

## **Inspection Panel Investigation**

### **Nepal: Power Development Project (P043311)**

#### **Initial Investigation Plan (June 2014)**

##### **1. Introduction and Panel's Recommendation**

On July 10<sup>th</sup> 2013, the Panel received a Request for Inspection related to the Nepal Power Development Project and specifically its 220 kV Khimti-Dhalkebar Transmission Line (KDTL) under its Component C. The Panel registered the Request on July 24, 2013. Management requested an extension for the submission of its Response to the Request, and this was received on September 18, 2013.

The Panel undertook an eligibility visit to Nepal in September 2013. The Requesters and the Request were deemed to have met the technical eligibility criteria set forth in the Resolution establishing the Panel and the 1999 Clarification. The Panel noted in its eligibility report that there were conflicting assertions and differing views between the claims in the Request and the Management Response. The Panel also noted that the Bank and Nepal Electricity Authority (NEA) have developed an action plan which includes important actions aimed at solving the Requesters' concerns. The Panel further noted the Bank's declared commitment to supervise the implementation of this proposed action plan beyond closure of the Project and its intention to learn from the experience of the implementation of this Project.

At the same time, the Panel noted that while the action plan attempted to resolve the ongoing dispute in Sindhuli District, the claims of the Requesters regarding the Bank's non-compliance and alleged harms continue to have merit. The Panel therefore recommended an investigation and proposed to start its investigation after April 30<sup>th</sup> 2014 in order to give time to the World Bank and NEA to implement their proposed action plan. The World Bank Board of Executive Directors accepted this recommendation on an absence of objection basis.

Since the eligibility visit in September 2013, the Panel has been kept updated by both the Requesters and Bank Management about developments regarding the Project. The Panel has requested Management to provide it with an update of the above mentioned action plan.

Below is a broad outline of the investigation design, briefly summarizing the key questions and issues which the investigation is expected to address while also providing a draft timeline for the investigation process. It should be noted that this is an initial investigation plan and is subject to modification and/or adjustment as the investigation process progresses. Also, as is the practice, this outline will be made publicly available through the Inspection Panel website.

##### **2. Generic Questions for the Investigation**

The investigation will focus on the following general questions in addition to the more specific claims raised by the Request.

2.1. Has Management complied with applicable Bank policies and procedures in the design, appraisal and implementation of the Project?

2.2. Which of Management's actions and/or omissions constitute compliance/noncompliance with its policies, and how do Management's actions relate to the alleged harm? If there is evidence of non-compliance, did it contribute to the harm?

2.3. Is the alleged harm related to the Project? What type of harm? Is the harm of a serious nature? (The Panel will be verifying whether harm or potential harm has occurred or is likely to occur).

2.4. Did Management address, during preparation, appraisal and implementation of the Project, the issues of harm raised by the Requesters? If so, were these actions sufficient to meet the requirements of the applicable policies?

2.5. Did Management take any steps and/or actions during the course of the investigation to address the issues of compliance and the concerns raised by the Requesters? Are these actions sufficient to meet the requirements of the applicable policies, and the concerns raised by the Requesters?

### **3. Specific Scope of the Investigation**

#### **3.1. Livelihood Concerns, Relocation and Compensation.**

3.1.1. The Requesters state that the Khimti-Dhalkebar Transmission Line will pass through villages and other populated areas, over schools, near various historical, cultural and sacred sites and will therefore cause a devaluation of land and a loss in agricultural production, in addition to causing potential health impacts. According to the Request, a large number of indigenous and local people are at risk of displacement as a direct result of various Project activities, namely land acquisition for the construction of towers and the Right of Way (RoW). The Requesters ask for retroactive compensation for lost agricultural produce for persons already affected by Project-related activities. They also state that the livelihoods of indigenous peoples in particular will be impacted.

3.1.2. The Panel will investigate these claims and analyze them focusing on whether they could be attributed to non-compliance by the Bank with World Bank Operational Policies and Procedures under the Project that relate to alleged loss of livelihoods or potential future losses for vulnerable communities, and especially indigenous groups. Specifically the Panel will look at the Bank's Involuntary Resettlement Policy, and Appraisal and Supervision Policies. This is in addition to looking at compliance with the Bank's Indigenous Peoples Policy. Regarding the

latter, the Panel will look at whether free, prior and informed consultation took place as required by Bank policy.

### **3.2. Inadequate study of alternatives**

3.2.1. The Requesters claim that they have Requested that the transmission line be realigned to an alternative route where there is no human settlement. The Panel will investigate issues of compliance with respect to the study and assessment of alternatives and alignment of the transmission line, including the allegation that certain alternatives were not adequately considered.

### **3.3. Consultation and Information disclosure**

3.3.1. Issues to be examined also include inadequate consultations and transparency. The Panel will investigate these claims from the perspective of Bank policy requirements related to consultation and disclosure of information.

### **3.4. Assessment of NEA/Bank Action Plan and its Implementation**

The investigation will also be reviewing the implementation of the World Bank-NEA Action Plan and the extent to which it has addressed the specific claims in the Request.

## **4. Methodology for Fact Finding**

### **4.1. Expertise required**

Three types of expertise will be required to carry out this investigation. The first expertise required is in Environmental Impact Assessment with a special focus on the assessment of transmission lines, choice of alternative routings for transmission lines, etc. The second set of expertise will focus on issues of resettlement in the context of infrastructure projects, with a special emphasis on livelihood impacts. The third expertise will focus on the issue of vulnerable groups in the Nepali context, with special emphasis on indigenous people in Sindhuli district. Terms of Reference for all experts are under preparation.

### **4.2. Analysis of Project Documents**

- Analysis of Project timeline and current implementation status;
- Review relevant Project documents relating to issues of harm raised in the Request and verified by the Panel, with respect to compliance or otherwise with the following policies: OP/BP 4.01 Environmental Assessment, OP/BP 4.11 Physical Cultural Resources, OP/BP4.12 Involuntary Resettlement, OP/BP 4:10 Indigenous People, OP/BP 13:05 Supervision, OP/BP 10:00 Investment Project Financing, OMS 2.20 Project Appraisal;

- Examine and Analyze the consultation and information disclosure processes leading to development of Environmental Impact Assessment, Vulnerable Community Development Plan, and Abbreviated Resettlement Action Plan;
- Review Bank actions after project effectiveness and look at the adequacy of Bank supervision processes, including in supporting the implementation of the Bank-NEA action plan

### **4.3. Staff Interviews**

- Conduct Interviews with staff who managed the Project at different points in time both at Headquarters and in the field office;
- Conduct interviews with consultants involved with different aspects/phases of the Project.

### **4.4. Review of Documents and Interviews with Nepali Experts**

- The investigation will also include review of relevant literature on the specific characteristics of Nepali political economy and society as relevant to the Project and its implementation;
- Interviews of Nepali experts on issues related to power projects and Nepal's political economy.

## **5. Tentative Chronology for Investigation**

Phase I: Investigation Preparation (May-July)

Phase II: Fact Finding Phase (July)

Phase III: Report Drafting Phase (August-December)

Submission of Investigation Report: December 2014

The Panel's Investigation Report and Management Report and Action Plan are made publicly available after the Executive Board meets to discuss the Panel's findings and consider the Management's action plan.