

IMRANA JALAL
Chair
The Inspection Panel

November 30, 2021

IPN REQUEST 21/04

NOTICE OF REGISTRATION

Request for Inspection

Nepal: Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) and its Additional Financing (P132631)

Summary

1. On October 18, 2021, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) of the Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) and its Additional Financing (P132631) (the “Project”). The Request for Inspection was submitted by 49 community members living in the Project area in Nepal (the “Requesters”). On November 17, 2021, the Panel received a letter signed by 51 community members designating an advocate from the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) to represent them. The Requesters have asked the Panel to keep their identities confidential.
2. The Requesters state that a transmission line financed under the NIETTP was rerouted from its originally planned route and is now passing through their densely populated community, which includes indigenous and non-indigenous residents. They claim that they were neither consulted nor provided any information about the Project. According to the Request, the transmission line and its towers cause different types of harm as they adversely affect community members’ homes, schools, cultural and religious sites, agricultural lands, environment and economic activities, and threaten their safety. The Requesters are concerned about six towers in particular, four of which have already been built. They also raise concerns about retaliation and an incident of physical violence toward members of their community during a peaceful protest against the Project.
3. The Panel acknowledged receipt of the Request on its website on October 26, 2021. Following initial due diligence by the Panel and confirming that the Request meets the Panel’s admissibility criteria, I am notifying you that I have, on November 30, 2021, registered this Request.

The Project

4. The NIETTP was approved on June 21, 2011, for an International Development Association (IDA) credit of US\$84 million equivalent and a grant of US\$15 million equivalent. The Borrower is the Government of Nepal and the implementing agency is the Nepal Electricity Authority (NEA). The Borrower provided US\$30 million and there is co-financing in the amount of US\$73.3 million.¹ On June 24, 2013, an Additional Financing was approved in the form of an IDA credit of US\$37 million equivalent and a grant of US\$2 million equivalent.²

5. The NIETTP and its Additional Financing closed on October 31, 2021. At the time of receipt of the Request, the Project was open and 81 percent disbursed. NIETTP is an Environmental Category B project and triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Forests (OP/BP 4.36); Indigenous Peoples (OP/BP 4.10); Physical Cultural Resources (OP/BP 4.11); and Involuntary Resettlement (OP/BP 4.12).

6. The Project development objective is to “(a) establish cross-border transmission capacity between India and Nepal of about 1000 MW to facilitate electricity trade between the two countries; and (b) increase the supply of electricity in Nepal by the sustainable import of at least 100 MW.”³ The Project is structured in three parts, and the Request relates to Part B:

- Part A: design, construction, and operation of 400 kilovolt (kV) transmission lines between Muzaffarpur (India) and Dhalkebar (Nepal);
- Part B: design, construction, and operation of Hetauda-Dhalkebar-Duhabi 400 kV transmission line (in Nepal) with concomitant substations, and synchronization of the Nepal and India grids; and
- Part C: technical assistance for: (a) Owners’ Engineer; (b) Transmission System Master Plan preparation; (c) Lenders’ Engineer; and (d) Capacity Development for NEA and Ministry of Energy.

The Request

7. The Requesters explain that they are residents of a rural municipality that encompasses indigenous peoples (Magar, Gurung, Tamang) and non-indigenous residents (Dalits, Madhesis and Khas Arya). The Request states that the proposed original route of the transmission line passed through a different area of the same rural municipality, as per the survey license of September 2006. According to the Requesters, there was no public notification, consultation, survey or community consent for later moving the route of the transmission line to their community, a densely populated residential area.

8. The Request explains that since 2011 the Requesters have been raising their concerns with the Government and have asked for the new route of the transmission line to be reconsidered. According to the Request, the new route has an adverse impact on 96

¹ Project Appraisal Document (PAD), p. vi.

² Project Paper for the Additional Financing, p. iv.

³ PAD, p. vii.

households of the community. The Request lists impacts on agricultural land, homes, schools, community houses and public places, as well as cultural, sacred and religious sites. The Requesters claim that community members cannot freely use and dispose of their property due to restrictions and the devaluation of the land. It also refers to impact on flora and fauna, the environment and biodiversity. The Request states that the transmission line threatens the safety and security of people in the area and claims that the lack of participation of Project-affected persons in the process has created conflict in the community.

9. The Panel learned from the Requesters that they are concerned about six towers in total – tower numbers 197, 198, 199, 200, 201 and 202. The Request alleges that despite the community’s concerns, four towers of the transmission line have already been installed in their community or in nearby forests that they use. These are towers 197 and 198, which were built east of the community, and towers 201 and 202, which are located west of the community. The Requesters are also concerned about two additional towers, 199 and 200, which they allege will be built on private property. The Requesters claim that tower 201 was built in one of the community member’s front yard, less than five meters from this person’s house. According to the Requesters, another tower, 200, was going to be built “in the middle of two houses” and a community member’s cow shed was dismantled in the process. The Requesters allege that other houses in the community were marked for resettlement, but that these markings have since been erased.

10. The Requesters state that the power lines have not yet been put in place and nothing currently prevents community members from accessing the forest and the wood collection area. However, due to the proximity of these lines to houses and schools, and the location of wood collection activities, the Requesters are concerned about various potential harms that could occur once these lines are installed. They claim the power lines are dangerous and might cause accidents, especially during rainy seasons.

11. According to the Request, the Supreme Court of Nepal issued an interim stay order for the Project works in April 2021 that the authorities have disregarded. The Requesters argue that a tower pad was still dug, against which the community organized a peaceful protest. According to the Request, the authorities responded to this protest by deploying armed forces using tear gas and physically assaulting community members. They allege that women, senior citizens and a toddler were wounded. Despite the stay order, a land acquisition notice was also issued, which coincided with the COVID-19 lockdown.

Initial Due Diligence

12. After receipt of the Request, the Panel conducted its initial due diligence and verified that the Request meets the admissibility criteria for registration. The Request is not frivolous, absurd, or anonymous. The Panel has received 51 signatures of community members supporting the Request who live in the Project area in Nepal and claim to be affected by the transmission line supported under the Project. The Panel received information about prior knowledge by the Bank of these issues. The Panel is therefore satisfied that the issues have been brought to the attention of the Bank prior to the submission of the Request for Inspection. The Panel also verified that the subject matter of the Request does not concern issues of procurement and, at the time of receipt of the

Request, the Project was open and 81 percent disbursed. The Panel has not previously made a recommendation on the issues raised in this Request.

13. During its review of the Request, the Panel spoke with the Requesters and their representatives on October 26 and November 18, 2021, to better understand their concerns, seek clarifications and to inform them about the Panel’s process and mandate. As part of its due diligence, the Panel also spoke with Bank Management on November 8, 2021.

14. Management explained it is aware of the issues brought forth by the Requesters and has previously engaged with them virtually on these matters. According to Management, the Bank has communicated to the implementing agency the unacceptability of using security personnel and has requested an immediate stop to survey and construction work. The Panel understands that the Bank has received verbal and written assurance from the implementing agency of the withdrawal of a land acquisition notice and the halting of construction works. According to Management, the Bank has monitored the Project to ensure that construction and site activities do not resume, aligned with the stay order issued by Nepal’s Supreme Court, while a resolution is sought with the communities. The Panel understands from Management that a “threat of suspension” notice was issued by Management to the implementing agency that includes a requirement to develop a plan to resolve disputes with the use of an independent facilitator. According to Management, the independent facilitator made an initial visit to the site in September 2021. Management informed the Panel that the World Bank team has conducted a virtual workshop for the implementing agency focused on dispute resolution. The Panel also learned that a “Safeguard Rectification Plan” has been finalized for pending actions, after Project closure. According to Management, continued monitoring of open issues until a resolution is reached is an integral part of the Bank’s wider engagement with the Government of Nepal.

Registration of the Request

15. As provided in paragraph 18 of the Panel’s Resolution (the “Resolution”), “*the Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.*”⁴ With this notice, I am notifying you that I have, on November 30, 2021, registered the above-mentioned Request.

16. The Panel’s registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 19 of the Resolution,⁵ Bank Management must provide the Panel within 21 business days (by January 6, 2022) a response to the issues raised in the Request for Inspection. The subject matter that Management must deal with in the response to the Request is set out in paragraph 20 of the Resolution.

⁴ The World Bank Inspection Panel, Resolution No. IDA 2020-0003, dated September 8, 2020, para. 18. <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/InspectionPanelResolution.pdf>

⁵ The World Bank Inspection Panel, Resolution No. IDA 2020-0003, dated September 8, 2020, para. 19. <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/InspectionPanelResolution.pdf>

17. After receiving the Management Response, the Panel will “*determine whether the request meets the eligibility criteria set out in paragraphs 13 to 15 (...) and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*”⁶ This Request has been assigned IPN Request Number 21/04.

Yours sincerely,



Imrana Jalal
Chair

Attachments

Mr. David Malpass, President
International Development Association

The Executive Directors and Alternates
International Development Association

LAHURNIP

Requesters (confidential)

⁶ The World Bank Inspection Panel, Resolution No. IDA 2020-0003, dated September 8, 2020, para. 22.
<https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/InspectionPanelResolution.pdf>