

**COMPLAINTS MECHANISM**

SG/E/2021/10

SG/E/2021/11

# **Nepal Tanahu Hydropower Project**

**DISPUTE RESOLUTION REPORT**

**26 AUGUST 2024**



# SG/E/2021/10 SG/E/2021/11 Nepal Tanahu Hydropower Project Dispute Resolution Report

**Complaint confidential:** No

**External distribution**

Complainants and their advisors  
Tanahu Hydropower Limited  
Asian Development Bank

**Internal distribution<sup>1</sup>**

Inspector General  
Relevant EIB services

**Disclaimers**

The content of this report is based on information available to the EIB Group Complaints Mechanism up to 27 May 2024, Annex II includes information received on 4 June 2024.

This document is provided in English, Nepali and Magar. In case of discrepancies between language versions, the English version prevails.

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<sup>1</sup> In addition, the Complaints Mechanism will inform the Management Committee in its regular reporting about the issuance of the Dispute Resolution Report.

## About the EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism is a public accountability tool that handles complaints from members of the public who are, or feel, affected by decisions, actions or omissions by the European Investment Bank (the “EIB”). One of the main objectives of the Complaints Mechanism is to ensure the right to be heard and the right to complain. The Complaints Mechanism is not only intended to investigate non-compliance by the EIB with its policies and procedures, but also to solve problems raised by complainants, notably through collaborative dispute resolution.

For admissible complaints regarding environmental and social impacts, the work of the Complaints Mechanism starts with an initial assessment phase. During this phase, the Complaints Mechanism determines if further work is necessary and whether the complaint shall proceed to a compliance review or a collaborative dispute resolution process. The objective of the latter is to resolve the dispute by (i) achieving a better and common understanding, (ii) improving the degree of trust between the parties, and (iii) seeking to identify a common agreed solution.

If a dispute resolution process ends without a full agreement, the process is closed and a recommendation for a compliance review or other specific EIB Group action may follow.

Complainants that are not satisfied with the EIB reply to their complaint may file a complaint of maladministration against the EIB with the European Ombudsman<sup>2</sup>.

For more information on the Complaints Mechanism please visit:  
<https://www.eib.org/en/about/accountability/complaints/index.htm>.

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<sup>2</sup> Available at: <https://www.ombudsman.europa.eu/en/home>. For more information see [EIB Group Complaints Mechanism policy dated November 2018](#), Section 4.5.

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## GLOSSARY

ADB	Asian Development Bank
CEMSOJ	Community Empowerment and Social Justice Network
EIB	European Investment Bank
INWOLAG	Indigenous Women Legal Awareness Group
LCF	Local Consultative Forum
MW	Megawatt
NEA	Nepal Electricity Authority
Project	Nepal Tanahu Hydropower Project
Promoter	Tanahu Hydropower Limited
THL	Tanahu Hydropower Limited

## EXECUTIVE SUMMARY

The purpose of this Dispute Resolution Report, issued in accordance with Article 2.5.7 of the EIB Group Complaints Mechanism Procedures, is to inform the complainants and Tanahu Hydropower Limited (the “**parties**”), the EIB and the interested public about the outcome of the dispute resolution process. The report also describes briefly the complaint received as well as the work carried out by the EIB Group Complaints Mechanism (the “**Complaints Mechanism**”).

This report concerns two complaints received in June 2021 regarding the Nepal Tanahu Hydropower Project (the “**project**”). The project comprises the construction and operation of a hydropower scheme (including the relevant reservoir and buffer zone areas) and its connection to the national grid in Nepal. The project is located about 150 km west of Kathmandu on the Seti River near Damauli in the Tanahu district. The EIB financing amounts to up to € 62.3m. The EIB is co-financing part of the civil works with the Asian Development Bank (the “**ADB**”).

The complainants are considered to belong to vulnerable groups, with the complainants grouped under SG/E/2021/10 belonging to a Dalit community and SG/E/2021/11 belonging to a Magar community.

The complaints mainly concern:

- 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 and the vulnerability of Dalits.

With the issuance of the Addendum to the Initial Assessment Report in May 2022<sup>3</sup>, the Complaints Mechanism delineated the scope of the dispute resolution process to cover allegation three, namely the lack of compensation for non-titled and community land users in the reservoir area of the future hydropower scheme. The remaining allegations 1, 2, 4 and 5 were envisaged to be addressed by a list of agreed actions already provided for by the ADB project team and agreed with Tanahu Hydropower Limited (the “**promoter**”), by additional assessments and surveys planned for the project’s buffer zone area (that was still in the process of being defined at the time of the abovementioned Addendum) and by a cultural impact study (all of which to be carried out by the promoter) (the “**actions 2022**”). This approach aimed at reducing the duplication of activities. The parties agreed to engage in the dispute resolution process as proposed in the Addendum to the Initial Assessment Report and participated in preparatory meetings, capacity building activities and joint meetings, which were documented in minutes agreed by the parties. The items to be addressed through the dispute resolution process – within the set scope laid out in the Addendum – were agreed by the parties in the first joint session.

The work carried out by the Complaints Mechanism up to 27 May 2024 consisted of in person meetings and virtual consultations with the complainants, their advisors, the promoter, external stakeholders and the ADB’s and EIB’s project teams. The Complaints Mechanism carried out seven missions and two joint dispute resolution meetings with the complainants and the promoter.

The dispute resolution process unfortunately did not lead to an agreement between the complainants and the promoter on how to address the lack of compensation for non-titled and community land users. This report therefore marks the closure of the dispute resolution process. The Complaints Mechanism recommends proceeding with a compliance review in relation to allegation three that was the object of the dispute resolution process. The Complaints Mechanism’s compliance review includes a substantive review of compliance with standards with a view to determining whether maladministration that is attributable to the Bank has taken place. In addition, the Complaints Mechanism will continue to follow-

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<sup>3</sup> [Addendum to the Initial Assessment Report, May 2022.](#)

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up with the EIB services on the implementation of the actions 2022 that were originally envisaged to address the four allegations not covered by the dispute resolution process. This progress will also be reported in the conclusions report of the compliance review. The Inspector General reserves her right to launch an own initiative inquiry in line with Article 5.1.6 of the EIB Group Complaints Mechanism Policy in case no satisfactory progress is achieved on the implementation of the actions 2022 and the allegations thus remain unaddressed.

## 1. PROJECT

- 1.1 The Nepal Tanahu Hydropower Project comprises the construction and operation of:
- a 140 MW storage hydropower scheme,
  - a 37 km overhead transmission line that connects the plant to the national grid,
  - a rural electrification programme that aims to supply power to local villages.
- 1.2 The project is located about 150 km west of Kathmandu, on the Seti River near Damauli in the Tanahu district. The reservoir area (inundated land) will extend about 25 km upstream, inundating the low-lying lands along the Seti River. In addition to the reservoir area, a buffer zone has been in the process of being defined by the promoter over the past three years. This buffer zone is a non-inundated zone above the water reservoir that is included for safety reasons.
- 1.3 In March 2013, the EIB Board of Directors approved the financing of the project. The loan amounts to € 62.3 m<sup>4</sup>. The borrower of the loan is the Federal Democratic Republic of Nepal represented by the Ministry of Finance. The project is being implemented by the promoter (Tanahu Hydropower Limited, THL). The promoter was established in 2012 and is fully owned by the Nepal Electricity Authority (“NEA”). NEA is Nepal’s national utility for electricity generation, transmission and distribution. The project is being co-financed by the ADB and the Japan International Cooperation Agency. The EIB co-finances the construction of lot 1 (headworks civil works package) jointly with the ADB.

## 2. COMPLAINT

- 2.1 On 3 June 2021, the Complaints Mechanism received two complaints from a group of eight Dalit households and five Magar households who claimed to be affected by the project. The complainants also had sent their complaints in May 2021 to the ADB’s Office of the Special Project Facilitator. Due to their eligibility criteria, the complaint was declared ineligible by the Office of the Special Project Facilitator. Therefore, the complaints have been handled by the project team of the ADB and not by its accountability mechanism. The complainants are assisted by a group of NGOs<sup>5</sup>, acting as their advisors.
- 2.2 During the initial assessment period, additional households (ten Magar, one Newar and two Dalit) requested the Complaints Mechanism to join the complaints SG/E/2021/10 and 11. Thus, the number of complainants’ households grouped under the Initial Assessment Report increased to 26 households.
- 2.3 The allegations and demands of both groups are to a large extent similar, save for the Magar and Newar indigenous peoples’ specific rights. Dalits are not an indigenous group, but part of the Hindu caste system. Dalits lead socioeconomically restricted lives and are therefore considered a vulnerable group.
- 2.4 The main allegations presented to the Complaints Mechanism and reflected in the Initial Assessment Report were as follows:
- 1) Lack of information and participation,
  - 2) Insufficient environmental and social assessment,

<sup>4</sup> Public information on the project is available at <https://www.eib.org/en/projects/pipelines/all/20120278>. The operation was originally approved for an amount of € 53.8 m. In 2014, the loan amount was increased to € 62.3 m.

<sup>5</sup> Indigenous Women Legal Awareness Group (INWOLAG), Community Empowerment and Social Justice Network (CEMSOJ), International Accountability Project and NGO Forum on ADB.



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- 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.

2.5 The complainants formulated the following expectations vis-à-vis the promoter:

- Respect for their constitutional rights.
- A meaningful consultation with publication of information and documents in the Magar language.
- A meaningful consultation with illiterate Dalits.
- Participation in the decision-making process.
- Further studies and research on the project's negative impacts, focusing on:
  - The calculation and provision of adequate and fair compensation for losses in physical and tangible assets and main sources of livelihood;
  - The calculation and provision of adequate and fair compensation for losses in intangible assets and respect for social and cultural rights;
  - Appropriate compensation for climate change caused by the project.
- The participation of Dalit representative organisations, such as the Nepal National Dalit Social Welfare Organization, the Center for Dalit Women Nepal, the Dalit Alliance for Natural Resources or others to represent the complainants in the process.
- Free electricity, shares in NEA, housing and employment, and education and professional training opportunities for the complainants.
- The implementation of a benefit-sharing scheme for the protection and promotion of economic, social, cultural, and artistic knowledge and skills, and for social welfare work.

2.6 In addition, the Magar and Newar complainants requested:

- The rectification of a statement made in the project's Updated Resettlement and Indigenous Peoples Plan, according to which there are no effects on the indigenous peoples' traditional, ancestral land or on the water, land, forest, etc., including traditional resources, temples, or religious and sacred places.
- The implementation of free, prior and informed consent.

## 3. INITIAL ASSESSMENT

3.1 The Complaints Mechanism carried out an initial assessment to clarify and understand the issues raised by the complainants and to determine if further work by the Complaints Mechanism was necessary and possible to address the allegations and issues raised.

3.2 Following the consultation with the complainants, their advisors and the promoter, the Initial Assessment Report<sup>6</sup> was issued in December 2021. The report identified an important information gap concerning the project's buffer zone that had not yet been defined. The design of the buffer zone was considered crucial to determine the project's impact on the complainants, their lands, and livelihoods. Consequently, the report did not yet include a recommendation on the way forward. After having received more clarity on the process of the buffer zone definition and future surveys to be carried out, an Addendum to the Initial Assessment Report<sup>7</sup> was published in May 2022 in English, Nepali and Magar. The Complaints Mechanism proposed to proceed with a collaborative dispute resolution process to which the parties agreed. The parties participated in preparatory meetings, capacity building activities and joint meetings, which were documented in minutes agreed by the parties. The scope of the dispute resolution process was

<sup>6</sup> [EIB Group Complaints Mechanism Initial Assessment Report.](#)

<sup>7</sup> [Addendum to the Initial Assessment Report, May 2022.](#)

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delineated to cover the third allegation concerning lack of adequate compensation for non-titled and community land in the reservoir area (see Table 11) and the items to be addressed through the dispute resolution process – within the scope laid out in the Addendum were agreed by the parties in the first joint session.

**Table 1:** Allegation within the scope of the dispute resolution process

Allegation within the scope of the dispute resolution process	Comments
Lack of compensation for non-titled and community land in the project's reservoir area.	<p>The complainants were not included in the socioeconomic household survey that was carried out for the reservoir area despite them using land in the reservoir area. They request replacement land to be provided to them because their livelihood depends on the land used.</p> <p>The Complaints Mechanism therefore invited the parties to address the concerns raised regarding this matter in a collaborative manner through a dispute resolution process.</p>

- 3.3 Concerning the remaining allegations, the Complaints Mechanism considered that the ADB project team's efforts undertaken during 2022 had resulted in actions that had been agreed between the ADB and the promoter. These actions comprised a list of agreed actions<sup>8</sup>, an additional cultural impact assessment and surveys, actions and processes concerning the buffer zone area (the "**actions 2022**"). The required surveys and assessments concerning the buffer zone comprise a socioeconomic survey of affected households and a census, a buffer zone management plan, a resettlement action plan, and a livelihood restoration plan. The Complaints Mechanism acknowledged that the remedial actions were envisaged to address the majority of the original allegations.
- 3.4 The Complaints Mechanism further emphasised that the thorough and culturally appropriate implementation of the cultural impact assessment would need to be closely monitored by the EIB services. The Complaints Mechanism also expressed its opinion that the promoter would need support from the EIB services to make sure that the surveys and plans for the buffer zone were compliant with the applicable EIB environmental and social standards.
- 3.5 Based on the implementation schedule of the actions 2022 communicated to the Complaints Mechanism (and as described in the Addendum to the Initial Assessment Report), it was believed that the actions 2022 would be implemented in parallel to the dispute resolution process and through close cooperation between the ADB project team and THL. The Complaints Mechanism emphasised that the envisaged measures would only address the allegations if properly implemented and undertook to monitor the implementation of the list of agreed actions together with the ADB.
- 3.6 To avoid duplication of processes, the allegations addressed by the actions 2022 were thus excluded from the scope of the dispute resolution process (see Table 2).

<sup>8</sup> The list of agreed actions was presented in Annex 1 to the Addendum to the Initial Assessment Report.

**Table 2:** Overview of allegations not part of the dispute resolution process and the respective actions 2022 agreed between the ADB and THL in 2022 (as reflected in the Addendum to the Initial Assessment Report)

<b>Allegations outside the scope of the dispute resolution process</b>	<b>Envisaged actions 2022 (as of May 2022):</b>
Lack of information and participation	Immediate actions by the promoter to improve the information provided, such as regular company-community check-in and other measures, as described in the list of agreed actions.
Lack of compensation for land outside the reservoir area	Determination of buffer zone area, new 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.
Insufficient environmental and social assessment	Execution of a cultural impact assessment
Lack of proper consideration of indigenous peoples' rights (including free, prior and informed consent)	
Lack of proper consideration of the vulnerability of Dalits	
Inadequate grievance redress mechanism	

## 4. DISPUTE RESOLUTION PROCESS

- 4.1 The dispute resolution process lasted for about two years. In total, the Complaints Mechanism carried out seven missions and two joint meetings between the complainants and the project promoter. The missions took place in June, July and October 2022 and January, April, and November 2023 and May 2024. The joint dispute resolution meetings were convened as part of the July and October 2022 missions and included in addition to the main parties, representatives of the NGO advisors and of the ADB (as observers to the process). The Complaints Mechanism facilitation team was usually composed of members of the dispute resolution team from the Complaints Mechanism and local facilitators and interpreters.
- 4.2 The local facilitation team additionally met with the complainants various times to explain reports and meeting minutes. To help the parties better engage in the dispute resolution process, the local team also organised three capacity building workshops in October 2023 and February 2024 with the support of an international consultant.
- 4.3 Furthermore, one facilitator and one NGO representative carried out two field visits in November 2022 and March 2023 to gather further information on the land plots claimed and to collect supporting documents from the complainants as agreed during previous joint sessions.<sup>9</sup>
- 4.4 In addition, the Complaints Mechanism initiated numerous virtual meetings with the parties to exchange information and to debrief on past visits.
- 4.5 Further information on the missions, joint meetings and other interactions can be found in **Annex I**. The following section summarises the main outcomes of this dialogue process.

<sup>9</sup> Further information on the report generated and handed over to the promoter can be found in Annex 1, paragraph 1.9 – 1.10.

## 5. OUTCOMES AND END OF THE DISPUTE RESOLUTION PROCESS

- 5.1 During the initial phase of the dispute resolution process, progress was made on communication and information sharing between the parties. This was achieved during the two joint meetings by bringing the parties together in a collaborative process. In addition, the parties agreed on regular meetings for the presentation of the promoter's monthly newsletter. The promoter and the complainants cooperated to some extent in the implementation of improved access to drinking water and the construction of a wooden bridge. However, the main issues to be tackled through the dispute resolution process remained unaddressed: no agreement nor clarity could be achieved concerning the process to address the effects on untitled land users and users of community land in the project's reservoir area. Discussions with the promoter, other stakeholders and the EIB and ADB's project teams have not led to a conclusive proposal on how to address the grievances. While it was originally expected by all stakeholders and proposed in the Addendum to the Initial Assessment Report - that these allegations could be addressed through the dispute resolution process, the promoter informed the Complaints Mechanism that it intended to cover them in parallel to the studies and surveys to be carried out for the buffer zone area.
- 5.2 The finalisation and implementation of these studies and surveys is not to be expected in the short term. Clarity on the process and treatment of untitled land in the reservoir area will only be reached following the completion of an updated resettlement and indigenous peoples plan and a livelihood restoration plan. The complainants will only reach clarity on the mitigation or compensation measures envisaged for their specific cases during the implementation phase of the aforementioned studies and surveys.
- 5.3 The Complaints Mechanism noted in meetings with the complainants that they have been growing increasingly upset with the lack of progress concerning their significant grievances. Given that the construction of the project is progressing and inundation is expected to start in May 2026<sup>10</sup>, the complainants expressed that the process was not fast enough to lead to results and that many of their fears about the impact of the hydropower project remained unaddressed.
- 5.4 In March 2024, the facilitation team discussed the lack of progress in the dispute resolution process during the past two years with the complainants and their advisors. Following these exchanges, the Complaints Mechanism took the decision to end the dispute resolution process with the agreement of the complainants.
- 5.5 The promoter was informed about this decision in April 2024. The Complaints Mechanism also informed the ADB about this decision.
- 5.6 Furthermore, the Complaints Mechanism met in person with the complainants and their advisors and the promoter in May 2024 to explain the end of the dispute resolution process and to provide information on the subsequent compliance review.

### **The implementation of actions 2022 envisaged to address allegations outside the scope of the dispute resolution process:**

- 5.7 As described in section 3 above, the remainder of the allegations was envisaged to be addressed by the actions 2022 consisting of:
- A list of actions agreed between the ADB and the promoter,
  - additional surveys and assessments concerning the buffer zone area (as listed above),

<sup>10</sup> [THL Newsletter March 2024](#).

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- the additional cultural impact assessment.

5.8 List of agreed actions: The 18 action points agreed in February 2022 concern multiple requests made by the complainants and areas of concerns. In summary, the numerous action points were targeted to:

- improve communication and participation,
- ensure that the communities benefit from the community development plan activities,
- disclose a draft methodology for a cultural impact assessment on the project's impact on indigenous peoples by April 2022.

Some measures to improve communication and participation were also discussed in joint meetings and calls of the parties involved in the dispute resolution process with the Complaints Mechanism. Regular monthly visits by the promoter to handover the promoter's newsletter improved the information flow. Despite this, the complainants raised issues concerning the lack of use of the Magar language, lack of timely invitation to meetings to ensure representative participation and concerns about the content of the information provided.

The concrete projects requested by the complainants under the community development plan activities were the following: improved access to drinking water and construction of a wooden bridge. The implementation of both was discussed during a joint session with the facilitation team and both projects have been implemented.

5.9 Other action points were not implemented, or their implementation was discontinued. The detailed list of immediate actions and their implementation status is shown in **Annex II**. Annex II describes also measures recommended by the lenders in March 2024, and agreed by the promoter, which have the potential to address existing grievances if implemented properly.

5.10 Surveys and assessments concerning the buffer zone area: The promoter initially estimated to finalise the buffer zone design in November 2021<sup>11</sup>. After repeated and significant delays, the buffer zone definition is progressing now but has not been concluded. Demarcation activities for the buffer zone with involvement of the communities started in March 2024. Following the demarcation activities, land parcelling activities will start for the titled land and, in parallel, information on untitled land will be collected. The buffer zone report, compiling all information was envisaged for May 2024. The work on new studies and assessments concerning the buffer zone area will progress afterwards. The promoter intends to address the concerns of untitled land, both in the reservoir and in buffer zone areas on the basis of an updated resettlement and indigenous peoples plan and livelihood restoration plan, which will be drafted on the basis of the previously mentioned studies and assessments. First drafts are expected by September 2024, which will be followed by an approval and implementation phase.

A cultural impact assessment was intended to address the allegations on insufficient social assessment of the project, lack of proper consideration of indigenous peoples' rights, lack of proper consideration of the vulnerability of Dalits and an inadequate grievance mechanism. An early draft that had been shared with the Complaints Mechanism in 2022 also envisaged gathering additional information lacking in the original census of the reservoir area by; (i) identification of individual non-titled lands; (ii) identification of communal lands (public land owned by the government but used by the community); (iii) identification of natural resources and lands with customary tenure; (iv) review of the grievance redress mechanism. No agreement could be reached between the promoter and the lenders on the draft methodology for the cultural impact assessment. The draft methodology was not shared with the complainants.

5.11 In March 2024, the promoter informed the Complaints Mechanism that the cultural impact assessment will be included in the socio-cultural and economic study that is being carried out for the buffer zone. The Complaints Mechanism is not aware of the content of the planned assessment.

<sup>11</sup> [EIB Group Complaints Mechanism Initial Assessment Report page 1.](#)

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- 5.12 The promoter and the EIB services informed the Complaints Mechanism that the grievance management process is being reviewed and is documented in a stakeholder engagement plan, which has been developed in close cooperation with the EIB services.
- 5.13 The Complaints Mechanism acknowledges that, following recent interventions of the EIB and ADB's project teams, more progress was made during the first quarter of 2024. This progress encompasses the following:
- development of a stakeholder engagement plan including a review of the grievance redress mechanism,
  - definition of an action plan and timeline to address the following aspects of the grievances in line with ADB's environmental and social safeguard requirements: (i) land-based resettlement strategies, (ii) assessment of the use of untitled land and the process to be followed to determine entitlement, (iii) assessment of lands and territories traditionally owned or occupied by indigenous peoples. Until the cut-off date of this report this action plan had not been consulted with the complainants' communities.
  - In March 2024, the EIB services communicated to the promoter the need to promptly act upon the lenders' recommendations to address existing grievances. They further stressed that inundation or other impacts on affected persons cannot occur until complaints in the reservoir and buffer zone area are resolved. It is the role of the EIB services to continuously monitor that all contractual obligations (including environmental and social requirements) are fulfilled.
- 5.14 However, the Complaints Mechanism notes that the implementation of the above-mentioned plans will require considerable time and that major parts of the actions 2022 required to address the complainants' requests were not implemented or not implemented within the agreed timeframe. The Complaints Mechanism stated in paragraph 3.6 of the Addendum to the Initial Assessment Report<sup>12</sup>:

*"The EIB Complaints Mechanism acknowledges that the list of agreed actions entails various steps that will only satisfy the concerns of the complainants once appropriately implemented."*

Based on the information available to the Complaints Mechanism and as described in the preceding paragraphs, neither these agreed action points nor the remaining actions 2022 (buffer zone studies and surveys and cultural impact assessment) have been fully implemented yet.

## 6. WAY FORWARD

- 6.1 In line with Article 2.5.6 of the EIB Group Complaints Mechanism Procedures, if the parties to a dispute resolution process do not reach an agreement, the process is closed and a recommendation for a compliance review or other specific EIB Group action may follow. Given that allegation 3 (lack of compensation for non-titled and community land users in the reservoir area of the future hydropower scheme) remains unaddressed, a compliance review is deemed the only possible way forward.
- 6.2 Given the above, the Complaints Mechanism is closing the dispute resolution process and will conduct a compliance review as regards the allegation three from the angle of maladministration attributable to the Bank.
- 6.3 In addition, the Complaints Mechanism will continue to follow-up with the EIB services on the implementation of the actions 2022 that were originally envisaged to address the four

<sup>12</sup> [Addendum to the Initial Assessment Report, May 2022.](#)

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allegations not covered by the dispute resolution process and whose implementation is significantly delayed. The Complaints Mechanism will report on the progress in the implementation of the actions 2022 in the conclusions report of the abovementioned compliance review.

- 6.4 The Inspector General reserves her right to launch an own initiative inquiry in line with Article 5.1.6 of the EIB Group Complaints Mechanism Policy in case no satisfactory progress is achieved on the implementation of the actions 2022 and the allegations thus remain unaddressed.
- 6.5 The Complaints Mechanism would like to thank the parties and external stakeholders involved in the dispute resolution process for their efforts and willingness to participate.

## Annex I: Description of missions and joint meetings

### Preparation for dialogue and dispute resolution

- 1.1 The **first mission took place in May and June 2022**, following the lifting of COVID-19 travel restrictions. The purpose of the mission was a first in-person meeting with stakeholders to provide explanations on the dispute resolution process and the collection of additional on-site information. The facilitation team met with the complainants and their NGO advisors from CEMSOJ and INWOLAG, the project promoter and NEA's representatives.

### Joint meetings

- 1.2 The **first joint meeting took place in July 2022** in Pokhara. In preparation of this meeting, the community met with the facilitation team and elected three representatives from the Dalit community and three representatives from the Magar community. The representatives attended a training session provided by the local facilitator, explaining the concepts and importance of negotiation, interests and positions in mediation, listening skills, body language and question techniques.
- 1.3 The two-day joint meeting brought together representatives of the complainants and the promoter, the facilitation team, and observers (NGO advisors and one ADB representative). The meeting presented an opportunity for community representatives to voice their demands and concerns, and for the promoter to enter in direct exchange with the communities' representatives. The participants agreed on the ground rules for the dispute resolution meetings and the agenda with the points which they wished to be discussed in the meetings. The participants decided to prioritise in this first meeting the discussion of the following points: the drinking water access points/water tanks, the construction of a motorcycle bridge and access road and updated information on the buffer zone. The parties reviewed the information already available, discussed what kind of information was needed, and determined implementation steps/responsibilities for the first two discussion points.
- 1.4 In October 2022, the facilitation team held preparatory meetings with each party for the **second joint dispute resolution session**. With the promoter's agreement, an additional representative from Ladan was added to the list of complainants' representatives. Participants at the second joint session were the representatives of the complainants and promoter, the facilitation team and observers (NGO advisors and two ADB representatives). The parties agreed to focus the meeting discussion on land-related issues and identified two separate processes applicable to untitled land plots:
- 1) registration as the process for getting a title (to be submitted to the Ward Office and processed by the Land Commission); and
  - 2) application as the process to request compensation from the promoter.
- 1.5 Due to the lack of clarity on these two processes concerning proceedings, outcomes and documentary evidence needed, the parties could not determine the suitable process to be followed. The possibility of a multi-stakeholder meeting was discussed. The parties agreed to collect information on what type of process had already been started by the complainants in the reservoir and buffer zone areas with the support of the NGO advisors and the facilitation team.
- 1.6 As a follow-up to the first joint meeting, it was confirmed that the water tanks and pipes (as agreed in the previous joint meeting in July) had been installed and that the works on the motorcycle trail and bridge had commenced.
- 1.7 The ADB observers provided an overview on the requirements of the respective applicable environmental and social safeguards policies.



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- 1.8 The facilitation team noted an increased willingness of the parties to cooperate and an increase in the level of trust between the parties, which was apparent in the constructive discussions during the session.

### Information collection on untitled land claims and field report

- 1.9 As agreed during the October 2022 joint meeting, the local facilitation team started collecting information on land plots claimed, during **two field visits in November 2022 and March 2023**. The team gathered information on approximate size, location and supporting documents evidencing the claims. The information was consolidated in a report (the "**Field Report**") and verified with the complainants in subsequent meetings.
- 1.10 In July 2023, the complainants agreed to hand over the Field Report to the promoter with a cover letter. In this cover letter, the complainants requested the exact measurement of the land and reiterated their request for replacement land as their preferred option. In case no replacement land was available, they requested full replacement value as compensation. The Dalit complainants requested the promoter to facilitate the process of obtaining titles for their claimed land plots or alternatively the process of replacement land allocation.

### Awareness raising with the sub-committee for compensation of untitled land

- 1.11 A sub-committee of the Chief District Committee was formed in August 2023. It is the official entity for the identification of persons using untitled land affected by the project (including in the reservoir area), the collection of information on the untitled land and the affected persons, and finally the submission of a report to the Compensation Determination Committee. The sub-committee is composed of members of authorities from the district and municipal level and promoter representatives.
- 1.12 The facilitation team met in September (virtually) and in November 2023 with representatives of the sub-committee to receive more information on its mandate and the work planned to be carried out. The meetings were organised by and in cooperation with the ADB and EIB project teams and the objective was to raise awareness of sub-committee members on the gap between national legislation and ADB and EIB requirements on compensation for untitled land claims and to raise awareness concerning the status of the complaints received by the Complaints Mechanism.
- 1.13 Following a change in top-level staff of the Chief District Officer and other district authorities in December 2023, a new sub-committee was appointed. The new sub-committee commenced its activities in January 2024.

### Awareness raising and collection of further information from other stakeholders

- 1.14 During **three missions in January, April and November 2023**, the facilitation team met with various stakeholders. The facilitation team was supported by the EIB project team and/or representatives of the promoter during some of the meetings. The team met, amongst others, with the Department of Land Management and Archive, the Ministry of Energy, the District Land Revenue Office, the District Land Commission, the Chief District Officer, members of the District Coordination Committee, the Mayor and Ward Chair and repeatedly with the promoter and NEA.
- 1.15 The overarching objectives of these missions were to:
- facilitate the transfer of information gathered in the field visit to the promoter, in order to prepare for further joint meetings;
  - gather information on the responsibilities of institutional stakeholders involved in land acquisition and involuntary resettlement (with a view to the titling of untitled land or the process of providing replacement land);

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- support the promoter in informing institutional stakeholders on the federal, district and local level about issues faced in the process of resolving the complaints and raising awareness on the EIB's environmental and social requirements; and
- for the project team, support the promoter in elaborating concrete proposals to community concerns, and specifically concerning the treatment of untitled land claimed by the complainants.

1.16 Key findings of these missions were that:

- the treatment of compensation/livelihood restoration for untitled land users is not provided for under Nepalese legislation. The process on how to close the gap between national legislation and EIB environmental and social standards was not clear in that respect;
- the treatment of untitled land seemed to be a recurring issue in internationally funded projects in Nepal, given the aforementioned gap between local legislation and international financial institutions' standards;
- in other cases, compensation had been provided following a decision taken by the cabinet of Ministers (which approved the compensation up to a certain percentage of the equivalent titled land value); and
- a separate process exists with regard to providing titled land to landless/Dalit or unmanaged settlers under the responsibility of the Land Commission (established in 2021 on federal and district level to provide land to landless Dalits, landless squatters, and manage unsettled residents)<sup>13</sup>.

### Trust and capacity-building activities with the parties

1.17 During all three visits in 2023, the facilitation team also met with the complainants and their advisors. Representatives of the promoter, the municipality and the ward participated in part of the meetings and discussed updates and possible ways forward with the community. The objectives of these meetings were:

- to provide information about the facilitation team's activities and hear the participants' concerns;
- to discuss with them and the promoter's representatives present on how to improve the information flow between the parties;
- to convey updates on the process of the buffer zone definition, as provided for by the promoter;
- for EIB social experts to provide information on the EIB environmental and social standards applicable to their complaints; and
- to agree on measures to bolster the communities' trust, so that the Field Report could be transmitted to the promoter with the aim of initiating the process for compensation for untitled land in the reservoir area claimed by the complainants and that had been missed in the Updated Resettlement and Indigenous Peoples Plan in 2018 and the related surveys.

### Capacity-Building Training/Workshops

1.18 Three capacity-building workshops were organised with the communities and the promoter separately in October 2023 and February 2024. The workshops addressed the challenges experienced by the parties in the dispute resolution process by teaching them effective communication techniques. The training was done in an interactive way, featuring role plays and exercises.

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<sup>13</sup> According to information provided in the press, the Land Commission was dissolved in March 2024, with the aim of establishing another entity responsible for handling these land-related matters. [National Land Commission dissolved | Nepalnews](#)

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## ANNEX II

**Table 1 - Implementation status of the immediate actions listed in the Addendum to the Initial Assessment Report of May 2022**

Introductory remark: the agreed actions displayed in the below table were agreed in 2022 between the promoter and the ADB. Given the time elapsed, some of the actions listed in the table are not implementable anymore. Further, the project teams of EIB and ADB have put forward a number of requirements (see table 2 below, items 1–5) which have the potential to address the agreed actions if implemented accordingly. The Complaints Mechanism notes that many of the below action points (in table 1) aim to ensure a participatory process for studies to be performed. This requires that the community is kept informed about the studies and their progress.

ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024)	Comments Complaints Mechanism
				B) Comment by complainants	
1	Organise a company-community check-in.	Starting March 2022. Repeating every two months until January 2023; subsequent frequency to be agreed.	Every two months, a public information officer will visit the Project Information Center (PIC) to provide updates to PIC staff and to meet community representatives. PIC staff will subsequently organise a meeting in Rishing Patan/Jalbire after receiving updates from PIC to share with the community.	A) The bi-monthly meeting does not take place on a regular basis. However, the promoter meets monthly with the community to present a newsletter.	Ongoing.  The Complaints Mechanism understands that this action has been replaced by the visits to handover the monthly newsletter (see next row).
	Prepare written updates (in Nepali) and deliver them verbally.	March 2022 onwards.	THL will bring regular project newsletters to each consultation and will share information about the project status and respond to questions.	A) Staff of the project information centre and the public relations officer meet with the community to share the newsletter and other information and respond to people's queries. Social mobilisers/PIC staff provide an oral interpretation to Magar.  B) Members of the community reported that the promoter representatives arrived in the past without announcing their presence and therefore no proper meeting was possible. The community also complained that large parts of the newsletter content presented were not relevant to them and their situation.	Ongoing. As mentioned in the introductory remark, some actions will be assessed in light of the requirements imposed by the project team. For example, communicating about project progress is part of stakeholder engagement. This action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 2 below related to the finalisation and disclosure of the stakeholder engagement plan.
1 a	Engage a qualified Magar-language facilitator.	May 2022 onwards.	THL aims to have a designated person by the second community consultation, from	A) Magar interpreter was hired in November 2022.	Partly implemented The Complaints Mechanism acknowledges that the

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ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024) B) Comment by complainants	Comments Complaints Mechanism
			May 2022 onwards. The project will seek to identify a dedicated community facilitator for this role going forward, though experience has demonstrated that finding an ideal candidate is difficult.	B) The community stated that the Magar dialect of the interpreter used was not the same as their dialect.	action point was not implemented to the full satisfaction of the community. At the same time, the Complaints Mechanism is aware of the challenge to obtain interpreters with the exact same dialect. It considers the action point as closed and encourages the parties to continue to engage and the promoter to continue to strive to obtain the best possible interpreter available.
1 b	Provide an update on opportunities for skilled and unskilled labour.	May 2022 onwards.	THL can share each six-month plan for human resources, including skilled and unskilled labour.	A) No practice of regular sharing.	Not implemented.  This action will be assessed and followed-up by the Complaints Mechanism as part of item 5 of Table 1 above, related to the finalisation and disclosure of the livelihood restoration plan.
1 c	Provide an update on the planning, procurement, and implementation status of Full Supply Level (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. An update on scope and methods can be shared in May 2022 for consultation with community members.	A) Full supply level verification and demarcation is planned to be completed by 22 April 2024.	Ongoing.  This action will be assessed and followed-up by the Complaints Mechanism as part of item 2 of Table 1 above, related to the finalisation of the buffer zone demarcation and land parcelling.
1 d	Provide an update on Community Development Plan (CDP) activities and help ensure that affected persons are benefiting.	March 2022 onwards	For the overall project area, CDP activities are underway. For Wantangitar and Jalbire, new community investments are being assessed following an initial field visit. These include the water access point and walking passage restoration in Phedi Khola.	A) Drinking water access and bridge and path restoration are completed.	Implemented.  The described community investments (water access point and walking passage restoration) have been completed.
1 e	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.	A) Promoter confirmed the LCF (the local grievance redress mechanism) is not functional.	Not implemented.  The LCF is apparently not functional and is being replaced by a formal grievance redress mechanism.

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ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024) B) Comment by complainants	Comments Complaints Mechanism
					This action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 1 above, related to the finalisation and disclosure of the stakeholder engagement plan that includes meaningful consultations, information disclosure, and grievance redressal.
	Receive support requests to help households avail of free electricity up to 20 KWh (units) with 5 AMP capacity meter.	March 2022 onwards	Field team members will be instructed on their responsibility for receiving requests and for reporting these requests to PMU.	A) As per the Government of Nepal/Nepal Electricity Authority rule, minimum charge to the people up to 20 units consumption is applied all over Nepal. As this is the best offer by the Government, the promoter cannot support communities to receive free electricity.	Not implemented.  According to information provided by the promoter it is not possible to implement this action. The Complaints Mechanism encourages the parties to further engage to find other modalities of benefit-sharing.
1f	Record questions and concerns from consultations and note THL response.	March 2022 onwards	Records will be kept for each meeting (1-2 pages of topics, agreements, etc.)	A) The written and video documentation was produced for the major consultations such as those related to the buffer zone.	Ongoing.  This action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 1 above, related to the finalisation and disclosure of the stakeholder engagement plan that includes meaningful consultations and information disclosure.
2	Extend community development baseline survey.	March 2022	Baseline survey activities can be extended to Jalbire and Wantagitar 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 the ADB mission (access to drinking water; foot bridge restoration).		Implemented.  CDP survey and the respective activities have been implemented (see action point 1d above).
3	THL to request LCF committee to invite Magar	March 2022	█ will be invited as observers to the next LCF meeting. THL will	A) The LCF is not functional now.	Not implemented.

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ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024) B) Comment by complainants	Comments Complaints Mechanism
	community representative to LCF meeting		call in advance to inform when the next date is set (end of March).		<p>As per the information received by the Complaints Mechanism from the complainants and the Promoter, the LCF is not functional and is being replaced by a formal grievance redress mechanism.</p> <p>This action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 1 above, related to the finalisation and disclosure of the stakeholder engagement plan that includes meaningful consultations, information disclosure, and grievance redressal.</p>
4	Disclose draft methodology for cultural impact assessment [cultural and natural resources and livelihoods].	March/April 2022	April at latest for sharing draft methodology. March is our target.		<p>Not implemented.</p> <p>The Complaints Mechanism understands that the 'Cultural Impact assessment' has not been developed as foreseen in 2022. The promoter informed the Complaints Mechanism in March 2024, that the Cultural Impact Assessment will be replaced by the 'social impact assessment' and the resettlement and indigenous peoples plan. The Complaints Mechanism is not aware if the draft methodology is envisaged to be shared with affected communities but encourages the Promoter to do so as part of an effective community engagement and to ensure a participatory process (see also action point 4b).</p> <p>This action will be assessed and followed-up by the Complaints Mechanism as part of</p>

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ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024) B) Comment by complainants	Comments Complaints Mechanism
					items 3 and 4 of Table 1 above, related to the finalisation and disclosure of the social impact assessment and the resettlement and indigenous peoples plan.
4 a	Ensure ToR call for qualified experts that are sensitive to indigenous peoples' issues to assess impacts.		Agreed; will be included in methodology.		As with the previous action point, this action will be assessed and followed-up by the Complaints Mechanism as part of items 3 and 4 of Table 1 above, related to the finalisation and disclosure of the social impact assessment and the resettlement and indigenous peoples plan.
4 b	Ensure a participatory process/community participation in determining project risks and impacts.		Agreed; will be included in methodology.		It is not clear to the Complaints Mechanism if the respective terms of reference (draft methodology) will be shared with the community as per the original agreement As with the previous action point, this action will be assessed and followed-up by the Complaints Mechanism as part of the items 3 and 4 of Table 1 above, related to the finalisation and disclosure of the social impact assessment and the resettlement and indigenous peoples plan.
5	Dispatch a team to determine how to provide an easy-to-use community drinking water access point.	Complete.	Visited Jalbire for initial screening already [DATE].		Implemented.
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 may not be safe to visit at some times of the year. Specifying these locations will occur as the FSL demarcation and buffer zone study results are available.	A) THL will replace all the cremation site and burial places in the suitable area after demarcation of the buffer zone. The location for replacement will be finalised in consultation with the respective communities.	Ongoing.  The Complaints Mechanism acknowledges the assurances provided by the promoter (see previous column). The action point requires ongoing engagement by the parties.

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ID *	Agreed action*	Timeframe envisaged (in 2022)*	Comments*	A) Comment by promoter (dd. April and June 2024) B) Comment by complainants	Comments Complaints Mechanism
					This action will be assessed and followed-up by the Complaints Mechanism as part of items 3 and 4 of Table 1 above, related to the finalisation and disclosure of the social impact assessment and the resettlement and Indigenous Peoples Plan.
7	Prepare local disclosure information about the project's forest management plan and other relevant Environmental Management Plans (EMPs).	April/May 2022	Findings for environmental studies can be summarised in locally-consumable format and presented to the community verbally. Clarification for how the project is taking into account risks from seasonal variation will be shared during these consultations.	A) A Stakeholder Engagement Plan (SEP) has been drafted and shared with ADB/EIB.	Ongoing.  The engagement strategy and information disclosure related to forest management is described in the stakeholder engagement plan. Therefore this action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 1 above, related to the finalisation and disclosure of the stakeholder engagement plan that includes meaningful consultations and information disclosure.
8	Provide a status update on the process for identification of buffer zone. Clarify how seasonal variation will also be taken into account for the buffer zone studies.	March 2022 onwards.	Status updates will be shared during regular community meetings. Current status is that the Environmental and Social Management Service Provider (ESMSP) submitted a revised proposal regarding the buffer zone and includes a process of consultation of community representatives (via LCF for most communities but including a special visit to Jalbire and Wantagitar). Tanahu Hydropower Project (THP) can include a Magar facilitator to join this team.	A) Buffer zone consultation meetings held in December 2022 (land owner/user), March 2023 (ward level), January/February 2024 at ward level.	Ongoing.  The Complaints Mechanism acknowledges the consultation meetings held (previous column). Given the time needed until final implementation, the parties should continue to engage in a participatory manner.  This action will be assessed and followed-up by the Complaints Mechanism as part of item 1 of Table 1 above, related to the finalisation of the buffer zone demarcation and land parcelling



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**Table 2 - Requirements from the lenders to the project, presented in the joint EIB / ADB letter of 29 March 2024 and agreed by THL**

ID	Item*	Deadline
1	Finalise and disclose the stakeholder engagement plan that includes meaningful consultations, information disclosure, and grievance redressal.	10 April 2024
2	Finalise the buffer zone demarcation and land parcelling	31 May 2024
3	Finalise the social impact assessment	30 June 2024
4	Finalisation and disclosure of the updated Resettlement and Indigenous Peoples Plan	Timely implementation in advance of reservoir inundation
5	Finalisation and disclosure of the Livelihood Restoration Plan	Timely implementation in advance of reservoir inundation