

ORIGINAL

October 24, 1994

The Inspection Panel
The World Bank
1818 H Street, NW
Washington, DC 20433
United States

REQUEST FOR INSPECTION

We, as the Arun Concerned Group, the local residents of the Sankhuwa-Sava District, and the citizens of Nepal, claim the following against the proposed controversial Arun III Hydroelectric Project which is to be partly financed by the World Bank:

1. INTRODUCTION OF THE PROJECT

The World Bank, with other lending agencies (Asian Development Bank, KfW, France, Finland, Sweden), is planning to finance the proposed Arun III Hydroelectric Project in the Sankhuwa-Sava District of Nepal with the total cost of US \$1082.3 million for the first 201 MW stage of 402 MW. The Bank is proposing to lend US \$175.0 millions in International Development Association (IDA) funds. The Nepal Electricity Authority (NEA) is to invest US \$290.7 million from its internal sources. The major project component includes a 122 km access road, a 68 m dam and power intake, desanding basins and appurtenant structures, an 11.4 km headrace tunnel, a surge tank leading to a power cavern to house three 67 MW turbogenerators, a downstream surge tank and tailrace tunnel, and outlet structures. Transmission equipment includes a 120 km, 220 kV double-circuit line to a 220 kV/132 kV sub-station at Duhabi. Because of its size and complexity, the project has implications for the entire country, including significant risks relating to crowding out of high-priority investments in other sectors due to cost overruns, "worse-than-expected" management of the Government budget, or failure of the NEA to meet its share of investment, unforeseen delays in implementation, unsatisfactory design and implementation of Environmental Management Plan, including the Regional Action Plan, and others.

2. RELEVANT POLICIES AND PROCEDURES OF THE WORLD BANK WHICH HAVE BEEN VIOLATED**2.A. Economic Evaluation of Investment Operations**

- OP 10.04

2.B Policies on World Bank Role in the Electric Power Sector and Energy Efficiency and Conservation in the Developing World**2.C The World Bank Policy on Disclosure of Information, March 1994**

- BP 17.50, page 1, para. 4, updating Project Information Document;
- World Bank Policy on Disclosure of Information, March 1994, page 5, para. 10, content of PIDs (see also OD 10.00 Annex A, page 1);
- BP 17.50, page 1, para. 5, releasing Factual Technical Information;
- BP 17.50, page 3, para. 12, availability of environmental assessment;
- World Bank Policy on Disclosure of Information, March 1994, Section II Policy, page 2; importance of accountability, dissemination of information in order to facilitate participation, and presumption in favor of disclosure.
- BP 17.50 Disclosure of Operational Information

2.D Environmental Assessment

- OD 4.01, Annex B, para. 2(f): analysis of alternatives (see also para. 3 in 4.01)
- OD 4.01, para. 13: engaging advisory panels for highly risky and contentious projects

- OD 4.01, para. 5: regional environmental assessments
- OD 4.01, para. 19 and 20: involvement of affected groups and non-governmental organizations
- OD 4.01: disclosure of information

2.E Involuntary Resettlement: Land Acquisition, Compensation and Rehabilitation

- OD 4.30, para. 3(a)
- OD 4.30, para. 3(b)
- OD 4.30, general violations
- OD 4.30, para. 14
- OD 4.30, para. 11

2.F Indigenous Peoples

- OD 4.20, general violations
- OD 4.20, para. 3
- OD 4.20, para. 15(d)
- OD 4.20, para. 11

2.G Wildlands Policy: In addition to the policies listed above and discussed herein, the claimants request the Inspection Panel to investigate whether there are violations of the Bank's Wildlands Policy OP 4.04 and the Bank Operational Policies on Investment Lending OP 10.00 in connection with the Arun III Project.

3. OUR RIGHTS/INTERESTS

- A. Effective participation in policy-making and decision-making processes;
- B. Timely access to information;
- C. Balanced development;
- D. Adequate analysis of alternatives;
- E. Adequate compensation and rehabilitation;
- F. Fair access to electricity supply at affordable prices.;
- G. Freedom from debt;
- H. Freedom from inappropriate lending conditionalities;
- I. Right to development;
- J. Maintenance of adequate living standards; and
- K. Healthy environment and sustainable development.

4. VIOLATIONS OF ITS OWN POLICIES AND PROCEDURES BY THE BANK

4.A. Violations of Operational Policies: Economic Evaluation of Investment Operations

4.A.1 Criterion for Acceptability: The Bank has violated its operational policies regarding Economic Evaluation of Investment Operation, as a basic criterion for acceptability. For the project to be acceptable on economic grounds, "the expected present value of the project's net benefits must be higher than or equal to the expected net present value of mutually exclusive project alternative". By not undertaking the relevant studies of the alternatives such as those listed in Plan B, the World Bank has not fulfilled this very basic criteria for acceptability of the project.

4.A.2 Alternatives: The Least Cost generation and Expansion plan (LCGEP) of 1987 and 1990 failed to take into account that the same amount of power generated from Arun III could also be generated from a series of smaller alternatives in the 1 MW to 100 MW range. It was only in the 1993/94 Argonne National Laboratories (ANL) study (Analyses of Options For the Nepal Electrical Generating System, May 1994) that such an alternative sequence was even considered. However, the ANL study was clearly incomplete as the comparison was made with very preliminary costs for the alternative schemes. Even though there was an arbitrary addition of 20% to the cost of the alternatives on the grounds that 'costs always go up with more detailed studies', the study concluded that the cost difference between the sequence of doing Arun immediately versus doing it in 10 years was only percent. Thus without undertaking relevant studies of the smaller alternatives to get more accurate costs, and depending solely on "costs always go up with more detailed studies" ground, the criteria for acceptability of the project cannot be concluded to have been fulfilled.

Over 30 schemes in the 10 MW to 60 MW range have been identified that can produce in total over 1,000 MW of power in studies conducted by the His Majesty's Government of Nepal (HMG/N). Recently constructed or ready for construction schemes such as Jhimruk (12 MW), Khimti (60 MW), Modi (14

MW) for which accurate costs are now known have per unit installation and energy production costs that are significantly lower than that of Arun III. There is every reason to believe that once the detailed studies are completed, the smaller alternatives can be built at prices lower than or competitive with Arun III. Feasibility studies of the alternatives must be completed for the Bank to have fulfilled its policy requirement to compute the LCGEP for additional power generation for Nepal. (For violations of other World Bank least cost energy requirements see also IDA 10 Agreement, Additions to IDA Resources: Tenth Replenishment, March 1, 1993; and World Bank Energy Policies).

4.A.3 Risks: The weak Nepali economy faces numerous risks in taking on a project of the size of Arun III. Due weightage has not been given to these risks in preparing the project for and steps that could be taken to reduce the risks have not been taken. The following issues are of particular importance:

- i. **Riparian Issue with China:** Over 80% of the catchment of the Arun river lies in the Tibetan Autonomous Region of the Peoples' Republic China. The HMG/N does not yet have a guarantee from China to maintain the present dry season flow over the lifetime of the project. The letter of "no objection" which China has reportedly sent to the HMG/N does not constitute a guarantee of Arun's water flow. The fact that a proposal is pending in China for the Changsuo Basin Irrigation Project on the Arun (Punggu) river with a proposed command area of 9,000 hectares that could withdraw up to half the dry season flow of Arun presents a serious risk to the projected economic returns of the project. This risk has not been taken into account in the sensitivity analysis.
- ii. **Lack of Power Sales Agreement with India:** Since Phase II of the Arun III project and future development in the Valley have been predicated on the sale of power to India, the project must not be approved until a bi-lateral agreement has been reached.
- iii. **All Eggs in One Basket:** By the time they are completed, Phase I and II of the Arun III will constitute 50% of the total power supplied to the national grid under the present investment plan of the HMG/N agreed to by the Bank. A natural catastrophe such as a very large flood caused by a landslide, or a Glacial Lake Outburst Flood (GLOF), or an earthquake that might affect this one project would virtually ruin the Nepali economy. This risk of "putting all the eggs in one basket" to the national economy needs to be taken into account in performing the economic analysis of this project.

4.B Policies on World Bank Role in the Electric Power Sector and Energy Efficiency and Conservation in the Developing World

The World Bank's Energy Policies require the Bank in the energy sector to be based on the development of integrated sustainable strategies which include demand side management components such as energy conservation or efficiency (see also policy requirement under IDA 10 Agreement, Additions to IDA Resources; Tenth Replenishment, March 1, 1993.) Attention has not been paid to end-use efficiency in the formulation of the Arun III.

4.C Violation of Information Policy

Late in the project preparation process, the Bank released some factual technical information, including a study on alternatives known as "Plan B". However, by then it was too late for the claimants to influence the design and planning of the project as the appraisal had been completed and loan negotiations between the Bank and the HMG/N had been completed.

The issue of timeliness of information release in a meaningful way cannot be overstated. This really goes to heart of the issue of who participates and who benefits in a project. The design and planning for this project were not participatory at the national or local level.

4.C.1 Arun III Project Information Document (PID): In the early stage of the project, the PID is the main public document available on a project in addition to the environmental assessment. According to the Bank Policy, when it is first created, a PID should contain information on the main elements of the project, including the project's objectives, expected or probable components, costs and financing, environmental issues, status of procurement and consulting services, studies to be undertaken, implementing agencies and relevant contact points. (See also Attachment - I).

In addition to these points, OD 10.00 Annex A: Outline for an Investment Project Information Document requires that PIDs contain country and sector background, project sustainability, lessons learned from the past operations in the country/sector. Updated PIDs should include project benefits and project risks.

Despite a high level of interest by Nepali NGOs in the project, the Arun III PID does not contain many of the components required by the Bank policy, for example, it does not contain any of the following critical information:

- i. background description of the country, region or the Arun Valley or exact location of the project;
- ii. justification for Bank involvement;
- iii. background on the sector and sector strategy and how this project fits into the overall planning for the energy sector in Nepal;
- iv. information on project sustainability or lessons from previous experience of large scale dam projects in Nepal;
- v. information on the Arun Valley and its unique ecosystems;
- vi. information on the 450,000 people, including the indigenous groups living in the Valley;
- vii. information on project benefits or risks;
- viii. project alternatives which were considered;
- ix. a discussion of issues and actions;
- x. information on a cost-benefit analysis; and
- k. relevant contact person in the World Bank and in the regional office in Nepal.

According to Bank Procedures BP 17.50, PIDs are supposed to be expanded and updated as the project progresses. For all operations, the PID is supposed to be updated before appraisal. The PID for Arun III was prepared only in early 1994 (January 24) and has never been updated.

4.C.2 Environmental Information: Under the Bank's information policy and procedures, the environmental impact assessment for IDA funded category A projects is supposed to be made publicly available in the country "at some public place accessible to affected groups" and in a local language before the project proceeds to appraisal. The claimants believe this provision was not followed by the Bank. In fact, a law suit was filed with the Supreme Court on December 31, 1993, in order to get access to information about the project. One of the documents listed as demanded was the environmental impact assessment. On March 8, 1994 the Court decision required the government to release information, but this was after the appraisal was started. (See also Attachment - II).

4.C.3 Factual Technical Information on Arun III: Paragraph 5 in Bank's Procedures 17.50 requires the release of factual technical information upon request on project in preparation. This provision was meant to provide interested people with more factual technical information between the time the PID is released and project approval when the final staff appraisal is released. The claimants attempted to obtain factual technical information during project preparation in order to have input in the design or promote alternatives to the project. However, it was not until project appraisal was almost finished that the claimants received factual technical information.

4.C.4 Staff Appraisal Report: The claimants have repeatedly requested the copies of the Staff Appraisal Report (SAR) which is now final and has been sent to the Board of Executive Directors. Under the current Bank information policy, final SARs are only released publicly after the Board approves the project. Under the Bank's current definition of "factual technical information" does not include draft SAR (see Office Memorandum, Jan Wijnand, June 20, 1994). The claimants understand that failure to release the SAR before the Board approval is not a violation of the Bank's current policy. However, the claimants wish to challenge this aspect of the Bank policy, because the SAR is the basic technical document of a project and should be classified as factual technical information. The small amount of confidential information contained in the SAR should be excised and the rest of the document should be released. The SAR contains the basic justification for the Bank's involvement in the project. Without access to the SAR before Board approval, it is impossible to understand how the Bank uses, manipulates, or misrepresents other factual technical information to support its involvement in the Arun III project.

4.D Environmental Impact Assessment

4.D.1 Analysis of Alternatives: The EIA report should include "Systematic comparison of the proposed investment design, site, technology, and operational alternatives in terms of their potential environmental impacts, capital and recurrent costs, suitability under local conditions; and institutional training and monitoring requirements. For each of the alternatives, the environmental costs and benefits should be quantified to the extent possible and economic values should be attached where feasible. The basis for selection of the alternative proposed for the project design must be stated".

An essential part of any environmental assessment process is the investigation of alternatives to the project, to discover whether there are options which are more viable from an environmental and social standpoint. As stated above, the Bank's OD requires an environmental analyses of alternatives to the proposed project. Unfortunately, in the case of Arun III, the environmental issues at stake and the available alternatives have not been integrated into decisions about whether to proceed with project.

During the 1991 EIA, the team did not have a mandate to investigate alternatives to the dam site or the road alignment (hill route) at the time. The King Mahendra Trust for Nature Conservation which undertook the Basinwide Environmental Impacts Study stated "the road alignment and the dam site were already decided, and the study team did not have a mandate to change these decisions".

Later in 1992, an EIA for the Valley route was conducted for the purpose of determining whether this route "might provide time and cost savings in providing access to the Arun III hydropower site. Serving the needs of the population in the general area through which the road will pass is a secondary consideration." (Environmental Impact Assessment — Valley Route-Main Report, September 1992).

This EIA concluded that the Valley route was preferable to the hill route even though the EIA recognized that there would be irreversible significant impacts to the valley. This EIA was also limited to investigating alternatives to the road and not to the Arun III and road itself, which were both considered a *fait accompli*. In this case, " the need for and the siting of the power project, and therefore the justification for the road, is taken as a given". (EIA, Valley Route Study Limitations, page 1-6).

Still more importantly, the so called EIA of the Valley route of the access road fails to take into consideration and compare from environmental standpoint any alternative approach to build this road. For example, applying environmentally friendly approach in building the roads in the Himalayan foothills by employing simple and conservation-oriented techniques and labor intensive methods have been proved successful. The pace of the proposed construction of the road and the approach adopted, thus, is a serious environmental concern that the EIA ignores.

After the EIA process was completed, and well into the project cycle, the Bank commissioned a study of alternatives to the project. This study known as "Plan B" was issued only after a year of intense local and international pressure on the Bank to adequately investigate alternatives. The Plan B was conducted from the standpoint of whether Arun III is the "least cost" option for Nepal, without regard to environmental and social costs of either Arun III or the alternatives.

4.D.2 Public Participation: The Bank has relied on the so called 23 public meetings to justify the participation of the local people in designing the project. The fundamental question is whether basic project documents and information were made available to the local people and the public at large before the holding of such consultations. In fact, There have been only two or three meetings of consultation nature which were also limited to discussion on the positive side of the project. Moreover, during or prior to the so called 23 public meetings, no elaborated information on the project in Nepali language were made available. So far in our knowledge, there were no public meetings held in Kathmandu by the HMG/N or the Bank. In addition, all of the above-mentioned meetings were held before the Nepali Supreme Court's verdict on the disclosure of all project information and document on March 8, 1994. The so called Information Centre was established only after the show-cause notice was issued against the HMG/N and the NEA on the writ petition. The government-controlled radio, television and the print media were used only to disinform the Nepali people about the existence and benefits of the project but were not open to critical debate about various aspects of the project. Most importantly, the mere participation of some selective groups and individuals as well as the local government authorities through governmental influence cannot represent the whole Arun Valley, and for this matter, the people of Nepal because of the size and complexity of the project. (See also Attachment-III).

Therefore, we strongly claim that the holding of meetings and discussion in the absence of the basic project documents and information do not make any sense in terms of meaningful debate about the positive and negative aspects of the project, and meeting the access to information and genuine public consultation policy requirements of the Bank.

4.D.3 Cumulative Impacts: Furthermore, the cumulative impacts to the environment in the Arun valley of Arun III, Lower Arun and Upper Arun have not been evaluated. The World bank has argued that the benefit of the 122 km road into the Arun valley is that 1,044 MW can be generated from the three schemes in Arun and that the impact to the environment will thus be confined to one river basin rather than scattered among diverse sites. However, it is widely accepted (including by the Environmental Department of the ADB) that the cumulative impacts of all three schemes will result in "irreversible environmental damage to the valley".

The Bank has violated OD 4.01, Annex B on Environmental Impact Assessment (EIA). The Arun III is only the first phase in a plan to build three dams in the Arun Valley. Despite this, environmental studies have only covered the adverse impacts of Arun III, and therefore, there is a need of a comprehensive study of the long-term cumulative impacts of building the other two schemes and additional road construction in the Valley.

4.D.4 General Violations: There are clearly noticeable inadequacies in the EIA studies of the various components of the project. For example, there is no thorough assessment of the likely environmental impact by the 120 km high-voltage transmission lines. In the analysis of risks due to GLOF and land-slide floods it is claimed that the risks are minimal. However small the expected risks are, there should be a mitigation plan for the same needs to be developed. The environmental studies lack such mitigation plans for natural disasters. Similarly, no mitigation measures have been developed for the adverse impacts on the fish populations. There are no mitigation plans for the likely adverse environmental impact to be caused by the disposal of construction spoils of project elements like dam, tunnel, power house, access road and the like. The impact of dumping construction spoils into the river has not been studied. Though this is definite to have significant adverse impact on the down-stream side of the river.

4.E Involuntary Resettlement: Land Acquisition, Compensation and Rehabilitation

In 1990, the Bank established an involuntary resettlement plan because "development projects that displace people involuntarily generally give rise to severe economic, social and environmental problems." One of the main objectives of the policy is to provide people displaced by a project with the means to improve, or at least restore, their former living standards, earning capacity and production levels. This central objective has already been violated in the case of Arun III.

4.E.1 Under Valuation of the Compensation: The EIA states "For the majority of households compensation with cash would not enable them to recover from the loss of a significant proportion of the family land holding, unless the money were used to buy an equivalent of land in the vicinity. However, the effect of ACRP on the hill route has been to inflate land prices far beyond the compensated value, thus making the purchase of replacement land impossible for most PAFs" (Project Affected Families), (see, Arun III HEP: Environmental Impact Assessment for Arun Access Road — Valley Route; Volume 1/2 Main Report; Sept. 1992; p. 5-4). The report also confirms that land has been undervalued by the District Land Revenue Officer, therefore, making it impossible for the displaced people to recover their losses. The report further states that "The filed surveys for this report found that land values fixed by the local Land Revenue Offices seriously underrate the reported market value." (see Ibid.). This action also violates para. 14 of OD 4.30 which states "Valuation of lost assets should be made at their replacement cost."

4.E.2 Opportunities to Share in Project Benefits: The benefit of this project will be electricity, but it is not electricity, however, for the Arun Valley. One section of the EIA (6-11), however, describes the expectation of local people to receive power from this project at affordable rates. The modification made in the project which corresponds with this expectation has been an increase in the width of the transmission lines so that sometime in the future the Valley can benefit from a future electrification program, as of yet undeveloped. In no way will the main benefit of this particular project — electricity — be conferred to people who are directly affected by the project.

4.E.3 Employment to the Seriously Project Affected Families (SPAFA): Noting that the displacement of project affected people would be permanent, earlier versions of the EIA recommended that permanent employment be made available for at least one member of those families expected to be severely affected by the Arun III project. In later versions, this recommendation seems not to have been carried through. Local people affected by the project are to be given first priority for employment in the construction of the access road. This employment opportunity, however, is not permanent whereas adverse effects of displacement are permanent.

4.E.4 Land Based Resettlement: The World Bank experience and policy on involuntary resettlement states that replacement of resettlement land ("land for land strategies") is far superior to cash compensation. In fact, experience has shown that most people who have been displaced by the Bank projects that received only cash for their land have not regained their standard of living, but instead have become impoverished (see Resettlement and Development, April 8, 1994; also Involuntary Resettlement in Development Projects, Michael M. Cenea, 1988). In addition, the EIA has shown that cash compensation is already failing in the case of people displaced by the hill route in the Arun III project. The EIA has further stated that it is expected that the Valley route Project Affected Families (PAFs) will have been less ability to be able to deal with cash compensation because they are poorer than the people along the hill route. Despite the overwhelming evidence against cash compensation, it is still the centrepiece of the HMG/N land acquisition guidelines.

The updated Land Acquisition, Compensation and Rehabilitation Plan (ACRP) has attempted to cope with this issue by requiring that the project affected people be given the option of receiving land instead of cash. However, the burden of identifying land has been put on the displaced people themselves and they also must arrange for the HMG/N to purchase the land. Furthermore, those

already displaced do not have the option of receiving land. According to the Sankhuwa-Sava Peoples' Awareness Group that is raising its concerns about the project within the Arun Valley has recently documented that the people who received cash compensation earlier have not been informed or asked about whether they would prefer land, and not the cash. (See also Attachment - IV).

The HMG/N has now given on October 5, 1994 a 30-day public notice of land acquisition under the Land Acquisition Act, 1979 in Manakamana Village. However, the notice does not say anything about whether the families are eligible to ask for land for land compensation since the law is basically limited to cash compensation. The claimants believe that many Valley residents' standard of living will decrease as a result of cash compensation, and the loss of land.

4.E.5 Surveys: In violation of section 11 of OD 4.30, there has not been a socio-economic survey completed on the Valley route to determine whose lands will be affected or to determine the value of the land.

4.E.6 Resettlement Planning: According to the Bank policy, the resettlement should take place before appraisal. However, no resettlement plan has been established for families who will lose their houses due to the power transmission lines.

4.F Indigenous Peoples

There are over 24 different ethnic groups within the Arun Valley. Some of which maintain separate cultural identities and are organized under a network of ethnic groups in Nepal. These include the *Rai* and *Limbu* tribes who maintain communal types of land ownership. Many of the ethnic groups living in the Arun Valley can be classified as indigenous people using the characteristics described in World Bank Operational Directive 4.20: Indigenous People. These people have a close attachment to the natural resources in the Valley. They are considered as a series of distinct cultural groupings. They have well established customary social and political institutions and are primarily subsistence-oriented producers (The World Bank Operational Manual; Operational Directive 4.20; September 1991; p. 1). The original EIA described the communities of the Arun Basin as "predominantly traditional and little influenced by outsiders. They are unique in themselves and practice diverse socio-economic and cultural practices. Many local people have never been outside the Valley." In the Environmental Mitigation Plan, a reference is made to protecting indigenous people. These definitions clearly fall within the rubric of OD 4.20. Operational Directive 4.20 has as its basic tenant "a) to ensure that indigenous people benefit from development projects, and b) avoid or mitigate potentially adverse effects on indigenous people caused by Bank-assisted activities." At its centre the main objective of the policy is to "ensure that indigenous people do not suffer adverse effects during the development process, particularly from Bank-financed projects." (See *ibid.*, p. 2). In the case of the Arun III, the indigenous communities in the Valley will be adversely affected by the project. But, the impact assessments do not demonstrate any local benefits for the indigenous communities.

Adverse impacts identified by the EIA include:

- i. a further deterioration of natural resources upon which local communities depend because of population growth related to the project;
- ii. further marginalization due to the introduction of an unfamiliar cash economy along the proposed road route;
- iii. the introduction of disease, through work camps in an area where epidemics are unknown;
- iv. introduction of income inequality between communities situated close to the proposed road route and communities further from the road;
- v. further income inequality between original inhabitants and migrants and entrepreneurs attracted by the labor and market opportunities;
- vi. severe food deficits; and
- vii. cultural disintegration resulting from the employment of up to 6000 non-local workers, some of whom will settle permanently.

The cumulative risk to the well-being of the indigenous peoples in the Valley could not possibly be higher. Yet, no risk seems to be great for the Bank. Perhaps the reason the Bank is willing to go ahead even though the risks are very high is because in essence the Bank does not bear the risk. The Nepalis people, including the claimants do.

4.F.1 Lack of Mitigation Efforts: The HMG/N and the Bank has produced three documents in which mitigation efforts are discussed. These are the Environmental Mitigation Plan, the Regional Action Plan and the Land Acquisition, Compensation and Rehabilitation Plan. The effectiveness of each of these plans in coping with the above problems is questionable. It is unclear whether the documents represent work-plans or only recommendations for work-plans. Many of the mitigation

recommendations made by relevant experts in the EIA have not been taken into consideration in any of the three plans. Lastly, many issues are outlined as needing to be resolved in tender documents or explicitly raised in bid documents. Whether or not this has happened is unclear as the tender documents are kept secret.

4.F.2 Preparation of the Indigenous Peoples' Plan: As required by OD 4.20, no indigenous peoples development plans have been prepared by the project. The mitigation recommendations in the RAP do not constitute a regional development plan or a special indigenous peoples development plan. Mitigation of negative impacts on indigenous peoples do not constitute development.

4.F.3 Lack of Adequate Cadastral Survey: The World Bank, OD 4.20, states that steps to recognize property rights should be taken before other planning steps that may be contingent on recognized land titles. In the case of the Arun III, land appropriation for the project started before the cadastral survey was completed.

Section 15.d of OD 4.20 calls for indigenous peoples participation in decision-making throughout the project planning, implementation and evaluation. According to the 1991 EIA, the value of the whole process was in question because "the road alignment and dam site were already decided, and the study team did not have a mandate to change these decisions." This is a violation of not only OD 4.20, but other Bank policies as well.

5. ADVERSE EFFECTS ON OUR RIGHTS AND INTERESTS

5.A Threatened Direct Adverse Impacts on the Claimants as Nepalis Nationals

Because of the size and cost of the Arun III project in relation to annual national budget of Nepal, the claimants submit that the project will have direct adverse effects on many parts of the population in Nepal, including the poorest segments of society. The total project cost is US \$1082.3 million which is almost twice one years national development budget for Nepal (US \$640 million for FY 1993-94). The claimants submit that in addition to violations of operational policies, if the project goes ahead, it will violate the objectives of IDA 10 and IDA's country assistance strategy for Nepal. The total cost of the Arun III is completely out of proportion to the size of the Nepal's economy. Common sense dictates that a project of this size and cost that will not directly benefit the poor is not appropriate for Nepal's development at this juncture. The claimants further believe that the project will not contribute to poverty alleviation in Nepal, rather it will contribute to more poverty because of the high cost of the project requires higher investment commitment from the HMG/N and that threatens to "crowd out" investments in social sectors such as health and education.

5.A.1 Project Cost and Crowding Out of Social Sectors: Nepal is one of the world's poorest countries with a per capita annual income of only US \$180. Nepali people suffer from severe poverty, malnutrition, overpopulation and illiteracy. Health and social services are currently inadequate, and investment is a priority need for targeted poverty interventions and for health and family planning services and education. According to the Bank's country assistance strategy, IDA's main over-arching objective in Nepal is poverty alleviation. In order to achieve this there should be investments in labor intensive projects which generate income opportunities for the poor and investments in education, health, nutrition, and family planning. Investments in the Arun III project will threaten to prevent investments in these areas. (See also Attachment - IV).

5.A.2 Institution Building: All the components of the project are proposed to be built by international contractors. This will directly adversely affect efforts by the Nepalis to increase in-country capacity through public institution building, increasing private sector capacity and promoting local management and control in undertaking hydropower schemes. Alternative smaller scale projects of the size 1-60 megawatts which are being promoted by Intermediate Technology Development Group, the Alliance for Energy and others are already being built by local government agencies and private sector companies in Nepal. Alternatives for an IDA Credit for smaller and medium size projects would help build local institutional capacity, as well as generate income for local private sector. Private sector companies in Nepal employ local expertise and create jobs for Nepalis.

5.A.3 Crowding Out of Small and Medium Scale Hydroelectric Projects: The claimants believe that financing the Arun III will directly and adversely affects the development of small and medium scale hydropower in Nepal by crowding out research, development and financing for projects of this size. Smaller projects have the advantage of bringing electricity to rural communities and promoting self-sufficiency. Smaller projects are much less environmentally and financially risky and more appropriate for Nepal's development at this juncture.

For fulfilling the requirements of the national grid, the small and medium hydropower schemes in the 1 MW to 100 MW range can be developed in a number of river basins spread throughout the country.

Pre-feasibility and reconnaissance studies for such alternatives that can produce over 1,000 MW of power have already been completed by the HMG/N. Feasibility studies for a large number of the alternatives including a full EIA, could be completed within the time period needed just to build the road for the Arun project. Additionally, the schemes that are studied and ready to go now could be already built. Over 500 MW of schemes in the 1 MW to 100 MW range have already been identified close to existing roads.

5.A.4 Undermining Democratic Processes Inside Nepal: The formal and meaningful debate of the project in the sovereign Parliament is a fundamental requirement under the Constitution and the laws of Nepal since the project involves riparian issues with China, power-sale agreement with India, if any, and huge investment from internal sources as well as other socio-economic, natural and environmental risks. This has never taken place. (See also Attachment - V).

5.B Threatened Adverse Direct Impacts to Claimants in the Arun Valley

Violations of the Bank policy on environment, indigenous people, and resettlement, combined with the fact that the NEA does not have the capacity to implement environmental and social safeguards threatens to cause long-term irreversible direct adverse impacts on the claimants. The impacts include the following (See also Attachment - VI):

- A. Increased Food Deficit, Loss of Income and Increased Unemployment
- B. Fall in Food Availability, Prices Rise and Fall in Nutritional Level
- C. Loss of Forests
- D. Adverse Health Impacts
- E. Deterioration of Living Standards as a Result of Cash Compensation

6. RESPONSIBILITY OF THE BANK

We believe that some of the main responsibilities of the Bank are:

- A. To ensure that the proposed project promotes just, balanced and equitable national development;
- B. To justify the achievement of its originally stated goals and objectives;
- C. To address the priority needs and sectors of the country;
- D. To be accountable in its assessment and analysis leading to the investment;
- E. To guarantee transparent and democratic decision-making processes;
- F. To protect, promote and respect the other rights and interests of the country and the people as stated under the title "Our Rights and Interests" above; and
- G. To fully ensure, at least, the compliance with its own policies and procedures in the design, planning and implementation of the proposed projects. (See also Attachment-VII).

7. PREVIOUS COMPLAINTS TO THE BANK

- A. We wrote the Bank in Kathmandu or in Washington, DC numerous times;
- B. We made our formal presentations during a one-day consultation meeting held on June 28, 1994 at the Bank's Headquarters;
- C. We submitted letter of memorandums to the Bank Staff/Management as well as a number of the Executive Directors of the Board;
- D. We met the Bank officials in Kathmandu, in Washington, DC and in Madrid (during the recent annual meeting) and raised our concerns; and
- E. We made our concerns public through the publication of booklets and pamphlets, press conferences, and public meetings. (See also Attachment -VIII).

8. RESPONSE ON THE PREVIOUS COMPLAINTS

All our requests were either turned down or ignored or misinterpreted, and we have found most of their answers unsatisfactory and/or unreliable — not based on facts, and not reflecting transparency and accountability. (See also Attachment - IX).

ORIGINAL

9. ADDITIONAL EFFORTS

9.A We wrote and/or contacted several times to the NEA, the Arun III Project Office, the Bank's Residential Office in Kathmandu, and its Headquarters in Washington, DC in seeking basic project document and information as well as satisfactory answers to our queries. But, mostly we were never replied by the concerned authorities, or our requests were misinterpreted, or we only received partial and unsatisfactory answers. (See also Attachment - X).

9.B On December 31, 1993 we filed a law suit against the HMG/N for the disclosure of all project information and documents about the project. The Court ordered the defendants on March 8, 1994 to provide all project documents and information about the project under the Constitution and the laws of Nepal, and has further established a set of procedures for the disclosure of such information. Even after the Court's verdict in our favor, the HMG/N has still been denying the release of the complete list of project information and provide documents.

We, therefore, believe that the above actions/omissions which are contrary to the above policies or procedures have materially and adversely affected our rights/interests and request the Panel to recommend to the Bank's Executive Directors that an investigation of these matters be carried out in order to resolve the issues and problems prior to any final decision.

As advised in your Operating Procedures, this Request for Inspection is intended to be brief. We can provide you with more details and particulars.

Signature: 

Name: Gopal Siwakoti
Affiliation: Arun Concerned Group
Status: Indirectly Affected Claimant; Lawyer; Human Rights Activist
Permanent Address: Hwaku 4, Terathum District, Koshi
Mailing Address: c/o INHURED International, P.O. Box 2125, Kathmandu, Nepal
Tel: (977-1) 419610 • Fax: (977-1) 412538

Signature: 

Name: Ganesh Kumar Ghimire
Affiliation: Arun Concerned Group
Status: Indirectly Affected Claimant from the Arun Valley;
Environmentalist/Sustainable Development Activist
Permanent Address: Malta Village Development Committee 5, Sankhuwa-Sava, Koshi
Mailing Address: P.O. Box 4067, Kathmandu, Nepal • Tel: (977-1) 526722

Attachments: Yes

We authorize you to make this Request public except the names and addresses of the last two claimants