

February 11, 2020

European Investment Bank Group Complaint Mechanism

*Via Email*

**Re: Complaint and request for mediation function regarding the Tanahu Hydropower Project**

Dear Complaint Mechanism,

We, community members affected by the Tanahu Hydropower Project (EIB project number 20120278 or the "Project") being implemented in Tanahu, Nepal, organized as the "Directly Inundation Affected Peoples Collective Rights Protection Committee," hereby submit a complaint to the Office of Special Project Facilitator, requesting mediation to resolve problems caused by the Project. We recently came to learn about the role of the European Investment Bank in the Project and the existence of the European Investment Bank Group Complaint Mechanism in July 2019 through a training organized by Indigenous Women's Legal Awareness Group (INWOLAG) and Community Empowerment and Social Justice Network (CEMSOJ).

As indigenous Magars, our lives depend on land and natural resources. The Project has and will cause direct and material harm to our ancestral land, our livelihoods, and traditional practices. Our agricultural land, structures in the farms, cremation sites, bridges, roads and trails and our water resources will be directly affected by the Project. We will be displaced once the farming land is full of water. Our income from farming and raising animals will decrease and we will not be able to sustain our lives. We did not receive adequate information and opportunity for meaningful participation and proper consultation in the Project. The Project did not include our land in their survey. The form and rates of compensation were determined without our participation and as a result, are unfair, inadequate, and discriminatory against our families and thus are being imposed on us.

We seek the following results through the independent mediation process:

1. The right to Free, Prior and Informed Consent (FPIC) of indigenous peoples should be implemented in each process and phase of the project and a necessary mechanism should be created and our representative shall be included in such mechanism.
2. All notices about the Project should be continuously provided in a language understood by the affected community, including by hiring local interpreters/translators.
3. An Environmental Impact Assessment (EIA) should fully and adequately capture the impacts of the Project on our lives. As currently drafted, the EIA report has not effectively included the impacts of the project on us, the indigenous peoples. Several issues should be re-assessed, clarified, and addressed with the participation of our community, including:
  - a. Impacts on our grazing lands,
  - b. Impacts on fodder, firewood, herbs, and vegetables from forest.
4. The socio-cultural impacts of the Project on our cremation sites, rest house, temples and water sources should be assessed and addressed with the participation of our community. (Paltyang residents have been using 6 cremation sites in the inundation area.)
5. Impacts on our farmlands and grazing lands should be prevented or minimized to ensure the livelihoods of the affected community based on agriculture and animal husbandry.
6. Effective representation of our community (the Committee) should be immediately implemented in the Local Consultation Forum (LCF).

7. Land left out during the Detailed Measurement Survey should be re-surveyed. The methodologies to carry out the survey should be created and implemented in consultation with us.

8. Free electricity distribution and free shares of Tanahu Hydropower Limited to affected families as well as one employment per household should be provided for the affected families.

9. Indigenous peoples' representative organizations (Nepal Magar Sangh, Tanahu, Nepal Federation of Indigenous Nationalities, Tanahu) should be included in the consultations of the project.

10. Compensation and redress in the form of land for land and house for house of the same nature and value should be provided to our affected families.

As set out below, we have attempted to resolve these problems in good faith through our continued engagement with Tanahu Hydropower Limited, the project co-financier Asian Development Bank Tanahu Hydropower Limited and different levels of government:

- In May 2018, we submitted the 12 point demands to the Chief Minister of Gandaki Province as well as District Headquarter, District Development Office, Vyas Municipality, Bhimad Municipality, and Rising Rural Municipality.

- On January 24, 2019, we met in person with ADB staff to discuss issues on Resettlement and Indigenous Peoples Plan (RIPP) and Local Consultation Forum. We submitted another letter to ADB staff and the Tanahu Hydropower Limited company representatives that we do not agree with the individual consultation of each household as suggested by the Special Project Facilitator, we want the collective consultation.

- On March 9, 2019, an ADB representative gave an English version of the Resettlement and Indigenous Peoples Plan (RIPP) to the committee at the ward office in Paltyang. On April 2, 2019, representatives from the ADB and the Tanahu Hydropower Limited gave copies of the Resettlement and Indigenous Peoples Plan (RIPP) in Magar language to the committee, but the translation was not in our dialect.

- On November 30, 2019, representatives from the Tanahu Hydropower Limited visited us in our village (Paltyang) and informed about additional assistance for resettlement/compensation, including for loss of trees/plants and social development such as health, education and road facilities in the village or other resettlement area that we choose from the financial compensation of our land to be acquired. However, they did not provide the information in writing and clearly stated that the compensation of our agricultural and other lands that will be submerged will not be increased and it was beyond the authority and scope of the Company to negotiate these terms and therefore under the purview of the government authorities.

- Most recently, in December 2019, we visited the Ministry of Energy, Water Resources and Irrigation and the Ministry of Home Affairs with representatives of Indigenous Women's Legal Awareness Group (INWOLAG) and Nepal Magar Sangh central committee. We conveyed our concerns with the project, particularly lack of fair and adequate compensation and also informed the officials of the Ministries of significant discrepancies in compensation determination and distribution. During the meeting on 25 December, the Minister of Energy, Water Resources and Irrigation immediately called the Director of the Tanahu Hydropower Limited and discussed about our issues. Considering the particular vulnerability of the affected families associated in the Committee, the Ministry also responded positively about increasing compensation or relief for them but stated that the Ministry of Home Affairs should decide on it while we have reiterated our demand for land for land compensation. On the same day, we also registered a complaint on our concerns with the project with the National Human Rights Commission of Nepal.

- On 27 December, we also met the Secretary of the Ministry of Home Affairs, who immediately called the Chief District Officer (CDO) of Tanahu - the main official responsible for determination of compensation. The

Secretary followed up on the decision of February 2017 when then Committees had submitted complaints about lack of fair and adequate compensation. However, the CDO expressed ignorance about the decision and could not find relevant communication but has not written to the Ministry informing the same. As a result, there has not been any significant progress from the Ministry on the issue to date despite our repeated follow up with the CDO and the Ministry.

While there have been some efforts towards addressing our demands including provision of the key project documents in our Magar language (though not in local dialect) and adequate and culturally appropriate consultations, our key demands -- including land for land compensation -- remain unresolved. We are hence not satisfied with the responses received and therefore we file this complaint.

We also file a similar complaint to the ADB Accountability Mechanism and we hope that the EIB Complaint Mechanism and ADB Accountability Mechanism will coordinate the process. We reserve the right to amend this complaint with additional information should we decide to trigger the Compliance Review in the future. We have authorized the Indigenous Women’s Legal Awareness Group (INWOLAG) and Community Empowerment and Social Justice Network (CEMSOJ) to act as our advisor and representative in this process, with support from NGO Forum on ADB, and the International Accountability Project. The advisors do not make decisions for us but will facilitate communications and keep us informed of the progress. Formal communication should be provided in Nepali and English and when possible in our native Magar language. We would also request to receive the information in-person in our community Palyang.

[Redacted]

[Redacted]

Sincerely,