipeline which the IFC and MIGA are considering for financing. What is at stake is not just this one area, but the management of the environment

throughout Georgia. While the Ministry of Environment has shown some interest in maintaining environmental standards, the Government of Georgia as a whole appears to have little interest in environmental protection or managing environmental impact. The clear priority is increased oil transit and exploration. The Bank does not clearly state that the Kulevi Oil Terminal should be stopped because it has violated national, international, and World Bank environmental requirements, but is facilitating the application of environmental standards for the continued construction of the project. Because of this stance, the Bank appears to be recognizing the legitimacy of the terminal and supporting and condoning the Government's behavior. In fact, immediately following the Bank's mission to Georgia, President Shevardnadze announced on his regular radio interview that the World Bank supports construction of the oil terminal and port in Kulevi.⁴³ While the Bank's Georgia Country website states "Neither the Kulevi Oil Terminal nor the new rail line is supported by the World Bank Group," nowhere does the Bank express its opposition to the project.

On other occasions, the Bank has shown that it is willing to take a stand in Georgia when it feels that Government actions are not in accordance with the Bank's conditions. For instance, a letter from the World Bank to the Chairman of the Parliament of Georgia calls on the Parliament to lift its ban on the export of timber stating that the failure to do so could have "an implication on our ability to provide financing under SAC III [Third Structural Adjustment Credit]" and "it will certainly delay if not jeopardize financing for a forestry project."⁴⁴ It is

⁴⁰ World Bank, *Memorandum: Georgia-Energy Sector Adjustment Credit, Credit No. 3266-CE, Release of Second Tranche Full Compliance*, December 28, 2001 (internal World Bank document).

⁴¹ World Bank, *Republic of Georgia Fact Finding Mission Aide Memoire*, World Bank, August 2001. Paragraph 42 (internal World Bank document).

⁴² *Ibid.*, Paragraph 12 and 13.

⁴³ Information Agency Prain-News, *World Bank Supports Construction of Oil Terminal and Port in Kulevi*, 13 August, 2001.

⁴⁴ Linn, Johannes, *Letter from the World Bank to His Excellency Zurab Zhvania Chairman of the Parliament of Georgia*, July 31, 2001 (internal World Bank document).

interesting to note what issues motivate the Bank to take a stand. The same letter warned that the outcome of the Bank's August fact finding mission would determine "whether the World Bank can continue to work with [the Georgian] government on the [GICMP] project." Rather than threaten projects that may help the environment, perhaps the Bank should speak out against projects and practices that harm the environment.

The Kulevi Oil Terminal has been developed without coordination with the Bank projects it impacts, it violates international treaties and domestic environmental laws, and the land was acquired in a questionable process. Although it is not a Bank project, the Bank has an obligation to protect the environment and require that the rule of law be upheld. Fortunately, the construction of Kulevi Oil

Terminal has stopped temporarily due to reported lack of funds. The Bank should clearly state its opposition to the continuation of the construction of the Kulevi Terminal project. The failure of the Bank to do so, condones destructive and illegal development and violates the Bank's commitments to the environment. The Bank is also sending a message that there are no consequences for the violation of laws and agreements. This puts the success of future projects in Georgia at risk. The Kolkheti National Park case also raises questions about the World Bank Group's commitment to the environment and has broader implications for the Bank's work throughout the Caspian Sea region. If the Bank is willing to accept development such as the Kulevi Oil Terminal, what else is the Bank Group willing to accept in the interest of oil?

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The Association “Green Alternative” is a nongovernmental organization dedicated to support the sustainable development of Georgia, while the rapid globalization process takes place in the world. Its mission is to develop and promote economically viable and socially desirable alternatives to protect the environment of Georgia, protect biological and cultural heritage. “Green Alternative” is a part of CEE Bankwatch Network.

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