



Nepal Tanahu Hydropower Project (Nepal)

Addendum to the initial assessment report of 13 December 2021

06 May 2022

Complaint confidential: No

External distribution

Complainants and their advisors
Tanahu Hydropower Limited
Asian Development Bank

Internal distribution

Inspector General
Relevant EIB services

Disclaimer

This document is based on the information available to the EIB Group Complaints Mechanism up to 20 April 2022.

In case of discrepancies between language versions, the English version prevails.

1 THE INITIAL ASSESSMENT REPORT

- 1.1 Following a consultation with the complainants, their advisors and the promoter, the initial assessment report was issued on 13 December 2021 and published in English, Nepali and Magar¹. The EIB Group Complaints Mechanism (EIB-CM) decided to postpone the decision on a possible way forward (compliance review or collaborative resolution process) to address the allegations presented to the Complaints Mechanism. Postponing the decision was necessary because the EIB-CM needed more information on the scope of the buffer zone and its impact on the complainants in order to reach a substantiated recommendation on the way forward.
- 1.2 The main allegations presented to the EIB-CM and reflected in the initial assessment report are as follows:
 - 1) Lack of information and participation,
 - 2) Insufficient environmental and social assessment,
 - 3) Lack of compensation,
 - 4) Inadequate grievance redress mechanism,
 - 5) Lack of proper consideration of indigenous peoples' rights (including free, prior and informed consent) and the vulnerability of Dalits.

2 RECENT DEVELOPMENTS

- 2.1 Over the past few months, the EIB-CM has obtained further clarifications in cooperation with the Asian Development Bank (ADB) project team during various calls with the NGO advisors, the complainants, the promoter and the environmental and social service provider (ELC).
- 2.2 The promoter, Tanahu Hydropower Limited (THL), visited the complainants in December 2021 to better understand their concerns, explain the process of determining the buffer zone, set out the planned timetable, and listen to their demands and concerns.
- 2.3 The ADB project team conducted a field visit in January/February 2022 to gather additional information on the project's impact on the complainants. THL provided answers and explained its position on each of the issues and demands presented by the complainants. The Nepali translation of the document is currently in the final review stage, and the document will be provided to the advisors and local community in Magar, Nepali and English.
- 2.4 As a result of these conversations and in-person meetings with all parties and thanks to the significant conciliatory efforts of the ADB project team, various actions have already been agreed to address the concerns of the complainants.
- 2.5 THL has committed to a list of agreed actions (see Annex 1), which includes possible immediate and short-term improvements to various areas of the complaints presented. The list of agreed actions is as follows:
 - organise regular check-ins of complainants and representatives of the promoter,
 - extend the Community Development Baseline Survey,

¹ <https://www.eib.org/en/about/accountability/complaints/cases/tanahu-hydropower-project-sg-e-2021-10>.

- invite a Magar community representative to a Local Consultative Forum² meeting,
 - disclose the methodology for a Cultural Impact Assessment,
 - restore a community drinking water access point,
 - provide assurances that the affected communities will retain the right to visit the inundation area for ceremonial and burial purposes,
 - disclose information on the Forest Management Plan and other relevant Environmental Management Plans to locals,
 - provide regular status updates on the process for identifying the buffer zone.
- The regular check-ins of complainants and representatives of the promoter are intended to improve the information and participation process through a range of measures, such as the involvement of a Magar language facilitator and regular visits from a public information officer every 2 months to provide updates to the community, among others. The full set of measures is shown in Annex 1.
 - The project's social assessment is expected to be improved through an agreement to conduct a Cultural Impact Assessment, with the main focus being on indigenous peoples' issues, cultural and natural resources, and livelihood. Moreover, the assessment will include the re-evaluation and redesign of the existing grievance redress mechanism in a culturally appropriate way. The EIB-CM has seen an early draft of the scope and methodology of the Cultural Impact Assessment. The preparatory work is currently expected to begin once the methodology has been finalised in April 2022. Furthermore, THL has committed to help the complainants receive free electricity, as provided for by existing national rules, and to assess some further requests presented by the complainants (such as the restoration of a drinking water access point and a footbridge under the community development programme).

2.6 Over the last few months, the EIB-CM has also learned that the process of determining the buffer zone is progressing, albeit more slowly than initially planned. The following surveys and assessments for the buffer zone area will need to be undertaken once the technical assessments of seismic and geological risks are completed:

- a detailed socioeconomic survey of affected households and a census (Detailed Measurement Study)
- a Buffer Zone Management Plan,
- a Resettlement Action Plan and a Livelihood Restoration Plan.

This work will be followed by the implementation phase, in which information on the affected land will be published, affected persons will be notified of their compensation claim, the work done to check the eligibility of the compensation claims submitted will be verified, and the compensation for eligible project-affected persons will be paid.

3 WAY FORWARD

3.1 The EIB-CM understands that with the list of agreed actions, the additional Cultural Impact Assessment and the surveys, actions and processes concerning the buffer zone area outlined above (see 2.6), ample actions have been agreed that aim at addressing the following allegations:

- 1) Lack of information and participation,
- 2) Insufficient environmental and social assessment,

² The Local Consultative Forum is acting as grievance redress committee to reach an amicable agreement at local level.

- 4) Inadequate grievance redress mechanism,
 - 5) Lack of proper consideration of indigenous peoples' rights (including free, prior and informed consent) and of the vulnerability of Dalits.
- 3.2 Lack of information and participation (allegation 1): THL has committed to improve the dissemination of information and participation by organising meetings between a public information officer and community representatives at the Project Information Centre (PIC) every 2 months. In addition, the Project Information Centre staff will organise meetings in Rishing Patan and Jalbire and share the updates received. The updates will be prepared in Nepali in the form of a project newsletter that will be distributed regularly in addition to other community-specific updates. To make the information and consultation process meaningful, the information will also be explained in person during community meetings and the promoter will involve a Magar language facilitator.
 - 3.3 Social assessment and lack of proper consideration of indigenous peoples' rights and the Dalits' vulnerability (allegation 2 and 5): The social assessment will be strengthened by a Cultural Impact Assessment. It will be carried out by qualified experts who are aware of indigenous peoples' issues. THL has committed to ensure that the process of determining the project's impact is carried out with appropriate community participation. In addition, the studies to be carried out as outlined under 2.6 will further address these concerns for the buffer zone area. If implemented properly, the Cultural Impact Assessment will at least partially address the concerns under allegation 5. The scope of the Cultural Impact Assessment as well as the surveys, assessments and actions regarding the buffer zone are meant to address issues concerning the entire project. The thorough and culturally appropriate implementation will need to be closely monitored by the responsible EIB services.
 - 3.4 Inadequate grievance redress mechanism (allegation 4): During the regular meetings described above, the communities will also receive information on the grievance redress mechanism's activities. The Cultural Impact Assessment, which will be carried out in the medium term, will re-evaluate the role of the Project Information Centres and the Local Consultative Forum to ensure greater participation and a culturally appropriate and gender inclusive process. To improve participation in the short term, THL has asked the Local Consultative Forum committee to invite 2 representatives of the complainants to the next meeting.
 - 3.5 As a result of the considerable efforts and willingness to engage demonstrated by the complainants and their advisors, the promoter and the ADB project team during this early stage of the complaints process, the EIB-CM considers allegations 1, 2, 4 and 5 as addressed during the initial assessment by the above-mentioned measures.
 - 3.6 On 20 April 2022, the EIB-CM received a response to the list of agreed actions provided by the complainants, in which they expressed concerns and requests regarding some of the listed action points. The EIB-CM acknowledges that the list of agreed actions entails various steps that will only satisfy the concerns of the complainants once appropriately implemented. The EIB-CM will therefore monitor the implementation of the list of agreed actions in close cooperation with ADB.
 - 3.7 Regarding allegation 3 (lack of compensation), the EIB-CM differentiates between allegations referring to land located inside the reservoir area and land located outside the reservoir area (and therefore potentially in the buffer zone area).
 - 3.8 Lack of compensation for people (potentially) impacted by the buffer zone: A completely new resettlement plan including a census and socioeconomic survey, a Buffer Zone Management Plan,

a Resettlement Action Plan and a Livelihood Restoration Plan will need to be developed. The compliance of this process and its outcomes with the EIB environmental and social standards will have to be closely monitored by the responsible EIB services. The EIB-CM would like to highlight the particular importance of paying attention to non-titled and community land users who will lose settlements, agricultural land, grazing land, forest land and other areas used for livelihood purposes. In addition, the EIB-CM draws the attention of the EIB services to the need to support the promoter in the process by providing capacity building and guidance to ensure compliance with EIB standards. Unfortunately, significant project delays have led to a lot of uncertainty and the late determination of the buffer zone might exacerbate the negative impact on communities.

- 3.9 Lack of compensation for non-titled and community land users in the reservoir area: The EIB-CM proposes a collaborative resolution process for this aspect of the complaint. According to information obtained by the EIB-CM, the complainants were not included in the socioeconomic household survey that was carried out for the reservoir area despite being affected by the reservoir area. The EIB-CM invites the parties to address the concerns raised regarding compensation for non-titled and community land in the reservoir area in a collaborative manner through a dialogue process that will be organised and assisted by the EIB-CM and a local facilitator and translator.
- 3.10 If both parties agree to participate in the collaborative resolution process, the participation of additional stakeholders will be discussed during the preparation phase and agreement from stakeholders will be sought. The EIB-CM explicitly invites the EIB services and in particular the social expert to participate in the process to provide guidance to the promoter and to ensure that the complainants receive compensation for the economic loss of non-titled land and customary resources in line with the contractually applicable EIB environmental and social standards.
- 3.11 With the submission of this report, the complainants and THL are requested to confirm their willingness in principle to engage in a collaborative resolution process to find a mutually acceptable solution to the issues presented by the complainants regarding the compensation of the economic loss of non-titled land and customary resources.
- 3.12 After having received comments from the complainants and the promoter on the proposed way forward, the EIB-CM will take a decision on whether there is agreement to initiate a collaborative resolution process. In the absence of such agreement or if the collaborative resolution process is unsuccessful, the lack of compensation for non-titled and community land users in the reservoir area will be subject to a compliance review by the EIB-CM.

Complaints Mechanism
06.05.2022

Dispute Resolution
06.05.2022

Annex 1: Agreed actions

Explanatory comment from the EIB-CM: The abbreviation “THP” mentioned in the document is equivalent to the abbreviation “THL” used in the EIB-CM’s reports.

Agreed Actions

THP Commitments for Dalit and Magar Complaint Members
February 2022

ID	Agreed Action	Timeframe	Comments
1	Organize a Company-Community Check-in	Starting March 2022. Repeating every 2 months until Jan 2023; subsequent frequent to be agreed.	Every 2 months, a public information officer [REDACTED] will visit the PIC to provide updates to PIC staff and attending community representatives. PIC staff will subsequently organize a meeting in Rishing Patan / Jalibre after receiving updates from PIC to share to community.
	- Prepare written updates (in Nepali) and deliver them orally/spoken.	March 2022 onwards.	THP will bring regular project newsletters to each consultation and will share about project status and respond to questions.
1a	- Engage a qualified Magar-language facilitator.	May 2022 onwards.	THP aims to have a have a person by the second community consultation, from May 2022 onwards. The project will seek to identify a dedicated community facilitators for this role going forward, though experience has demonstrated that finding an ideal candidate is difficult.
1b	- Provide update on opportunities for skilled and unskilled labor	May 2022 onwards.	THP can share each 6-month plan for human resources, including skilled and unskilled labor.
1c	- Provide update on the planning, procurement, and implementation status of FSL demarcation	March 2022 onwards.	The current status is that a draft Terms of Reference (ToR) has been prepared and is being circulated for clearances. Update on scope and methods can be shared in May 2022 for consultation with community members.
1d	- Provide updates on CDP activities and help ensure that APs are benefiting.	March 2022 onwards.	For the overall project area, CDP activities are underway. For Wantangitar and Jalibre, new community investments are being assessed following initial field visit. These include the water access point and walking passage restoration in Phedi Khola.
1e	- Provide updates on LCF activities and Magar community representation	March 2022 onwards.	Briefings on the activities of the LCF will be communicated during the regular updates with the community.
	- Receive support requests to help households avail of the free electricity up to 20 KWh (units) with 5 AMP capacity meter.	March 2022 onwards.	Field team will be instructed on their responsibility for receiving requests and for reporting these requests to PMU.
1f	- Record questions and concerns from consultations & note THL response.	March 2022 onwards.	Records will be kept for each meeting (1-2 pages of topics, agreements, etc.).

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2	Extend Community Development Baseline Survey	March 2022	Baseline survey activities can be extended to Jalibre and Wantangitar communities next month to include them in the baseline data-gathering surveys. THL has already dispatched a team to assess the CDP requests received during ADB mission (access to drinking water; foot bridge restoration).
3	THL to request to LCF committee to invite Magar community representative to LCF meeting.	March 2022	██████████ will be invited as observers to the next LCF meeting. THL will call in advance to inform when the next date is set (end of March).
4	Disclose Draft Methodology for Cultural Impact Assessment [Cultural and Natural Resources & Livelihoods]	March/April 2022	April latest for sharing draft methodology. March is our target.
4a	- Ensure that ToR call for qualified experts that are sensitive to Indigenous Peoples issues to assess impacts.		Agreed; will be included in methodology.
4b	- Ensure a participatory process community participation in determining Project risks and impacts.		Agreed; will be included in methodology.
5	Dispatch a team to determine how to provide an easy-to-use community drinking water access point.	Complete.	Visited Jalibre for initial screening already [DATE].
6	Prepare assurances that affected communities will retain rights to visit inundation area for ceremonial and burial purposes.	March 2022 for preliminary response.	Some areas of the inundation area at some times of the year may not be safe to visit. Specifying these locations will occur as the FSL demarcation and buffer zone study results are available.
7	Prepare local disclosure information about the project's forest management plan and other relevant EMPs.	April/May	Findings for environmental studies can be summarized in locally-consumable format and presented to the community verbally. Clarifications for how the project is taking into account risks from seasonal variation will be shared during these consultations.
8	Provide a Status Update on the process for identification of buffer zone. Clarify how seasonal variation will also be taken	March 2022 onwards.	Status updates will be shared during regular community meetings. Current status is that ESMSP submitted revised proposal to buffer zone, and includes a process of consultation community representatives (via LCF for most communities, but including a special visit to Jalibre and
	into account for the buffer zone studies.		Wantangitar). THP can include a Magar facilitator to join this team.