

**THE INSPECTION PANEL**

**The Inspection Panel Report  
on  
Request for Inspection  
Nepal: Proposed Arun III Hydroelectric Project  
and  
Restructuring of the Arun III Access Road Project  
(Credit 2029-NEP)**

Request No. RQ94/1

**December 16, 1994  
Washington, D.C.**

## ABBREVIATIONS AND ACRONYMS

ACRP	-	Acquisition, Compensation and Rehabilitation Plan
BP	-	Bank Procedures
EA	-	Environmental Assessment
EAP	-	Environmental Action Plan
HMG/N	-	Kingdom of Nepal
IDA	-	International Development Association
IEPS	-	Initial Executive Project Summary
LCGEP	-	Least Cost Generation Expansion Program
MOP	-	Memorandum and Recommendation of the President
MW	-	Megawatts
NEA	-	Nepal Electricity Authority
NGO	-	Non-governmental Organization
OD	-	Operational Directive
OMS	-	Operational Manual Statement
OP	-	Operational Policies
OPN	-	Operational Policy Note
PAF	-	Project Affected Family
PIC	-	Public Information Center
PID	-	Project Information Document
POE	-	Panel of Experts
RAP	-	Regional Action Plan for Arun III Project
SAR	-	Staff Appraisal Report
SPAF	-	Seriously Project Affected Family

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## PREFACE

This is the Inspection Panel's Report on the Request for Inspection (the "Request") relating to the proposed Nepal, Arun III Hydroelectric Project and restructuring of the Arun III Access Road Project; Credit 2029-NEP, granted under Development Credit Agreement, dated August 8, 1989 between the Kingdom of Nepal and the International Development Association ("IDA") (collectively referred to as "Arun III"). The Request was filed with the Panel on November 2, 1994 and registered by the Chairman on November 3, 1994. On the same date the Notice of Registration and text of the Request was transmitted to the President of IDA. The Chairman and Panel members note that prompt registration is required by IDA Resolution 93-6 (the "Resolution").

The Panel received the Management Response (the "Response") on November 22, 1994: it addressed the substance of the Request rather than impeding and delaying an independent review of the issues by questioning formalities. The attached report likewise deals with the substance of the Request.

The Panel's initial findings are based on the information contained in the text together with a limited review of supporting or referenced documents in the Request and the Response; and in addition, supplementary clarifications from the Requesters, Management, the proposed borrower and the executing entity. On the basis of this preliminary review and in accordance with the Panel's Operating Procedures of August, 1994 (the "Procedures"), the Panel is satisfied that conditions required by paras 12-14 of the Resolution have, in substance, been met.

In accordance with the Resolution the Panel consulted the proposed borrower and the Executive Director representing the Kingdom of Nepal on the subject matter of the Request.

The Panel wishes to thank all those who assisted them both in Kathmandu and in Washington, D.C.

## A. BACKGROUND

### ***PROPOSED PROJECT***

1. Management of IDA is planning to seek approval for an SDR 99.5 million development credit to the Kingdom of Nepal (“HMG/N” - the borrower) and the restructuring of an existing credit for SDR 24.4 million (Arun III Access Road Project - Cr. 2029-NEP) to help finance the proposed Arun III Hydroelectric Project.<sup>1</sup> The revised project components include a 122 kilometer access road through the Arun Valley, construction of a 201 MW run-of-river (including a 68 meter dam) hydroelectric power scheme (the first phase of the Arun III 402 MW scheme) in the Sankhuwa-Sava District and 122 kilometers of transmission lines from there to Duhabi. The Arun basin is about 170 kilometers east of Kathmandu.

2. The proposed credit would be on standard IDA terms with a 40 year maturity. HMG/N would onlend to the implementing agency, the Nepal Electricity Authority (“NEA”), the Nepalese rupee equivalent of US\$136.1 million plus US\$34.3 million (available under the existing Arun III Access Road Project) at a rate of 10.25 percent for a period of 30 years including a 9 year grace period. HMG/N would bear the foreign exchange risk. The remaining US\$4.6 million would be utilized by the Ministry of Water Resources to finance a Regional Action Plan (“RAP”).

3. Total project costs are estimated at about US\$800 million. The project would be cofinanced by the Asian Development Bank, Kreditanstalt für Wiederaufbau, the Government of France, the Swedish Agency for International Technical and Economic Cooperation, the Finnish International Development Agency and other donors.

### ***THE REQUEST***

4. **Summary:** The Panel received a Request, dated October 24, 1994, from citizens of Nepal (the “Requesters”) who claim that their rights and interests have been or are likely to be materially and adversely affected by the acts or omissions of IDA during the design and appraisal of Arun III. Two of the Requesters claim that they have been directly and adversely affected by the design and implementation of the resettlement program related to Arun III. The Requesters claim to be, or likely to be affected by alleged violations of provisions of, inter-alia, the following policies and procedures:

- Operational Policy/Bank Procedure 10.04: *Economic Evaluation of Investment Operations*
- *The World Bank Policy on Disclosure of Information*, September 1994; Bank Procedures 17.50 and 10.00, Annex A
- Operational Directive 4.01: *Environmental Assessment*
- Operational Directive 4.30: *Involuntary Resettlement*
- Operational Directive 4.20: *Indigenous Peoples*

5. The two Requesters from the now abandoned Hill Route asked for anonymity and, in accordance with Nepalese law, appointed Messrs. Siwakoti and Ghimire of Kathmandu, Nepal (the other two Requesters), to represent them. (For further details see Annex C)

## ***REGISTRATION***

6. ***Eligibility Issues:*** Para 17 of the Procedures requires the Chairman to register the Request “[I]f the Request appears to contain sufficient required information...”. While recognizing that there were deficiencies in the formalities, in accordance with this para, the Chairman, on November 3, 1994, registered the Request in the Panel Register; notified the Requester, the Executive Directors and the President of IDA of the registration; and transmitted to the President a copy of the original Request together with faxed copies of the attachments and evidence of representation. Upon receipt, on November 8, of the originals of the accompanying documentation, copies were forwarded to the President of IDA.

7. The Panel judged that the serious nature of the substance of the Request as a whole and its timing in relation to the project process outweighed outright rejection of the Request on the grounds of doubts on the standing of the Requesters and incomplete compliance with formal procedures. Management apparently came to the same conclusion since, as noted before, it addressed the substance of the Request without questioning its eligibility under the applicable terms of the Resolution.

## ***OPERATIONAL POLICIES AND PROCEDURES***

8. Given that a period of about seven years has elapsed since the inception of Arun III, the evolving nature of IDA policies and procedures and the timing of their application in relation to various stages of this proposed project is a source of disagreement between the Request and Response. These questions are addressed in Annex C and referred to, as necessary in the text of this Report.

## **B. THE REQUEST and THE RESPONSE**

9. The Request lists a number of statements of policies and procedures which the Requesters believe IDA has failed to follow in the course of the design, appraisal and initial implementation of Arun III. The Response provides information indicating that Management believes it has not failed to follow the relevant policies and procedures. The Request and the Response are reviewed briefly below and are followed by the Panel's initial comments.

### **I. Economic Analysis of Investment Operations**

#### ***ALTERNATIVES***

10. **THE REQUEST** states that IDA "has violated its operational policies regarding the Economic Evaluation of Investment Operations, 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 alternatives.' By not undertaking the relevant studies of the alternatives..., the World Bank has not fulfilled this very basic criteria for acceptability of the project".

11. The Request also complains that IDA violated this Directive throughout the project cycle by not considering alternative sequencing until 1993/94 and that the study is incomplete as the comparison was made with only very preliminary costs for the alternative schemes; that the earlier Least Cost Generation Expansion Plans ("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 1MW to 100 MW range; and that by not completing feasibility studies of the 30 or more smaller alternatives identified by HMG/N, IDA has not fulfilled the policy requirement to compute the LCGEP for additional power generation for Nepal. The Request also states that "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".<sup>2</sup>

12. **THE RESPONSE**, while answering the Request in line with OP/BP 10.04 suggests, in its Annex A, that this policy was not in effect at the time of identification and appraisal: that only those instructions in this OP/BP which are identical to those in force at the time are applicable. It indicates that the basis for the LCGEP was the initial consideration of "some 3000" alternative generation and expansion plans of which 11 individual hydro investment project candidates of varying sizes were examined to the pre-feasibility level or "beyond." However, "in response to questions, additional alternative strategies were investigated in order to check the robustness of the standard least-cost analysis. This involved the consideration of project candidates that preliminary analysis had previously screened out." The Response concludes that the cost of an alternative was higher than the cost of HMG/N's proposed program.<sup>3</sup>

13. The Response also states that there are no hard and fast rules on how many alternative proposals should be investigated to the "pre-feasibility" stage, it is a question of professional judgment. The number of hydro candidates explored to the pre-feasibility level is considered to represent "a very respectable effort for a country such as Nepal"--given that the determining factors are the extra cost and associated delays. Noting that the project contains funding for further pre-feasibility and feasibility work for smaller hydro projects<sup>4</sup> - which, if attractive, will

be accommodated periodically into the LCGEP - it is pointed out that there is no evidence that such further study would displace Arun III from the LCGEP.<sup>5</sup>

### ***RISK ANALYSIS***

14. **THE REQUEST** complains that the risk analysis is faulty, in particular that:

- one large natural catastrophe would virtually ruin the Nepalese economy;
- no account has been taken of the risk of undertaking such a large project in relation to the size of the Nepalese economy;
- while over 80% of the catchment area of the Arun River lies under the control of China and a proposed Changsun Basin Irrigation Project is pending, no account of upstream developments (riparian rights) has been included; and
- there is no bilateral agreement with India even though Phase II of Arun III and future development in the valley depend on surplus power sales to India.<sup>6</sup>

15. **THE RESPONSE** explains that:

- under OP 10.04 treatment of risks associated with large projects is not mentioned and there is no explicit policy with respect to the valuation of risks - as distinguished from the analysis and/or management of risks - associated with large projects. But “recognition of Arun’s magnitude and importance to the Nepalese economy was what led the Bank to undertake such comprehensive analysis of the project.”;<sup>7</sup>
- the analysis does not consider the risks to project viability of the possible construction of the Changsuo Basin Irrigation Project because the appraisal team judged these risks to be minimal; recently the Chinese authorities have reconfirmed their non-objection to the project and that the small size of the project is likely to have no effect on downstream water users;<sup>8</sup> and
- with respect to sales to India: in the past bilateral agreements have not been necessary and suggests that even if no surplus sales occur, there would be only a 1% drop in the project’s economic rate of return which remains above the project’s opportunity cost of capital.<sup>9</sup>

### ***POVERTY REDUCTION***

16. **THE REQUEST** suggests there will be immediate and threatened long-term irreversible adverse impacts on the already absolute poor inhabitants of the Arun Valley, as a result, in particular, of NEA’s lack of capacity to implement environmental and social safeguards.

17. At the national level, the Request suggests that the large size of the project in relation to Nepal’s annual national budget will not directly benefit the poor as its high cost will crowd out investments in social services and targeted poverty interventions.<sup>10</sup>

18. **THE RESPONSE** acknowledges that 450,000 inhabitants of the Arun Valley lead a “harsh subsistence life;” it states that the primary objective of the project is to meet Nepal’s growing power requirements in the medium term at least cost so that this constraint on growth and poverty reduction can be overcome. Referring to the Environmental Action Plan the Response suggests that it aims to limit negative direct impacts and to maximize the Valley’s prospects for sustainable growth and poverty reduction.<sup>11</sup>

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### ALTERNATIVES

19. *With respect to examination of alternatives, the Panel notes that previous policies and procedures would appear to be applicable. A preliminary review (see Annex C) of those policies and procedures suggests that the fundamental requirements are substantially the same as those in OP/BP 10.04. In particular it is noted that OMS 2.21, para 8, states that:*

*“Consideration of alternatives is the single most important feature of proper project analysis throughout the project cycle, from the development plan for the particular sector through identification to appraisal.”*

*It is also noted that the Response deals with the issues of alternatives and analysis of project risks in the context of the requirements of OP 10.04.*

20. *It is clear that Nepal’s hydropower potential is considerable (estimated at 25,000 MW). However less than 1% of the resource has been developed and there is no complete inventory that could be used reliably for long term planning.*

21. *Out of about 107 potential hydroelectric sites that have been identified, technical and economic screening criteria yielded only 18 projects for which pre-feasibility or further engineering studies have been carried out. The latest LCGEP considered only 11 projects. It is a matter of judgment whether this is an adequate number of options that should have been considered in the 30-80 MW range.*

22. *The Panel notes that the MOP recognizes that:*

*“The only realistic alternative to the hydropower investment program proposed by the Government is a series of hydro investments in the range of 10 MW to 100 MW. While these are certainly small projects by international standards, most are similar in magnitude to the two previous major hydro investments made in Nepal; namely, Kulekhani (60 and 32 MW) and Marsyangdi (69 MW). Past pre-investment studies in Nepal’s major river systems have identified a large number of such potential investments. Pre-feasibility and feasibility work has been done on some 18 of the 93 sites identified. About half of the 18 are under 100 MW; these have already been taken into account in the least cost generation analysis. Hence, the effort to develop an alternative hydropower investment program has had to draw from among those projects, mostly in the 30 to 80 MW range, which had previously been screened out (on the basis of rather crude technical and economic criteria) as less attractive than those for which pre-feasibility work has been commissioned.*

*The alternative investment program thus identified has been labelled Plan B (SAR Annex 5.4, [paras 41, 42]) The costs of Plan B are estimated to be about 5% higher than the Government’s proposed investment program under assumptions about the future considered most likely, and 5% less in the scenario where demand growth follows the low load forecast.<sup>12</sup>*

23. *There is reason to believe that if a less restrictive assessment, including a wider range of hydro resources, could be undertaken it would result in expanding the number of economically and environmentally acceptable options.*

## **RISK ANALYSIS**

24. *IDA policies provide for evaluation of investment projects to ensure that they promote the borrower's development goals and that the economic analysis be conducted to determine whether the project creates more net benefits to the economy than other mutually exclusive options for the use of the resources in question; and state that assessing sustainability includes evaluating the project's financial impact on the implementing/sponsoring institution and estimating the direct effect on public finances of the project's capital outlays and recurrent costs. This process also includes an analysis of the sources, magnitude and effects of the risks associated with the proposed project.*<sup>13</sup>

25. *The Panel notes that, with the information available, the comparison of the risks associated with the project and its alternatives is very difficult due to the large number of factors involved including:*

- *natural catastrophic events such as Glacial Lake Outburst Floods (GLOF) and high monsoon rains leading to high river floods which constitute a permanent risks in the project area. These risks were considered a major factor in the original decision to choose a Hill Route for the access road;*
- *the steep tariff rate increases that NEA must implement, likely cost overruns, lower economic growth;*
- *major risks associated with the economic performance of the project are associated with the rate of growth of demand, which in turn is related to the unforeseeable response to price increases and export sales. The lack of a long term power sales agreement with India poses a potential long term risk to the project.. This risk has been highlighted by IDA, particularly in the case of Nepal, in the 1986 Project Performance Audit Report for the Kulekhani Hydroelectric Project (Cr. 600-NEP and 600-1-NEP) which concludes that:*

*“Agreements on export would be required prior to the start of any large scale development, and because most countries are reluctant to be dependent on others for electrical energy, negotiations on such matters may last over extended periods of time”.*<sup>14</sup>

*The MOP contains a rather detailed discussion of risks and concludes that:*

*“Comparison of the overall risks of the alternative strategies shows that both have problems requiring careful management. There is simply no low risk way to meet Nepal's power requirements over the next decade or so.”*<sup>15</sup>

26. *All power development options require careful risk management unprecedented in Nepal and therefore institutional capacity building is critical to the success of any strategy. Major risks associated with institutional capacity in the NEA and HMG/N emerge as significant in a variety of ways: to oversee construction, long-term O&M, reorganization of the power sector management, and ability to sustain appropriate tariff increases. Each could endanger the viability of Arun III at any time. While funding agencies can supplement institutional capacity in the short-term, the strengthening of institutions will still have to develop rapidly and extensively;*

27. *The Request cites, as a potential risk, the fact that 80 percent of the river lies in China. The Response refers to the small size of the proposed Changsuo Basin Irrigation Project. At the*

*request of the Panel, Management has provided satisfactory evidence showing that the Government of China does not oppose Arun III.*

28. *Risk assessment must include all factors that might have a bearing on the project, and compare them with those of the alternatives. IDA has attempted to deal with those issues, but, the environmental and social impacts of the alternative have not been systematically analyzed; therefore a realistic comparison of risks associated with the proposed project and its alternatives could not have been carried out.*

### ***POVERTY ALLEVIATION***

29. OP 10.04 states that the economic analysis examines the project's consistency with IDA's poverty reduction strategy.

30. *The Panel recognizes two levels of potential impacts on poverty.*

*The first relates to the localized effect of Arun III on the Arun basin's poor, particularly the people whose land, like that of the Requesters on the abandoned Hill Route, was expropriated; and those on the proposed Valley Route whose land might be expropriated.*

*The second relates to the likely macro economic impacts on the country as a whole due to the large size of the investment to be undertaken in relation to the size of the economy. These impacts on a national level might result in:*

*(a) an initial increase in poverty because the opportunity cost of capital to address poverty directly and the resources needed for other targeted interventions may be consumed by Arun III;*

*(b) a reduced consumption due to the effect of rising electricity tariffs on consumers as they devote a larger share of their disposable income to electricity; and*

*(c) a constraint on public expenditure and investment - as noted in a recent Bank document:*

*“ The power sector as a whole is expected to absorb 15 percent of local resources and 40 percent of foreign resources, and AHP [Arun III] alone will absorb close to 20 percent of total development resources during the peak implementation phase in FY97-FY99.”<sup>16</sup>*

31. *The high priority of poverty alleviation in Nepal has been reiterated by the Bank. However, steps already taken by IDA and HMG/N suggest it will be more difficult to implement the policies on poverty. Future steps, such as further cancellation of “low priority projects” in social sectors and the large fiscal demands of Arun III may contribute to the risk that policies on poverty cannot be implemented.*

## **II. Environmental Assessment**

### ***ALTERNATIVES***

32. **THE REQUEST** states that the environmental and social issues and available alternatives to Arun III were not integrated into decisions on whether to proceed with the project. Citing the 1991 Basinwide Environmental Impacts Study (“RAP”), it states that: “the road alignment [hill route] and dam site were already decided and the study team did not have the mandate to change these decisions;” and the 1992 study<sup>17</sup> of the valley route was conducted to

determine whether it “might provide time and cost savings in providing access to the Arun III hydropower site. Serving the needs of the population...is a secondary consideration ... and that the need for and the siting of the power project and therefore the justification for the road, is taken as a given.” It is noted that, in response to pressure to investigate alternatives adequately, and after the EIA process was completed, the Bank commissioned a study known as Plan B which was conducted from the standpoint of whether Arun III is the “least cost” option for Nepal - without consideration of the environmental and social costs of either Arun III or its alternatives.

33. The Request also points out that:

“[t]he 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.”<sup>18</sup>

34. **THE RESPONSE** questions the applicability of the policy on Environmental Assessment for timing reasons but then states that Management nevertheless proceeded as if it were applicable. As evidence of compliance, the Response cites the consideration of three dam sites in the Arun valley and two different access roads. The Response notes that the 1993 Environmental Assessment Executive Summary<sup>19</sup> (“EA Summary”) clearly states that identification of Arun III was based on least cost studies undertaken up to 1990 and that “these studies addressed environmental/social issues at the reconnaissance level for all feasible sites.”<sup>20</sup>

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35. *Notes that while the current policy was not in effect when the Credit 2029 for the Hill Access Road Project was approved, it was in effect at the time when it was decided to change the access road to the Valley Route.*<sup>21</sup>

The 1993 *EA Summary* states that:

“The Arun III...was identified as the best major hydropower scheme for early addition to the Nepal Interconnected System under the LCGEP completed by the NEA in 1987 ...

[This] choice was confirmed by an LCGEP Update Study completed in 1990....This study included estimates of resettlement costs in its comparative analysis of the various projects, but not the costs of other environmental impacts or economic benefits”.<sup>22</sup>

36. *The Panel notes that the major environmental and social impacts of the Arun project are due to the construction of the access road, and not due to the hydroelectric generating facility itself. Given the timing of the change of the choice of road alignment the social impact has been magnified and the environmental impact assessment studies dealt primarily with the original route (Hill Route).*

37. *The Panel finds it necessary to look at this decision in more detail, particularly in view of the fact that almost all of the land of the families on the Hill Route had already been acquired.*

## **ACCESS ROAD ALIGNMENT**

38. *In 1987, a detailed feasibility study was carried out by the Department of Roads for the so-called "Hill Route". Detailed designs and tender documents were completed in 1988, in anticipation of an early start of construction, and further refined in the following years. The final alignment chosen, designs and construction methods were referred to in the SAR as environmentally the "state of the art" for a major road project in Nepal.*

39. *The SAR for the Arun III Access Road Project of May 12, 1989 refers to the selection of alignment for the access road in para 3.08:*

"The route selected as being most economical in terms of construction and maintenance, consistent with sound environmental planning, is in mountainous terrain and follows the ridges wherever possible, descending only for crossings of the Piluwa Khola near Chainpur, the Sabhaya Khola at Tumlingtar and at the sites of the powerhouse, adit and dam. The streams and rivers of this area are unpredictable and can be very violent and destructive. They cause excessive steepening of the valley sides and consequent instability of the slopes. The route has therefore been chosen to avoid rivers as far as possible, and to follow the contours closely in order to minimize the quantities of cut and fill, and to reduce negative environmental impact. The contract documents for road construction also incorporate environmental conservation measures."<sup>23</sup>

40. *The Panel notes that within three years of this decision, the project design for the road took the opposite approach, selecting a route where more than 50 percent runs close to the previously described unstable, steep, unpredictable and hazardous slopes of the Arun River.*

41. *In 1992, according to the EA Summary, following a decision to revise Arun III's design and reduce initial expenditure and given the sole criterion of providing access to the power sites as quickly as possible, the feasibility of a "Valley" route was investigated again. Engineering and construction planning studies had shown that although the construction costs would be similar to those of the Hill Route, there would be a time saving of one year and a total length construction of only 122 KM.<sup>24</sup> The EA Summary points out however, that:*

"The speed of construction of a project can have a considerable effect on its environmental impact.

- Slower construction of the access road would allow a less capital-intensive approach with a higher local labor demand (and therefore local benefits), and modified construction techniques with lower physical impact.
- Slower construction of the hydropower components of Arun III would reduce the size of the labour force required, reduce the volumes of spoil to be excavated and disposed of annually, and permit more gradual institutional development."<sup>25</sup>

*Comparative data on the two routes is given in Tables 6.1 and 6.2. are in Annex B.*

42. *The proposed change in routes was presented to the Panel of Experts (POE) and approved in principle by them.<sup>26</sup> However, the POE pointed to the apparent disadvantages of the Valley Route:*

“- increase of forested land in the RoW and possibly less disturbed and higher quality forest and protected wildlife habitat in the ROW: approximately 209 ha vs. 145 ha

- closer proximity to the Makalu-Barun Conservation Area

- losses and uncertainties resulting from the circumstance that land compensation for the hill route is already 94 percent completed

- additional impacts associated with future construction of spur roads or other connections to hill villages that would have been connected by the hill route.”<sup>27</sup>

*The POE also concluded, inter alia, that:*

“The recommendation from the environmental perspective therefore is to proceed with the design and tendering of the project using the valley route, to drop the hill route from further consideration at this time, to establish a clear and equitable policy concerning the families within the hill route who have already received compensation, and to update and amend project environmental documents, in parallel with the detailed engineering and along the following lines, to reflect the change in route.

1. It would be useful if the September 1992 Joint Venture EIA of the valley route would make a more detailed comparison of the impacts of the hill route and the valley route, including implications for associated changes in transmission line impacts, if any, and options and implications for families within the RoW of the hill route who have already received compensation.

2. Regardless of which route is adopted, the recommendations and cost estimates (about US\$14 million) of the King Mahendra Trust report on “Environmental Management and Sustainable Development in the Arun Basin” should be released to the public, reviewed, screened and prioritized to facilitate the development of an action plan for implementation. Without such a plan there will be no mechanism in place for controlling off-site impacts (especially encroachment on forests and wildlife) in the vicinity of the access road and power station, south and east of the Makalu-Barun Conservation Area.”<sup>28</sup>

43. *The decision to pursue the Valley Route led NEA to commission a study to “revise and update the existing environmental impact assessment study of the access road in accordance with World Bank guidelines” (Terms of Reference for JV Consultants). This update was supposed to*

*be carried out in a period of four months although the road alignment had not been completed. The following clause was included in the Terms of Reference:*

“In order to complete the update of the EIA within the four months of Period A, it is mandatory to have a preliminary alignment or alignment options available at the latest six weeks after the commencement of the services with respect to the access road, and in the first week of August [1992] regarding the transmission line.”<sup>29</sup>

*Also included in the terms of reference is the following disclaimer:*

“The time available will not allow it to perform a detailed socio-economic and ecological survey along the entire alignment. Rather, surveys will be of a qualitative nature and will concentrate on selected areas from which conclusions will have to be drawn to the total length of alignment.”<sup>30</sup>

44. *The Environmental Impact Assessment for Arun Access Road-Valley Route published in September, 1992, concludes that the impact on biological resources is significant since the Valley Route transverses forested areas for the major part of its length (71 Km out of 124 Km), and that most of the areas show high species diversity and presence of rare, endemic and endangered species of trees and other plants. In addition, the loss of habitat will result in significant impact on vertebrae. The EIA for the access road concludes that:*

“The road runs close to the Arun River for 67 km and therefore construction of the road will have direct impact on mammalian and reptilian wildlife due to direct habitat, severance of territory, disturbance and increased access to hunting. Quantitative data on population sizes are not available.”<sup>31</sup>

45. *The Panel finds the process of choosing the access road has created uncertainties of a serious nature with regard to IDA’s ability to follow OD 4.01 on environmental assessment. The Response cites three major components to the Environmental Action Plan: an Environmental Mitigation Plan, A Land Acquisition Resettlement and Compensation Plan and a Regional Action Plan (“RAP”). During consultations with the proposed borrower and executing entity, the Panel learned that the updated RAP will not be completed until January 1995. On the basis of the evidence reviewed, the Panel concludes that the environmental assessment and processing of the proposed loan do not appear to be consistent with the provisions of OD 4.01 and its annexes. The potential of direct, serious long-term damage is significant.*

### ***CUMULATIVE EFFECTS AND INADEQUACIES***

46. **THE REQUEST** states that cumulative impacts of all three Arun Valley hydropower schemes (i.e. Arun III, Upper Arun and Lower Arun) have not been evaluated and that there should be a comprehensive study of the long term effects including those of additional road construction; that other inadequacies of the EIA include no thorough assessment of the impact of the transmission lines, mitigation plans for natural disasters, effects on fish and disposal of construction spoils.<sup>32</sup>

47. **THE RESPONSE** refers to the 1991 basin-wide environmental sustainability study as meeting the Bank's requirements.<sup>33</sup> "The effects of Upper Arun which are likely to be environmentally more sensitive than Arun III were studied separately in a 1991 feasibility study." It notes that Lower Arun "is generally recognized to have less significant impacts"; it is acknowledged that further work will be undertaken in the first year of the project to verify that effects on fisheries are minimal and identify mitigation measures as necessary.<sup>34</sup>

48. Mention is also made of the approval of environmental mitigation measures by the project's POE<sup>35</sup>, referring to paras 3.23. and 3.44(b) of the SAR.

#### **THE PANEL**

49. *Observes that, according to the SAR, the POE included a single "expert in environmental management and resettlement"<sup>36</sup> and that in June 1994 a decision was made to "reconstitute the POE by the end-December 1994 for review of assistance and guidance on the critical technical and safety aspects and dam safety monitoring during construction and supervision." It is also noted that the reconstituted Panel will be "expanded to include environmental expertise to advise effectively on detailed RAP and resettlement issues."<sup>37</sup> In addition the MOP states that a POE, "both international and Nepali, will advise, on, inter alia, the RAP and resettlement implementation, and propose modifications where appropriate." It is pointed out that the reconstituted Panel will "include a core of specialists in area development, resettlement, biodiversity and agriculture management;" and that other experts will be consulted as needed.<sup>38</sup>*

50. *Applicable IDA policies provide for Regional Environmental Assessments and special provisions relating to Dam and Reservoir projects.<sup>39</sup> In particular Environmental Advisory Panels are recommended:*

*"For major, highly risky, or contentious projects with serious and multi-dimensional environmental concerns, the borrower should normally engage an advisory panel of independent, internationally recognized, environmental specialists to advise on (a) the terms of reference (TORs) for the EA, (b) key issues and methods for preparing the EA, (c) recommendations and findings of the EA, (d) implementation of the EAs recommendations, and (e) development of environmental management capacity in the implementing agency."<sup>40</sup>*

51. *Given that OD 4.01 was applicable when the Valley Route was chosen and the Arun III Hydroelectric Project appraised, the environmental assessment should have included a comprehensive approach to the Arun basin, including a long term perspective that also considered the Upper and Lower Arun Projects, access roads (including the Valley Route and additional spurs), as well as transmission lines. Environmental assessments should be integrated into project design from its inception and, must go beyond descriptive studies, focusing on the interaction of all project components and decisions that affect the natural and social environment, including mitigation plans and the institutional capacity to develop, implement and monitor them. It is not clear that the composition of the POE properly reflected the requirements set out by IDA policies.*

52. *Given the nature and complexity of the environmental and social risks of the project, IDA policy would appear to require the existence of a POE solely devoted to environmental and social issues. Instead, IDA and the borrower agreed in 1994 to consolidate planning for such an environmental panel into the existing POE.*

### III. DISCLOSURE OF INFORMATION

53. *The World Bank Policy on Disclosure of Information*, September 1993, states in part that the Bank “recognizes and endorses the fundamental importance of accountability and transparency .... Dissemination of information to local groups affected by the projects supported by the Bank, including non-governmental organizations, particularly as it will facilitate the participation of those groups in Bank-financed projects, is essential for the effective implementation and sustainability of the projects.... It follows that there is a presumption in favor of disclosure.”<sup>41</sup>

#### **PROJECT INFORMATION DOCUMENT (“PID”)**

54. **THE REQUEST** complains that the PID was not prepared before January 24, 1994 and has subsequently not been updated to include all the information required by BP 10.00 Annex A.

55. **THE RESPONSE** states that the “content and dissemination of the Arun PID were substantially in line with Bank policy and procedures.”

#### **THE PANEL**

56. *IDA’s Procedures for operations in which major changes are made after appraisal, require preparation of a final revision of the PID following appraisal.*<sup>42</sup>

57. *The Panel notes that the PID is an effective means of providing timely and concise information on proposed projects. It is highly desirable, for projects that command this degree of interest at the national and international level, that this document be updated in accordance with emerging Bank policies. The September 1993 BP 17.50 Annex D required a completed PID for all projects beyond the IEPS stage but not yet presented to the Board by January 1, 1994. The document was not available at the Public Information Center (“PIC”) until March; and not subsequently updated or expanded after the issuance in June 1994 which of BP10.00 Annex A.*

#### **ENVIRONMENTAL ASSESSMENT (“EA”)**

58. **THE REQUEST** asserts that this provision was not followed by IDA and notes that the environmental impact assessment was one of the documents for which release was requested in the law suit filed with the Supreme Court on December 31, 1993.<sup>43</sup>

59. **THE RESPONSE** claims that the “dissemination of the results of the Environmental Assessment was substantially in line with Bank policies and procedures.”<sup>44</sup>

#### **THE PANEL**

60. *Notes that the 1993 procedures on information disclosure require that “before the Bank proceeds to appraisal, the EA [Environmental Assessment] must be made available in the borrowing country at some public place accessible to affected groups and local NGOs.”*

61. *The Panel notes that the EA for the Hill Route (the RAP in this case) was completed in 1991; that the EA Summary was published in Kathmandu in May 1993, and the “Due Process Manual” prepared in Nepali by NEA in November 1993 is restricted to information on land acquisition and compensation procedures. While the Response provides detailed information on*

*the timing and applicability of specific IDA policies on disclosure of information, it does not refer to the relevant policies relating to Environment Assessment.*

*62. Considerable efforts have been made to gather and release environmental data about the project and the IDA appears to have made substantial efforts to make it available in Washington. However, much of the relevant information was not available in Nepal.*

#### **FACTUAL TECHNICAL INFORMATION**

**63. THE REQUEST** claims that factual technical information was requested during project preparation to enable the Requesters to have an input into the design and promote alternatives but such information was received too late (after appraisal) to allow input. In particular it is noted that the study of alternatives was not released until after appraisal and the completion of loan negotiations.<sup>45</sup>

**64. THE RESPONSE** mentions initial delays in implementing the new disclosure policy in this respect but notes that sections of the SAR have been available at the PIC since September 1994.

#### **THE PANEL**

*65. IDA policy allows for the release, by the Country Director concerned, of additional factual technical information for projects under preparation through the PIC.<sup>46</sup>*

*66. The Panel notes Management's prompt disclosure of relevant parts of the SAR but the Request suggests this is not available in Nepal. In light of the high degree of interest in the project in Nepal it appears unfortunate that delays in implementing the new policy occurred and that no mention is made in the Response of supplying such factual technical information to NEA's Arun Information Center.*

*67. The Panel is concerned about the serious problem of enforcing release of information in borrowing countries; and notes a gap in the availability of information in Washington, on the one hand, and in the country where the project is located on the other - in particular in the actual project area.*

*68. With regard to overall disclosure of information, the Panel recognizes the progress made by the Management in last two years in relation to projects such as Arun III. In the borrowing countries progress varies, as evidenced by the need to take cases to the Nepalese Supreme Court twice this year to obtain release of project information.*

*69. Disclosure is not an end in itself, according to Bank policy, but rather a means of enhancing the ability of affected people to participate in the design and consideration of project alternatives.*

*70. Meeting the requirements of Bank policy on release of information in Nepal appears to have been difficult. The Panel urges continued attention to this evolving issue.*

#### **IV. Involuntary Resettlement**

**71. THE REQUEST** claims that (a) specific violations of IDA's policies or involuntary resettlement have occurred (Hill Route) and that (b) violations of the policies are likely to occur (Valley Route).

## **HILL ROUTE**

72. With reference to the cash compensation raised by two of the Requesters it is claimed that the central objective of improving or at least restoring affected people to former living standards has already been violated.<sup>47</sup> It points out that the effect of ACRP has been to inflate prices far beyond compensated value.; and that in violation of para 14 of the policy, land has been undervalued.<sup>48</sup> The Request also criticizes the fact that land for land compensation was not appropriately offered

## **VALLEY ROUTE**

73. The Request notes that the proposed project benefits will be electricity but affected people will not benefit<sup>49</sup> that employment benefits will be temporary but the adverse effects of displacement are permanent - SPAFs are to be given only first priority for employment on road construction.<sup>50</sup> The Request also notes that the EIA shows that cash compensation was already failing in case of the Hill Route and that the Valley Route people will have even less ability to deal with cash because they are poorer: this raises whole question of land for land compensation and actual implementation. According to the Request the law is basically limited to cash compensation and PAFs are not being informed of a land option.<sup>51</sup> The Requesters are not aware that any socio-economic survey has been done to determine value of land.<sup>52</sup> In addition the Request notes a violation of the policy as no resettlement plan has been established before appraisal for those to be displaced by the transmission lines.

74. **THE RESPONSE** explains IDA's compliance with the Operational Directive ("OD") on Involuntary Resettlement in relation to the Valley Route, noting that implementation arrangements have been agreed at negotiations; SPAFs are to be offered and are to chose replacement land to be purchased by NEA; PAFs will receive cash compensation; a cadastral survey of all areas expected to be affected by the project was completed prior to land acquisition.<sup>53</sup>

75. Furthermore, the Response suggests that the OD contains no requirements as to how project benefits should be shared;<sup>54</sup> nor does it require that permanent employment be provided to displaced persons but in this case the ACRP provides that at least one person from every SPAF is to be offered temporary employment by NEA;<sup>55</sup> full socioeconomic surveys *covering all PAFs* were carried out for the Hill route in 1990 and the Valley Route in 1993<sup>56</sup>; resettlement planning was timely and that only 8 families will be affected by transmission lines.<sup>57</sup> The Response refers to preparation of a *Due Process Manual* in Nepali which describes the ACRP policies and procedures and designed to inform affected people of their rights.<sup>58</sup>

## **THE PANEL**

76. *The Staff Appraisal Report for the original Access Road (Credit 2029-NEP) describes the resettlement plan:*

**“Resettlement.** To provide necessary compensation and rehabilitation measures for the population whose land, buildings and means of livelihood would be either temporarily or permanently affected by the road/dam construction, the project includes implementation of an ACRP. The ACRP contains an overall plan for the resettlement to be carried out under the project as well as details on the nature and magnitude of the operation, compensation packages offered to the affected families,

development plans for relocation sites, transfer/transport arrangements, implementation timetable and costs. The legislative basis for implementing the ACRP is contained in the Land Acquisition Guidelines 2045 approved by HMG on January 5, 1989.”<sup>59</sup>

77. *When the Hill road was designed IDA approved a resettlement plan regarded as a model at that time. The resettlement plan for the proposed Valley route is based on it.*

#### **Hill Route**

78. *A very large number of families (estimated at about 1600) were deprived of their land for purposes of this project. After the change in access route alignment it appears that this land is not needed for project purposes. Nevertheless, the “Hill Route RoW will be retained in government ownership for future road construction purposes.”*<sup>60</sup>

79. *The POE Report No. 7 pointed out that among the apparent disadvantages of the Valley Route were “losses and uncertainties resulting from the circumstance that land compensation for the hill route is already 94 percent completed,” and concluded that “[i]f the valley route is selected, NEA’s ‘Environmental Assessment and Management Executive Summary’ should be updated and amended to reflect the selection of the valley route, [and] address the issue of impacts on families within the RoW of the hill route who have already received compensation,”*<sup>61</sup>

80. *A decision was made, in 1992, to change the Arun access road to the Valley Route. The Panel notes that apart from the reference to completion of a socio-economic survey, the Response does not address the issue of impacts on families within the RoW of the now abandoned Hill Route who have already received compensation. Those affected appear to have been forgotten which gives rise to a number of issues:*

- *land has been purchased from those who will not longer share in any benefits the construction of an access road might confer*
- *there is no systematic information on what adverse impacts the acquisition has caused except for the claims of the two Requesters*
- *there does not yet appear to be any mitigation plan for the Hill Route people*
- *under Nepalese law it appears that HMG/N is supposed to return land no longer needed for the project for which it was acquired.*

#### **Valley Route**

81. *Although no foreign exchange resources have been utilized under the Arun III Access Road Project of 1989, this project triggered actions by HMG/N that could have negative impacts on local populations since the land of a large number of families was expropriated for the RoW of the original route.*

82. *By the time the change of route was introduced in 1992, most of the land purchases had been completed for the original route. According to the Panel of Experts’ Report No.7, by September 1992, 94 percent of the land purchases of the RoW had been completed, supposedly according to specific Land Acquisition Guidelines approved by HMG/N. The total number of affected families by the Hill Route is estimated at 1661.*

83. *Therefore, the comparison between the number of families affected by the Hill and Valley Routes must clarify the fact that over 1600 families have already been affected in the Hill Route, while an additional 1146 families will also be affected by the RoW of the Valley route.*

84. *The Panel has received a specific request from two people who claim to be directly and adversely affected by acquisition of their land for the now abandoned Hill Route. This claim requires further study. Prima facie these material adverse effects appear to be a direct result of omissions by IDA during preparation and appraisal of the project and appear to be a serious violation of IDA's resettlement policies.*

85. *Because this gives rise to uncertain future implications regarding implementation of the resettlement process for the proposed Valley Route, steps need to be taken to ensure the apparent adverse effects of the Hill Route will not be repeated.*

## **V. INDIGENOUS PEOPLES**

86. **THE REQUEST** claims that there are no benefits provided for the Indigenous peoples, who will suffer only adverse impacts and lists those impacts; there is no mitigation or indigenous peoples plan--it is unclear whether documents contain actual work plans or just recommendations--many recommendations in EIA are not taken into consideration; there are many issues to be resolved in bidding documents - which are secret; mitigation of negative effects on indigenous peoples does not constitute a development plan; land appropriation on the Hill Route started before completion of the cadastral survey; the policy on participation in the decision making process was violated as stated in 1991 EIA - "the road alignment and dam site were already decided and the study team did not have mandate to change these decisions".<sup>62</sup>

87. **THE RESPONSE** explains that all aspects of the policy have been met, mostly by reference to documents. It notes that the cadastral survey is nearing completion in Sankhuwasabha and acknowledges that, despite all precautions "a close watch will be necessary throughout project implementation to ensure that the objectives of the OD are met. To this end, the project supervision plan involves careful monitoring and evaluation of the impact of project related activities on vulnerable groups in the valley".<sup>63</sup>

88. *IDA's policy on Indigenous Peoples requires a specific "Indigenous Peoples Development Plan" that is comprehensive, that avoids or mitigates potentially adverse effects and ensures that the indigenous people receive culturally, socially and economically compatible benefits.*<sup>64</sup>

**THE PANEL** notes that:

89. *There are a variety of different ethnic groups along the Arun basin. The original regional action plan (RAP) which focuses on the Hill Route reviews an extensive range of social and environmental issues including vulnerable groups, indigenous peoples and women. Some of these groups are unfamiliar with a cash economy which poses additional risks to their welfare requiring special attention.*

90. *IDA's policy is that an Indigenous Peoples development plan should be prepared. The NEA has informed the Panel that a revised RAP will be ready in January 1995: it may be that this will contain an appropriate Indigenous Peoples development plan and provisions for implementation. Provision for technical assistance to support the RAP Secretariat at base cost of US\$2 million aimed at facilitating implementation of the RAP was introduced and agreed during June 1994 negotiations.*<sup>65</sup>

## ENDNOTES

<sup>1</sup> The President of IDA has circulated to the Board, for information, a Memorandum and Recommendation on Arun III (Report No. P-6381-NEP, dated August 29, 1994, hereinafter referred to as "MOP"), and the Staff Appraisal Report No. 12643-NEP, dated August 29, 1994 (hereinafter referred to as "SAR").

<sup>2</sup> Request, 4.A.

<sup>3</sup> Response, Chapter 3, paras 2-3: unless otherwise noted references to paras in the Response refer to Chapter 3.

<sup>4</sup> The Hydro Fund (base cost US\$ 5 million) to provide funding to assist Nepal's private sector to undertake feasibility studies of micro/mini hydro schemes and to implement viable schemes was agreed to as an additional project component during negotiations in June 1994. (See *Agreed Minutes para 4.(b)*)

<sup>5</sup> Response, para 4.

<sup>6</sup> Request, para 4.A.

<sup>7</sup> Response, para 8.

<sup>8</sup> *Ibid*, para 6.

<sup>9</sup> *Ibid*, para 7.

<sup>10</sup> Request, para 5.A.

<sup>11</sup> Response, Chapter 1, paras 8, 10, 11.

<sup>12</sup> MOP, paras 47-48.

<sup>13</sup> OP 10.04, paras 1, 5 and 6.

<sup>14</sup> See para 24.

<sup>15</sup> MOP, para 54.

<sup>16</sup> See "*Nepal - Fiscal Restructuring and Public Resource Management in the Nineties*", Report No. 12281-NEP, dated March 17 1994 (para 8 at p. iv). The same document recognizes that:

- "the high costs and financing requirements of AHP [Arun III] pose risks to the orderly management of the Nepal's overall development program, including investments in human resources and rural infrastructure." (para 3.6)
- "The simulation shows local resource availability coming under severe pressure....The local financing gap would be equivalent to 3.1 percent of GDP or approximately US\$125 million a year, which would be too large to be filled by reasonable revenue effort and additional domestic borrowing, and steps would have to be taken to redress the imbalance. Inevitably, expenditures other than Arun would have to contract. It is difficult to map out the exact nature of the expenditure contraction in the absence of a meaningful prioritization, but based on past experience, non-wage O&M activities and capital intensive programs would be the most vulnerable, and this would affect the recurrent cost financing for various sectors, such as transport, irrigation, forestry, agriculture services and drinking water, thereby limiting the productivity of these activities and the growth process. Also with the limits on local resources, aided activities and on-going programs would have longer implementation delays." (para 3.7)
- "...a cut back in social programs would be unavoidable for accommodating the local financing gap." (para 3.8)

<sup>17</sup> "Environmental Impact Assessment - Valley Route" - Main Report, September, 1992.

<sup>18</sup> Request, 4.D.

<sup>19</sup> "*Arun III Hydroelectric Project: Environmental Assessment and Management - Executive Summary*", National Electricity Authority, Kathmandu, May 1993.

<sup>20</sup> Response, para 15.

<sup>21</sup> OD 4.01 Annex B, para (f) requires a "systematic comparison of the proposed investment design, site ....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 the selection of the alternative proposed for the project design must be stated."

<sup>22</sup> EA Summary, para 6.1.

<sup>23</sup> For details see SAR (para 3.26).

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<sup>24</sup> EA Summary 1993, para 6.32.

<sup>25</sup> Ibid, 6.2.3.

<sup>26</sup> At its seventh meeting of September 26-October 2, 1992. (See: Panel of Experts Report No. 7)

<sup>27</sup> Panel of Experts Report No. 7, p. 21.

<sup>28</sup> Ibid, pp. 22-24.

<sup>29</sup> "Environmental Impact Assessment for Arun Access Road - Valley Route" Volume 2, September 1992, Joint Venture Arun III: Annex A, p A-1.

<sup>30</sup> Ibid. Annex A, p. A-3

<sup>31</sup> "The Environmental Impact Assessment for Arun Access Road-Valley Route", September, 1992, pp. 4-13.

<sup>32</sup> Request, para 4.D.

<sup>33</sup> Response, para 17.

<sup>34</sup> Ibid, paras 18-20.

<sup>35</sup> Ibid, para 19.

<sup>36</sup> SAR, para 3.23.

<sup>37</sup> Ibid, para 3.44b.

<sup>38</sup> MOP, para 32.

<sup>39</sup> OD 4.01 para 5 calls for Regional EAs "where a number of similar but significant development activities with potentially cumulative impacts are planned ... [and] are particularly useful when they precede the first in a series of projects ... in an undeveloped region ..where cumulative impacts are anticipated ..." See also, OD 4.01 ANNEX B Environmental Policy for Dam and Reservoir Projects: all provisions (4/89);

<sup>40</sup> OD 4.01, para 13; para 15 of Annex B "*Environmental Capacity of National and Sectorial Institutions*: Major dam and reservoir projects should be used to help build environmental capacity (analytical, regulatory, and enforcement) in the institutions at the national and sectorial levels through training, consultancy, and policy dialogue, and to foster coverage of dams and reservoirs by environmental legislation." For more detail on the selection and functions of the panel, see para 18 of OD 4.00, Annex B.

<sup>41</sup> Section II, pp. 2-3.

<sup>42</sup> BP 17.50 (para 4).

<sup>43</sup> Request, para 4.C.

<sup>44</sup> Response, para 14.

<sup>45</sup> Request, para 4.C.

<sup>46</sup> BP 17.50 para 5 (and the September 1993 document on Disclosure of Information, para 12)

<sup>47</sup> Request, para 4.E.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Response, paras 22-25.

<sup>54</sup> Ibid, para 26.

<sup>55</sup> Ibid, para 27.

<sup>56</sup> Ibid, para 28.

<sup>57</sup> Ibid, para 29.

<sup>58</sup> Ibid, para 31.

<sup>59</sup> SAR para 3.11.

<sup>60</sup> EA Summary at 6.3.2

<sup>61</sup> POE Report No 7, pp. 23-24.

<sup>62</sup> Request, para 4.F.

<sup>63</sup> Responst, para 36.

<sup>64</sup> OD 4.20

<sup>65</sup> Agreed Minutes, para 4.

**Bank Policies and Procedures Applicable to the Different Items of the Request for Inspection**

The Response states that a number of policy documents referred to in the Request are not applicable to the proposed project (see its Annex A). According to the Response this approach means that *OP/BP 10.04*, "Economic Evaluation of Investment Operations," would not be applicable to this project because it was issued in September 1994. The applicable policy, according to Management, is to be found *OMS 2.21*, "Economic Analysis of Projects," issued in May 1980, and *CPN 2.01*, "Investment Criteria in Economic Analysis," issued in June 1977. If such is the case however, a number of other CPNs as expressly referred to in *OMS 2.21*, such as *CPN 8.01*, "*Contingency Allowances in Project Cost Estimates*," *CPN 2.04*, "*Economic Analysis of Projects with Foreign Participation*," *CPN 2.02*, "*Risk and Sensitivity Analysis in Economic Analysis of Projects*," etc., as well as several OPNs, such as *OPN 2.05*, "Foreign Exchange Effects and Project Justification," *OPN 2.06*, "Use of the Investment Premium and Distribution Weights in Project Analysis," etc., all of which have been superseded by *OP/BP 10.04*, could also be applicable to the economic evaluation and analysis of the proposed project.

The applicability of policy statements other than the existing ODs and OPs/BPs raises two fundamental issues: (a) what kind of information is available to the public in general, and to potentially affected parties in particular, about IDA policies and procedures which are not contained in the most recently issued and more widely publicly available policy statements; and (b) in the event that two or more policy statements on the same subject could be applicable during the design, appraisal, and implementation of a particular project, what are the substantial policy provisions to be followed by IDA in each of such stages:

(a) It is apparent that current IDA policy statements are not widely available in areas, such as the Arun Valley in Nepal, where people affected by IDA-financed projects live. It is already a heavy burden for such people to identify--even in substance--what policies and procedures IDA may have violated when causing--in fact or potentially--harm to their rights or interests. This problem would be compounded if they were required to be aware of old policy statements that do not seem readily available to IDA staff, let alone any international NGOs that could be assisting them in the preparation of their claims.

This problem may arise in an array of scenarios ranging from policy statements issued right before Board presentation of a given project--as in the present case concerning economic evaluation of projects--to statements issued many years ago (see discussion below). In any event, this problem is one of many faced by an

affected party when trying to lodge a valid request pursuant to the terms of the Resolution.

(b) When policy statements available to the public have been only recently issued, it would not be appropriate to make them immediately applicable to a given project and assess IDA's performance in accordance with the standards and procedures stated in them. To the extent that new policy statements become applicable in the midst of project processing and implementation, and to the extent that these are not followed by IDA in their entirety, the questions would then be: (i) do the new policy statements deviate from IDA's pre-existing policy in a substantial way? and (ii) are the provisions in the new policy statements different and mutually exclusive with the provisions of the old policy. In reviewing the different policy documents referred to by the Requester and Response, the following questions become relevant:

(i) *OP/BP 10.04, "Economic Evaluation of Investment Operations"*: fortunately, in this case the basic premise of project economic evaluation that "[f]or every investment project, Bank staff conduct economic analysis to determine whether the project creates more net benefits to the economy than other mutually exclusive options for the use of the resources in question"<sup>1</sup> has remained unchanged through the years and it is, therefore, fully applicable to the review of the facts alleged in the Request. Several policy statements reiterate and further define this requirement. For example, paragraph 8 of *OMS 2.21* provides that "consideration of alternatives is the single most important feature of proper project analysis throughout the project cycle, from the development plan for the particular sector through identification to appraisal," and *OD.4.01, "Environmental Assessment,"* stresses the importance of a "systematic environmental comparison of alternatives in investments, sites, technologies and designs."<sup>2</sup> The Panel believes, therefore, that regardless of the specific policy statement applicable to the design of the project in question, the Panel believes that IDA policy calls for a systematic and comprehensive analysis and comparison of all existing mutually exclusive options to attain the objectives of the project to be financed by IDA.

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<sup>1</sup> Paragraph 1 of OP 10.04, see also paragraph 8 of OMS 2.21

<sup>2</sup> OD 4.01, paragraph 4(c), See also Annex B, paragraph 2(f). The applicability of OD 4.01 is discussed later in this Response.

(ii) *OD 4.00, "Environmental Policies," Annexes A and B; OD 4.01, "Environmental Assessment"; OD 4.20, "Indigenous People"; and OD 4.30, "Involuntary Resettlement."* All of these documents were issued between April 28, 1989 and October 3, 1991, that is, between more than five years to almost three years before the date on which the MOP and the SAR were issued for Board distribution. These policy documents were also issued before the date on which a decision was made to change the major individual component of the project, in terms of environmental and resettlement and financial impact. The Panel sees no merit in the allegations that these policy documents are not fully applicable to Arun III, because of the mere fact that the IEPS was issued before the date on which the policy documents were issued. The applicability of new policies should be interpreted in a manner consistent with their objectives. For example, the Response states that *OD 4.01* on Environment Assessment would not be fully applicable to the new valley route alignment (which raises a number of environment related issues) because of the mere fact that the IEPS was issued in 1987. In the Panel's view, the new valley alignment represented a major departure from the project described in the IEPS and, as such, cannot be exempted from the standards or policies in force when the new project design and executing study for the Access Road were agreed upon and evaluated. In fact there was plenty of time to conform to the new policy requirements.

(iii) *New policy on disclosure and BP 17.50, "Disclosure of Operational Information."* The Panel agrees with IDA Management that this policy cannot be applied retroactively in the case of Arun III but it notes that the new information requirements must be adhered to as soon as possible, to be consistent with the overall aims of the policy on disclosure of information. For example, since the PID is the most accessible document on project information--both because of its comprehensive and yet condensed format and the fact that it is widely available, even on Internet--the Panel concludes that every effort should have been made to update the PID on the proposed project, in line with the new requirements set forth in Annex A of BP 10.00. The fact that the PID has not yet been updated accordingly may not constitute a serious violation of IDA policy but it may be construed as such by the public.

NEA's Environmental Assessment  
and Management  
Executive Summary  
May 1993  
(pages 53 and 54)

Table 6.1 ARUN ACCESS ROAD - COMPARATIVE CHART: DISTANCE, LAND USE, LAND TAKE and FAMILIES AFFECTED			
ITEM		Route Options	
		Valley <sup>1</sup> (including power cavern access)	Hill
Distance (km)	New construction	121.9 <sup>2</sup>	197.2
	Travel (Hile-Intake)	116.8 <sup>3</sup>	171.4
Land Use (%)	Forest	27	28.5
	Shrub and Grazing	30	16
	Cultivation: Khet	27	41
	Cultivation: Bari	16	15
	Total cultivation	43	56
	Abandoned/Other	-	0.5
	Total	100	100
Land Take (ha)	Forest	106	145
	Shrub and Grazing	119	81
	Cultivation: Khet	106	209
	Cultivation: Bari	63	77
	Total cultivation	169	286
	Abandoned/Other	-	3
	Total Land Take	394 <sup>4</sup>	510
Average Land Take ha/km <sup>3</sup>		3.2	2.59
Average Households/km		9.4	8.6
Total Families Affected		1146	1661

- <sup>1</sup> This column from draft ACRP Report, April 1993
- <sup>2</sup> Recommended alignment for adit access along right bank of Arun river
- <sup>3</sup> This figure is based on preliminary engineering and could increase by 1% to 2% during detailed engineering
- <sup>4</sup> 375 ha permanent plus 19 ha temporary
- <sup>5</sup> Hill Route RoW changes from 30 m to 20 m at Chhyangkuti, also powerhouse spur
- n.d. No data (available data not disaggregated)

<b>Table 6.2 ARUN ACCESS ROAD: HILL VERSES VALLEY - A QUALITATIVE ASSESSMENT</b>		
<b>Topic</b>	<b>Valley Route</b>	<b>Hill Route</b>
<b>Length:</b>	Shorter	Longer
<b>Physical Impacts:</b> soils, slopes, natural hazards	High	Moderate
<b>Biological Impacts:</b> forests, habitat, wildlife	Direct: Moderate Indirect: High	Direct: Moderate/Low Indirect: Moderate/High
<b>Social Impacts:</b> land take, families affected	Moderate (approx. two thirds Hill Route)	High
<b>Construction:</b> (i) time (ii) costs (iii) construction difficulty (iv) risk of off-site damage/injury	Shorter Equal High Moderate/Low	Longer Equal Moderate Moderate/High
<b>Economic Benefits:</b> (i) immediate connectivity (ii) long-term regional access	Moderate High	High Moderate
<b>Conclusion: Valley Route is preferable, assuming sound management of impacts and risk</b>		

**ARUN CONCERNED GROUP** RECEIVED

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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

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- 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

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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:

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- 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 (SPAFs): 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 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

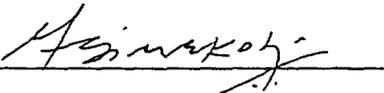
## 9. ADDITIONAL EFFORTS

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

ORIGINAL

RECEIVED  
ARUN CONCERNED GROUP

SECRETARIAT: c/o INHURED International  
P.O. Box 2125, Kathmandu, Nepal  
Tel: (977-1) 419610 • Fax: (977-1) 412508  
NOV 8 PM 2:12

THE INSPECTION PANEL

November 2, 1994

Ernst-Günther Bröder  
Chairman, The Inspection Panel  
1818 H Street, NW  
Room No. MC11-103  
Washington, DC 20433  
Unites States

COPY

Dear Mr. Chairman:

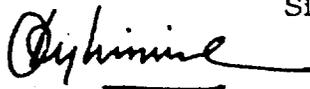
With reference to your fax message of 24 October and 1 November 1994, we are sending herewith the Attachments I-X of the Claim filed at the Inspection Panel on 24 October 1994 and the evidence of the letters of authority to represent the two of the directly affected people from the project-site. Please replace "Attachment-IV" by "Attachment-IV.A" under "5.A.1: Project Cost and Crowding Out of Social Sectors" in the Claim.

Regarding the use of the terms "directly" and "indirectly" affected people in the claim, we would like to clarify that all the four claimants, including the undersigned who also represent the other two claimants, are the "directly affected" people from the Arun III project. The term "directly affected" and "indirectly affected" have only been used in the claim simply to make distinction between the claimants who have been eligible for compensation from the project for their acquired land from those who are directly and adversely affected due to the impacts of the project at national and regional levels. The undersigned claimants fall in the latter type.

Therefore, we would like to request you to use the term "directly affected people" for all the four claimants for the purpose of the Claim.

Please contact us for any further information that you may need. We would also like to request you to contact Ms. Lori Udall, Washington Director of the International Rivers Network, 1025 Vermont Ave., NW #300, Washington, DC 20005, tel: (202) 879-4280, fax: (202) 879-3186 for additional information and documents regarding the Claim and the Attachments. Ms. Udall is our representative in Washington, DC.

Sincerely yours,



Ganesh Kumar Ghimire  
Claimant



Gopal Siwakoti  
Claimant

enclosure

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INTERLAWS

NOV -8 PM 2:12

INTER-CONTINENTAL LAW ASSOCIATES, INC.  
P.O. Box 2809 - Putallsadak, Kathmandu, Nepal (977-1) 226325

The following is an unofficial translation of the authorization letter of  
to Mr. Ganesh Kumar Ghimire in connection with the  
filing of a claim at the Inspection Panel. The original Nepali version (attached) is a  
legally valid authorization letter according to the National Code of Nepal.

I, \_\_\_\_\_, the resident of Khrang Village 7, of Sankhuwa-Sava District have received the cash compensation of my land that is acquired by the Government of Nepal for the access road for the proposed Arun III Hydroelectric Project. This has adversely affected my economic condition since I was not used to the cash economy and I already spent the money that I received. In the process of compensation, I was neither informed nor asked whether I could choose land to land compensation. In addition, I have not been able to know what are the direct benefits of the project to me. I am also not well-aware of relevant laws and rules. I am hearing that there have been many debate and controversies about the project at local, national and international levels. I, thus, hereby authorize Mr. Ganesh Kumar Ghimire, age 34, the resident of Malta Village 5, Sankhuwa-Sava District presently leaving in Kathmandu Municipality 10, Kathmandu District, and a member of the Arun Concerned Group, to represent my rights and interests by filing a claim against the World Bank at the Inspection Panel. I have fully accepted that a claim to defend my rights and interests by direct and indirect effects of the project at present or in future be filed on my behalf. I or my representative will be ready to furnish the Panel further information that it may require. Dated October 16, 1994.

Chandramani Adhikari. L.N-3175

Chandra Mani Adhikari, Attorney, Supreme Court of Nepal  
October 26, 1994

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INTERLAWS

94 NOV -8 PM 2:12

INTER-CONTINENTAL LAW ASSOCIATES, Inc.  
P.O. Box 2809 - Putalisadak, Kathmandu

THE INSPECTION PANEL

The following is an unofficial translation of the authorization letter of  
to Mr. Gopal Siwakoti in connection with the filing of a claim at  
the Inspection Panel. The original Nepali version (attached) is a legally valid  
authorization letter according to the National Code of Nepal.

I, \_\_\_\_\_ the resident of Baneshwor Village 7, Baneshwor Guthi  
of Sankhuwa-Sava District have been denied the compensation for the Guthi (trust) land  
that is acquired by the Government of Nepal for the access road for the proposed Arun III  
Hydroelectric Project. This has adversely affected my economic condition. In addition, I  
have not been able to know what are the direct benefits of the project to me. I am also not  
well-aware of relevant laws and rules. I am hearing that there have been many debate and  
controversies about the project at local, national and international levels. I, thus, hereby  
authorize Mr. Gopal Siwakoti, age 33, the resident of Hwaku Village 4, Terathum District  
presently leaving in Kathmandu Municipality 32, Kathmandu District, and a member of the  
Arun Concerned Group, to represent my rights and interests by filing a claim against the  
World Bank at the Inspection Panel, and to take necessary steps for the adequate and/or  
land to land compensation. I have fully accepted that a claim to defend my rights and  
interests by direct and indirect impacts of the project at present or in future be filed on my  
behalf. I or my representative will be ready to furnish the Panel further information that it  
may require. Dated October 16, 1994.

*Chandramani Adhikari. L.N. 3175*

Chandra Mani Adhikari, Attorney, Supreme Court of Nepal  
October 26, 1994

## THE HISTORIC DECISION OF THE SUPREME COURT IN FAVOR OF THE RIGHT TO INFORMATION ON THE PUBLIC LITIGATION OF ARUN III HYDROELECTRIC PROJECT

On May 8, 1994 the Supreme Court issued an order in favour of the petitioners and against the defendant: Ministry of Finance, Ministry of Water Resources, Nepal Electricity Authority and Arun III hydro-electric project. This came after the series of hearings on the historic public interest litigation filed by the Executive Director of INHURED International, Advocate Gopal Siwakoti 'Chintan', and a human rights activist Dr. Rajesh Gautam, demanding the right to information regarding the controversial Arun III hydroelectric project as the dispute comes under article 88 (2) of the Constitution of Nepal which provides for such litigation and the solution of the legal and constitutional disputes regarding the project. According to the decision made by Joint Bench of Justices Mr. Haragovinda Singh Pradhan and Mr. Keshab Prasad Upadhyaya, the defendants should provide all information regarding the Arun III according to the article 16 of the Constitution.

The Supreme Court has made a new and historic interpretation of legal principles in the context of the lack of necessary laws for the enforcement of the right to information in Nepal and the situation in which several provisions of other existing laws are yet to come into force. It has decided that up to the time when appropriate laws are not enacted, the government agencies should provide information to the Nepali citizens by applying the following guidelines and procedures:

1. The applicant should first demand the list of documents from the defendants.
2. If the defendants provide the list within seven days, the applicant should demand an inspection of the concerned documents.
3. If the demand is made according to clauses 2 of these procedures, the defendants should set the time.

Matthias Florenz, Member, GLOBE EC

Carlos Pimenta, Vice-Pres., GLOBE EC

Kaneshige Wakamatsu, Member, GLOBE Japan

Eva Quistdorp, Member, GLOBE EC

Tamako Nakanishi, Member, GLOBE Japan

Kiyoko Ono, Member, GLOBE Japan

Anatoly Shabad, Member, GLOBE Russia

Noboru Usami, Member, GLOBE Japan

Vitaly Sevatyaynov, Member, GLOBE Russia

Constance Morella, Member, GLOBE USA

Jolene Unsoeld, Member, GLOBE USA

*(printed from the original text)*

**Address:**

Ginza Form 21 Bldg., 7th Floor

8-13-4 Ginza, Chuo-ku,

Tokyo, J-100 Japan

Tel: 81-3-3545-9555

Fax: 81-3-3545-8620

## GLOBAL ENVIRONMENTAL GROUPS ON ARUN III HYDRO-PROJECT

As the debate on the status of the Arun III hydro-electric project is intensifying in Nepal, global environmental groups have been expressing their critical concerns to the World Bank, other donors and the Nepali government authorities. Such major concerns such as adverse impacts on society, culture and environment, cost and benefit, debt burden, donors' inappropriate conditionalities, heavy use of foreign manpower and absence of local human resources, lack of effective participation of the local people in decision-making and implementation. Some of these organizations include:

1. Both Ends (The Netherlands)
2. Friends of the Earth (USA)
3. Global Legislators Organization for a Balanced Environment (Japan)
4. International River Network (USA)
5. Netherlands Committee for IUCN (The Netherlands)
6. United States Environmental Protection Agency (USA)
7. Women's International League for Peace and Freedom (Switzerland)

# INTERNATIONAL SOLIDARITY ON ARUN III CAMPAIGN

## LETTER OF CONCERN TO THE WORLD BANK BY THE GLOBE

Global Legislators Organisation for a Balanced Environment

March, 8, 1994

Mr. Lewis T. Preston  
President  
The World Bank  
1818 H Street, NW  
Washington, DC 20433

Dear Mr. Preston:

We write to express our concern over the proposed Arun III hydroelectric dam project on the Arun River in eastern Nepal. It is our understanding that this project is scheduled to come before the Board for a vote in April.

We recognize that detailed environmental impact statements have been prepared for the Arun project and that the Government of Nepal supports the building of this hydroelectric facility. While we are sensitive to the Government of Nepal's desire to meet the energy needs of its country, we are concerned that the Arun hydroelectric dam and its accompanying access road and associated transmission lines, as currently planned, may pose serious economic, environmental and social impacts that have not been adequately addressed.

Arun III would be one of the most expensive hydro power projects in the world. As you know, the cost of the project at present is estimated at \$764 million, an amount greater than Nepal's national budget. Furthermore, there are reasons to believe that, although lengthy, the environmental impact statements are incomplete. Finally, we are concerned that the

assessments have not adequately taken into account the adverse social impacts of opening up this isolated area of the Arun valley by constructing an access road and bringing thousands of people to the remote project site.

We urge the Bank to give serious consideration to alternatives put forth by Nepalese NGOs that utilize the extensive small-scale and mini-hydro potential of Nepal. Such an approach would be considerably less expensive and result in a lower debt burden for the Nepalese, be less detrimental to the environment and probably would not require the construction of new roads into this pristine area, and would be decentralized and smaller in scale than the Arun III proposal. Finally, this type of approach would make greater use of local materials and expertise, and could involve a greater number of Nepalese in all levels of the project decision-making and implementation than the current plan.

We strongly encourage the World Bank to carefully reexamine the economic, environmental, and social implications of the Arun III project and to give the same level of consideration to alternative approaches. We also ask the Bank to evaluate whether Arun III is the "least-cost" approach to meeting the energy needs of Nepal, a critical criterion of the World Bank's energy policy.

We appreciate your consideration of this important issue and look forward to your response.

Sincerely,

Takashi Kosugi, President GLOBE International

Akiko Domoto, President, GLOBE Japan

John Karry, President, GLOBE USA

Nikolay Vorontsov, President, GLOBE Russia

John Edward Porter, Vice-Pres, GLOBE USA

Hormo Muntingh, President, GLOBE EC

technically and economically feasible is put at 24 to 42,000 megawatts.

The existing installed hydroelectric capacity in the country (including small, big, government and individual plants) is about 250 megawatts.

### Hydroelectric Projects Already Constructed:

Name	District	Capacity	Production Year
Pharphing	Kathmandu	500 KW	1911
Sundarjal	Kathmandu	640 KW	1936
Panouti	Kavrepalanchowk	2,400 KW	1965
Pokhara	Kaski	1,020 KW	1967
Trishuli	Nuwakot	21,000 KW	1972
Sunkoshi	Sindhupalchowk	10,050 KW	1973
Tinau	Rupandehi	1,020 KW	1974
Gandak	Nawalparashi	15,000 KW	1979
Kulekhani-1	Makawanpur	60,000 KW	1982
Devighat	Dhading	14,100 KW	1983
Seti	Kaski	1,500 KW	-
Kulekhani-2	Makawanpur	32,000 KW	1986
Marsyandi	Tanahu	69,000 KW	1990
Andhikhola	Syangja	5,100 KW	1991
Tatopani	Myadi	1,000 KW	1992

### Hydroelectric Projects Under Construction:

Name	District	Capacity	Production Goal
Jhrimrook	Pyuthhan	12,000 KW	1994 June

### Hydroelectric Projects of which Detailed Studies are Complete:

Name	District	Capacity	Production Goal
Khimpti-1	Ramechhap	60,000 KW	1998
Kalitgandaki -A	Syangja	140,000 KW	1999
Arun-III (1st phase)	Sankhuwasabha	201,000 KW	2002
Arun-III (2nd phase)	Sankhuwasabha	201,000 KW	2005

The total capacity of national grid is 280 megawatts (hydroelectricity and electricity produced by diesel plants and Nepal Electricity Authority supplies electricity to about 300,000 families from this capacity. A total of only 9 per cent of the people of Nepal are benefitted by electricity.

2. We appeal to the Honorable Members of the Parliament, the political parties and all other people concerned to initiate a wide debate on this issue in the forthcoming session of the Parliament.
3. All the information regarding the different aspects of the Project should be made public by the government without further delay and discussion should start at national and local levels (Sankhuwasabha, Bhojpur and Dhankuta districts) immediately by involving the local bodies. A national consensus can be made only after such debate with effective public participation.
4. A decision has to be made regarding regional and national level benefits from the Project. Such concerns and benefits should not be imposed either from above or from foreign countries. Programs should be formulated and developed immediately for local benefits and infrastructure development before the inception of the Project. It is important for the people of Arun valley to know by what mechanisms they can be involved in the decision-making process. It is also important for them to know what developmental benefits and necessary infrastructures are they entitled to and how?
5. Arun-III is an attractive Project from the technical point of view. So necessary preparations like road construction, local development and the search for international understanding on financial resources and other necessary studies should be undertaken before implementing it.

**"LET'S BRING ARUN-III PROJECT TO A NATIONAL DEBATE AND SAVE THE COUNTRY FROM COMMISSION AGENTS AND CORRUPTION."**

### **SOME BITTER FACTS ABOUT ARUN III**

The average cost for 1 kilowatt of hydroelectricity is US\$ 2,000. In the case of Arun III, the cost is about US\$ 4,000 and it is US\$ 1,500 in India and China.

According to the estimated cost of Arun-III, 10 million Nepali rupees shall be spent every day for 10 years.

In general, there is a 10 per cent loss of electricity produced in its transmission. In Nepal, the loss of transmission and leakage-amount to 30 per cent.

It is generally assumed that in the international aid business, the commission cost in different ways can be up to 15 per cent. In case of Arun-III, the Commission cost of 10 per cent of the official cost estimates amounts to 3,800 million Nepali rupees. If the decision-makers are purchased at the cost of 10 million rupees each, it can purchase 380 decision-makers of this country.

The proposed 117 kilometer road for Arun-III will be the costliest road in Nepal (50 million rupees per kilometer).

### **HYDROELECTRICITY IN NEPAL (1993)**

Nepal is considered to be rich in water resources. The waters of our rivers which flow from the altitude of the Himalayas to the Terai (lowlands) which is slightly higher than the sea level. The total hydroelectric potential of Nepal is 83,000 MW. The hydroelectric potential which is

From the technical point of view, there can only be assumptions about GLOF and the floods caused by the stoppage of river as a result of landslide. Such a risk can be avoided if a regular study is made about the level of water in such glacial lakes and arrangements made for the flow of water at an appropriate time. The country lacks the capacity for such works at present. Such studies have so far been prepared only on the initiative of foreigners. So the question of follow-up and detailed examination and control are beyond our reach. In this sense, the first condition for the construction of Arun III is to develop our own capability.

9. The present cost estimate for the project is only for the first phase. It includes the dam, one tunnel, a power house with the capacity of 201 MW, the transmission line up to Duhabi and the access road. There is still no idea about financing the second phase of the project. There is a lesser possibility of acquiring a soft loan for the second phase of the project. Several donors are talking about the completion of the second phase of the construction only by commercial loans. It is also said that the second phase of the project is not attractive for such loans. If the second phase of the project can not be completed for any reasons, the rushed construction of the first phase of the project will only mean the destruction of the landscape of the valley.

Similarly, the double circuit 220 kilovolt transmission line up to Duhabi is not sufficient. Such transmission lines are required up to the east and west of Duhabi. The necessary expenditure for this purpose is still unaccounted for. On the other hand, the

international financial institutions like the World Bank are to make their final decisions in March 1994 in such a unclear state of things while other efforts are underway to conclude an agreement with international contractors forcing the country towards an unbearable commitment.

10. At the moment, Nepal has foreign loans of US\$ 1,800,000,000. Arun-III will add 540 million more on this amount. If we estimate the loans to be acquired for other projects by the year 2000 the total foreign debt of Nepal will reach US\$ 24,00,000,000 easily. Even if the whole revenue of 300 million a year is used for debt services, the country can only be free of debt after eight years only. By the year 2000, the per capita national debt burden will be 36,000 rupees which includes every Nepali, those enjoying electricity and those deprived of it. At that time, Nepal is certain to be ahead of Brazil in terms of hydroelectric resources and the highest per capita level of foreign debt. Is it proper to add foreign debt in the name of development? It is a matter of grave concerns to all of us.

## OUR CONCERNS

1. The country should not make a hasty decision on Arun-III which requires a big amount of investment. The final decision should be made after a national debate. We appeal to all concerned groups to expose the scheme of making the country committed to such an high sounding project, which if implemented in its present form, is going to result in unforeseen economic, social and developmental consequences.

implementation (10 years), possibly forcing the people of one of the five poorest countries of the world to revert back to other cheaper, depletable and environmentally unfriendly energy sources. Instead of a hasty decision on the construction of Arun III, we should think of taking up small and medium size hydro-electric projects immediately which can supply electricity before the year 2000 cheaply and with lower investments by using available financial resources and local capabilities. Otherwise, it is difficult to imagine how the Nepalese will use electricity at such alarmingly high prices.

6. The Arun valley comprising the whole of Sankhuwasabha, many areas of Bhojpur and a large area of Dhankuta districts, is considered to be rich in natural resources. The bio-diversity in its Northern parts as a result of variation in altitude, its micro-climatic zones, its still intact pristine forest in the valley with rare wildlife and valuable medicinal plants, its greenery, river and streams are unique and they need to be protected. These cannot be protected by simply giving directives to the contractors who are to do the construction work of the project. For about 450,000 people living in this valley these environmental resources are factors closely linked to their livelihood. A proper way of mobilizing these resources in a sustainable way should be developed with the participation of the local people. A basic framework can be created within a few years by conducting programs for environmental protection and the use of resources with the participation of local people. Without a sound basis for environmental protection

(mechanism and with only a window dressing in saying that attention shall be given to such things during the period of the construction of the project), the construction of Arun III project can create long term and permanent negative effects on the environment.

7. It is widely known that a large part of the waters to be used for Arun-III flows down from the Chinese autonomous region of Tibet and that 80% of this river basin lies in Tibet. It has been widely discussed that there are several projects (irrigation and hydro-electricity) in operation in Tibet to use the water of the Arun river. It has also been proven by international experience that the agreements and goodwill of both countries are necessary for hydro-electric development projects on a common river. In this context of Arun III, adequate homework needs to be done in this regard and HMG of Nepal has not made any efforts to secure the agreement of the Chinese government. At present there are no big projects in Tibet utilizing the water of the Arun river. However, we can not say with certainty that such big projects will not be initiated within a period of 40-50 years in the future. So, it is necessary to secure the agreement of the Chinese government in advance. For such long term agreement, the parliament must play a significant role.
8. In spite of many arguments of safety against geographical risks like Glacier Lake Outburst Flow (GLOF) and earthquakes by the project authority, experts are not satisfied with the information and studies available and they say that the studies and research done so far are incomplete and unsound. No project can be fully free of risks and there is always a room for additional study and research. From

dimension. In our country where a new political system based on the participation of the people has just been initiated, the future of the country can not be bright unless development and politics are complementary. In such a context, the lack of clear direction regarding the available resources to be mobilized for development will lead to a bleak future. The popular slogan few years ago, "Green Forest is the Wealth of Nepal" has now become senseless. Our forests instead of being assets for development have become a liability for the country as they are to be protected with loans and assistance from other countries. It is necessary for all to be conscious about the process of gradually developing water resources, the only remaining resource in Nepal, in a least cost optimum manner. Otherwise, like the forest resources, water resources will prove to be a burden to the country. If we go on undertaking hydro-electric projects beyond our capacity, depend only on foreign consultant services and contractors and focus our attention only on big projects, the time will come when we have to be fully dependent for the maintenance of such hydro-electric projects. Arun III and its presentation in the present shape and form has ignored the present and future need of the country and it is to push the country further towards the brink of national disaster.

4. Although Arun III may be projected as an attractive project by its proponents, this project can only be beneficial to the country when we can sell the electricity produced to the northern parts of India (Bihar UP and West Bengal). In the absence of the commitment of the buyer (such as a guarantee

that India will buy the electricity generated from Arun project at a market rate) and other congenial conditions prior to implementation. The future holds enormous uncertainties with bleak prospects. Infrastructures must first be developed, since it takes considerable time for the completion of attractive projects, especially big projects. It is an established fact that donors propose a hike in electricity tariffs as a pre-condition for loan negotiations. The construction of roads, the development of local capacity, mitigation measures for deteriorating environmental and social balance, the infrastructure for housing in areas with high population density, community and local development (agriculture, health etc.) are things which must be given top priority and developed first. These preconditions will determine and create necessary infrastructures for a huge project like Arun III, to be implemented. In the present situation, when attention needs to be primarily focused on developing these preconditions, it will not be in the interest of Nepal to decide on the construction of the project while completely ignoring the development of basic infrastructures.

5. Arun III, which is supposed to supply electricity after 2000 cannot be the solution for the present scarcity of power load shedding. We must look for other alternatives such as Khimti, Bhotekoshi and Modi Khola project to supply electricity before that period. The electricity rate is expected to reach US \$ 12 cents/KWh or Rs. 6.20 per unit, a very high price even by the standards of a developed country. The implementation of Arun III will further burden the people with more rate

200 MW at present to about 700 MW by 2005. In the future all aspects of national life such as development works, industries, transport, commerce, health, education and administration sectors as well as the individual and domestic life of many Nepalese will be dependent on the supply of electricity. In this situation, the electricity supply system of the country will be highly dependent on Arun III. If there are any big problems in this risky project or if the electricity cannot be supplied due to hitches it will be difficult for the country to get over the subsequent negative impacts. Although Arun III is now claimed to be a 'safe' project, the 'safe' project Kulekhani HEP was damaged considerably by the recent floods and the country is still suffering from load-shedding. The big question is whether the country can withstand this particular risk and its potential impact. In view of the low risk bearing capacity of the country, it is reasonable to broaden the base of its electricity supply system, i.e. the national capacity should be increased through the construction of many medium-sized hydro-electric projects spread throughout different geographic regions of the country. In such a manner the element of risk will be reduced. Serious thought towards constructing Arun III should be given at a more appropriate time when the country has attained sufficient capacity and capability.

2. In a country like Nepal, the annual budget is about US Dollar 400 million inclusive of all development expenditures for the year (including salaries, allowances, graft, the profit of contractors and the contribution of poor Nepalese). There has been no specific

discussion in the parliament before the final decision on Arun III (US Dollar 764 million) implementation is taken. If the country is committing itself now to this project with the help of commission agents and corrupt and vested interests, this commitment needs to be fulfilled by any party which forms the government in the future and the country cannot retract or escape from the adverse effects. A national debate is necessary on Arun III before any further commitments are made and it is imperative for all to work towards a national consensus.

All the agreements and accords to be concluded or commitments to be fulfilled regarding Arun III should be postponed for the time being to enable wide national debate. There is a provision of about 10% local investment (about US \$ 142 million) to be made by the government and the Nepal Electricity Authority (NEA) for the Arun III project. This is a huge amount and it will have to be diverted from many priority social sector programs needed to uplift the people from poverty.

3. In a developing country like ours where the rate of growth is minimal, the adoption of sophisticated technologies and the use of expensive international contractors without proper attention to local resources and capacity has been proven wrong. Development does not mean a combination of activities to be carried out only on the strength of external resources and capability. Quite contrarily, it is an internal process to make the Nepalese society more self-reliant, to increase the standard of living of Nepali people and in totality to transform Nepali society to a higher economic and social

As the financial viability of Arun III is contingent on export of electricity to India over and above the committed exchange of 50 MW currently agreed upon with India, the donors insisted initially on an agreement to be in place for the export of power. However, this has yet to materialize. The huge financial resources necessary for project implementation and the funding constraints necessitated the postponement of project construction. This was one of the major reasons, for changing the project site and the implementation schedule for the installation of the 402 MW single stage and the 268 MW, and 134 MW two staged construction to be completed by 1996/1997 and 2000/2001 respectively. The 201 MW Baby Arun has been tailored to meet the financial requirements and fit inside the macroeconomic resource affordability envelope of the poor country. It must be noted that no unbiased LCGEP has been conducted to justify the project as being in the least cost generation sequence in the changed context of delay, revised load demand, export constraints and availability of latest feasibility reports of other attractive projects suited to the country's current development needs. (In the LCGEP study Arun III was included as a project to be constructed by 1997 at a cost of 720 million US Dollars with a capacity of 402 MW in a single phase.)

### **INDISPUTABLE FACTS**

Water is considered to be the most dependable factor in the natural resources of Nepal. There is a necessity of proper development and multipurpose use of water resources in Nepal where available resources for modernization and development are scarce. This is an indisputable fact.

If any other small, medium or big projects are really less expensive, have multiple usage and are conducive to national and local welfare, such projects should be implemented in a proper cost effective and timely manner. In reality, a national consensus is needed in determining water resource management as part of a well-planned national development agenda.

From the long term perspective, the implementation of Arun III in its present form may not be justified to increase electricity consumption and generation in the country. It would therefore be proper to develop the necessary infrastructure in a less expensive manner and with public participation at different levels.

In a poor country like ours, it is a well known fact that development with the help of external agencies is largely decided by commission agents, corrupt decision-makers and businessmen and biased international interests. These selfish elements are always interested in big projects that involve only few people. For them, many small projects and the involvement of many people in the decision-making process is problematic and not profitable. According to our experience, large numbers of small and medium projects can be conducive to national interest and helpful to the people.

### **CONTROVERSIAL ISSUES**

1. The proposed implementation of Arun III project in the present changed context will push the country to a great risk. The addition of 402 MW of electricity by a single project like Arun III will increase the total

Development Bank and Germany assured US \$ 550 million as assistance for the project. A reconfirmation study or Arun III with commencement in 1990 was then made, wherein manipulations were again made which projected Arun III as the least cost sequence. Though the initial LCGEP looked at the 402 MW development and envisaged construction beginning in 1990 and completion of works by fiscal year 1996/1997, the reconfirmation study considered the implementation of 402 MW single phase alternative and the 268 MW and 134 MW two staged development alternative with all infrastructures needed for the 402 MW to be constructed in the first phase itself. The revised implementation schedule targeted commissioning in 2001. One of the major assumptions in justifying Arun III was the expected export of all surplus power, more than half the installed capacity, to India.

Following the World Bank's loan of about US \$ 34 million to construct the access road, the Department of Roads His Majesty's Government of Nepal (HMG/N) invited bids for the roads in 1989. Though the lowest bid received was nearly double this amount, due to reasons proven only to the World Bank and the authorities, the bids were rejected and the access road construction was integrated with the Hydroelectric Project activities to be undertaken under the Ministry of Water Resources, HMG/N responsibility. The present estimated financial cost of the access road is said to be US \$ 149 million, twice the initial bid amount.

## DETAILS OF THE PROJECT

For the run of river hydroelectric scheme a 68 meter tall and 155 meter long concrete dam will

be constructed at Num Fyaksinda in the northern part of Sankhuwasabha district to divert the waters of the Arun river through two 11.5 kilometer long tunnels of 5.6 meters diameter to the underground power house at Pikhawa of Diding Danda Village. Six units of 67 MW capacity will produce 402 MW of electricity to be transmitted to Duhabi in Sunsari district by a 220 kilovolt transmission line, 120 km long. The construction of a 117 km. long access road from Hile of Dhankuta district to the power station and the dam is also considered to be an integral part of this project. Though the full capability of 402 MW will generate 2885 GWh of energy, the first phase of 201 MW will generate average energy of 1744 GWh out of which 1513 GWh will be firm energy. The first phase will have only one tunnel and power house for 3 generating units only. The total cost for 201 MW first phase is estimated at US \$ 764 million. As a result, the 4.5 meter wide access road will become a very costly road (1.25 million US \$ per km as compared to the average US \$ 0.2 million per km), in fact, the costliest road built in Nepal to date. In the construction program of the project, powerful *Chenuk* helicopters are to be regularly used and the simultaneous construction of the entry road and the dam are to be done by the same foreign contractor. During the construction period, the number of people to be employed for daily work will vary from 3,000 to 10,000. To complete the construction work as early as possible, sophisticated machines and latest technologies are to be used with minimal use of local manpower and resources. The dam, tunnel and access road components have been combined into a single package and contracted to a foreign contracting joint venture depriving the local and international contractors of bidding for the access road only.

**ARUN-III:  
AN INTRODUCTION  
AND  
ISSUES OF CONCERN**

According to the Koshi basin study undertaken by the Japan International Cooperation Agency (JICA) in 1985, six sites of the Arun river were identified as attractive for further studies with a view to generate electricity. The third hydro-power site among the six as counted from the north was named as Arun III. The study also concluded that altogether 3 projects — Arun III, Arun II which is called upper Arun and Arun IV which is called lower Arun — could also be financially competitive. On the basis of this conclusion, the pre-feasibility study of Arun III was immediately undertaken in 1985 and was completed by 1987. Based on the conclusion and suggestions of these study reports prepared by foreign consultants with foreign aid, efforts were made to acquire financial assistance for this 402 MW project with their cooperation. A comparative study of other candidate Hydro Electric Projects was undertaken in 1988 (Least Cost Expansion Generation Plan—LCGEP) wherein manipulations were made to justify Arun III project as the least expensive by arbitrarily padding the costs of other attractive candidate projects. With that objective achieved, Arun III was treated as a priority project and a detailed engineering study was undertaken with financial assistance from foreign donors and lending agencies (hereinafter "donors"). In the meeting held in Paris in May 1988, the donors

## FOREWORD

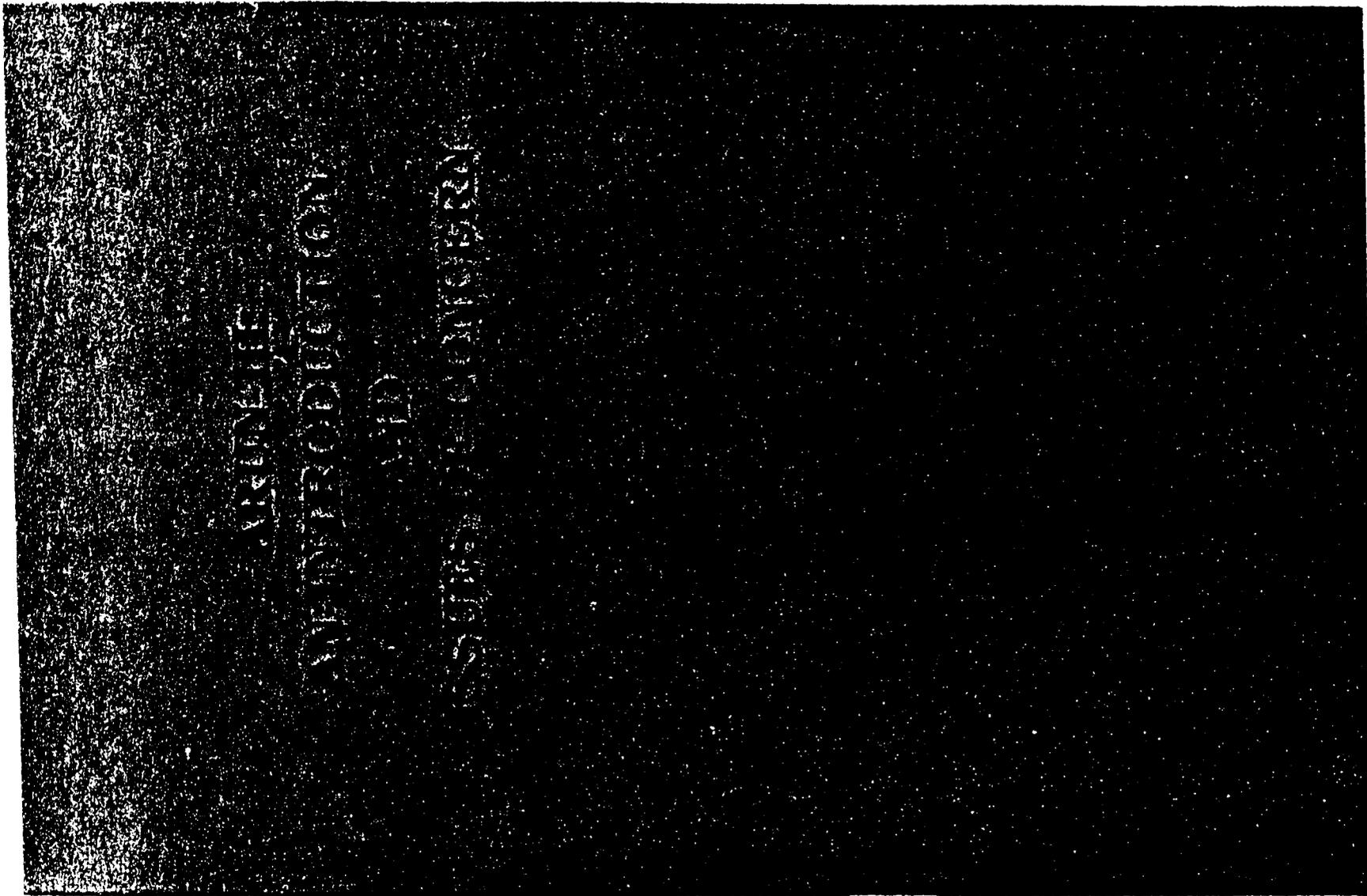
Arun-III hydro electric project will have tremendous long-term impacts on the socio-economic life of the Nepalese people. In view of the effect that such an undertaking may have on national development needs, environment, realization of human rights and promotion of participatory democracy, the Arun Concerned Group (ACG) has evolved from among citizens' groups and individuals to raise concerns. ACG is an open participatory platform of individuals and organizations for equitable and participatory development approaches, environmental conservation, sustainable development and the realization of human rights. This Group advocates that Nepal needs adequate infrastructures and local capabilities to pursue the path of sustainable and people-centred development. ACG firmly believes that creating huge superstructures like Arun III shall not meet any worthwhile cause of the Nepali nation and its people.

This document has been prepared by a group of professionals, namely Bikash Pande, Ganesh Ghimire, Gopal Siwakoti, Gopi Upreti and Pitambar Chhetri, for the Arun Concerned Group.

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**BOOK REVIEW**

**JUSTICE DENIED!  
HUMAN RIGHTS AND  
INTERNATIONAL  
FINANCIAL INSTITUTIONS**

The book is indispensable for anyone who wants to understand how the global economic system works today and the terrible toll it is taking on the world's people and environment.

Based on presentations by more than 25 speakers at a Public Hearing held during the UN World Conference on Human Rights in Vienna in June 1993, the book addresses obstacles to the realization of civil, political, economic, social and cultural rights and the right to development around the world. Speakers cover the effects of debt, structural adjustment and other policies of the World Bank, the International Monetary Fund, the General Agreement on Tariffs and Trade, transnational corporations, donor agencies and governments on children, youth, students, women, peasants, indigenous peoples, workers, and the environment.

In easy-to-read language, the voices of the people from all regions of the world help make the connections between human rights, the environment, development, peace and security, and democracy and popular participation in national and international decision-making.

The book is a contribution of NGO discussions and activities related to the 50th anniversary of the Bretton Woods Institutions, the 50th anniversary of the United Nations, and UN events including the International Conference on Population and Development, the World Summit on Social Development, and the World Conference on Women.

The book has been edited by Janet Bruin, and published by Kathmandu-based International Institute for Human Rights, Environment and Development (INHURED International) and Geneva-based Women's International League for Peace and Freedom (WILPF). Copies of the 185-page book can be ordered in US\$14 or equivalent from: INHURED International, P.O. Box 2125, Kathmandu, Nepal, tel: 977-1 419610, fax: 977-1-412538 (for Asia and Africa) or WILPF, C.P. 28, 1211 20, Switzerland, tel: (41-22) 7336175, fax: (41-22) 740-1063 (for Europe) and Laxman Sedhai, 2705 S. Fern St. #12, Arlington, VA 22202, tel: (703) 683-7501 (for North America).

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## NEPALESE ABROAD CONDEMN DISSOLUTION OF PARLIAMENT IN NEPAL

Nepal Human Rights Committee-USA  
August 2, 1994, Washington, DC

The Nepal Human Rights Committee-USA would like to express its deep concerns regarding the recent dissolution of the "sovereign" Parliament by the King upon the so called recommendation of the Prime Minister which was done without proper consultation with the political parties in the Parliament. We view it no more than a consequence of the defective Constitutional provisions that did not guarantee the real sovereignty of the Parliament, but retained the absolute power of the King in many aspects such as this. In the long run, what Nepal needs is struggle for the amendment of the many controversial, undemocratic and unclear provisions of the present Constitution so that the sovereignty of the people and the basic characteristics of a constitutional monarchy can be materialized in real sense. This has been the position of NHRC-USA since it submitted its critical recommendations to the then Constitution Recommendation Commission in 1990.

With regards to the present political crisis, NHRC-USA would like to urge all political parties, citizen's groups and the people of Nepal to work for the establishment of a healthy and trustworthy political environment so that free, fair and impartial electoral processes can be ensured for the November elections guaranteeing the possibilities for the victory of more democratic, honest and dedicated new generation leadership who have long-term visions for human rights and democracy that Nepal is in desperate need.

### Alliance for Democracy and Human Rights in Nepal

July 27, 1994, New York

The Alliance for Democracy and Human Rights in Nepal expresses its outrage and condemnation of the dissolution of the House of Representatives - "Pratinidhi Sabha" on July 10th, 1994 by His Majesty the King on the undemocratic and immoral recommendation made by Prime Minister Girija Prasad Koirala - who had earlier tendered his resignation.

The conspiracy and "Grand Design" enacted by the various reactionary forces to weaken democracy and crush the people's aspirations is obvious. This action is a direct violation of the goals and spirit realized by the Jana Andolan in April 1990.

As long as this government remains in power, no fair and impartial elections will be held. To guarantee the fairness and impartiality of the November 1994 election,

a caretaker government must be formed which will be acceptable to all the concerned parties.

A national consensus and goodwill must be forged by all the political forces to safeguard Nepali nationalism, monarchic multi-party democracy and human rights in Nepal.

We hope that the concerned parties will fulfill the people's aspiration.

We express our solidarity with the brothers and sisters back home in Nepal.

## CONSTITUTIONAL PROVISIONS REGARDING DISSOLUTION OF PARLIAMENT AND "SOVEREIGNTY"

Article 42: Special provisions Concerning the Council of Ministers:

(1) If no one party has a clear majority in the House of Representatives, His Majesty shall appoint as Prime Minister a member who is able to command a majority with the support of two or more parties represented in the House.

(2) If no member is able to command a majority in the House of Representatives even pursuant to clause (1) above, His Majesty shall appoint as Prime Minister the leader of the Parliamentary party that holds the largest number of seats in the House of Representatives.

(3) A Prime Minister appointed pursuant to clause (1) or (2) above shall be required to obtain a vote of confidence from the House of Representatives within thirty days.

(4) If a Council of Ministers constituted pursuant to the provisions of clause (2) above fails to obtain a vote of confidence from the House of Representatives, His Majesty shall dissolve the House of Representatives and issue an order for holding elections within six months.

Article 53(4): His Majesty may dissolve the House of Representatives on the recommendations of the Prime Minister. His Majesty shall, when so dissolving the House of Representatives, specify a date, to be within six months, for new elections to the House of Representatives.

The Preamble of the Constitution states that "the source of sovereign authority of the independent and sovereign Nepal is inherent in the people". Article 3 of the Constitution provides that "The sovereignty of Nepal is vested in the Nepalese people and shall be exercised in accordance with the provisions of the Constitution."

A landmark interpretation of these provisions is expected from the Supreme Court in few weeks.

These initiatives have been considered as best examples of NGO-government co-operation in the effective implementation of various international human rights treaties which Nepal is a State Party (including conventions relating torture, racial discrimination, slavery, discrimination against women, and covenants on civil, political, and economic, social and cultural rights.) Children and Women Department of the National Planning Commission is in the process of finalizing the report with the representatives of Child Watch and Child Awareness Group. Interested people and organizations can contact to: Child Watch, c/o INHURED International, P.O. Box 2125, Putalisadak, Kathmandu. tel: 977-1-226325, fax: 977-1-412538.

### **HUMAN RIGHTS YEARBOOK 1993 RELEASED**

Informal Sector Services Centre (INSEC) has released its 1993 Human Rights Yearbook and has documented series of human rights violations and abuses by police, with special highlight on discrimination of untouchability. The 512-page Yearbook can be available from: INSEC, P.O. Box 2726, Kathmandu, Nepal. Tel: 977-1-270770.

### **NEPAL DISAPPOINTED UN COMMITTEE AGAINST TORTURE**

The Geneva-based UN Committee against Torture, a treaty monitoring body, has expressed its serious concerns over Nepal's 2-page initial report about the implementation of the UN Convention Against Torture ratified by Nepal in 1991. The Committee has requested the government to submit its detailed report within one year, including legislative, judicial, administrative and other measures undertaken for the abolition of the practice of torture in Nepal, punishment to perpetrators of torture as a crime, adequate compensation and rehabilitation to victims of torture and their families as well training to law-enforcement agencies.

### **REPORT OF SUPPORT TO FLOOD VICTIMS IN NEPAL**

Nepal Human Rights Committee lunched a fund-raising campaign to support flood victims in Nepal last year. The amount of \$2,680 from the total amount of \$2,933 (\$253 as per expense) has been sent to the Natural Disaster Relief Support Group (NDRSG), a non-governmental relief organization composed of social workers, human rights activists and political party leaders.

NHRC has received a report from NDRSG that the donation has been used to provide immediate supplies to the flood victims of Gadhou VDC (Routahat) and Nipane VDC (Sindhuli). NDRSG is planning to further support these two villages in housing, schooling and medical care, including income-generation programs.

**Anyone who is interested to make a generous donation in this effort can send a cheque or money order payable to the Nepal Human Rights Committee.**

NHRC would like to express its sincere thanks to the following individuals for their generous contribution to this humanitarian cause in support of the flood victims in Nepal: Audrey Chapman, Pure Ghimire, Shanker Shrestha, Ganesh Lal Kayastha, Balram Aryal, Bishnu Paudel, Rita Tiwari, Laxman Sedhai, Sanjeev Singh, Sukhdev Shah, R.C. Kharel, Sunita Siwakoti, Bir. B. Adhikari, Mina Cheetri, Madhusudan Giri, Huyen B. Le, Annie Goorman, Monique Voisin, Barbara R. Burton, Quazi M. Hafiz, Emil M. Sunley, Joao D.E.N. Santos, Anil & Nirmala Bhatia, Beryl Jeffrey, Johannk Schultz, Ram C. Malhotra, Louise L. Bourne, Luke Whitesell, Homnath Subedi, Mahid Mejid, Tarek Chubuki, Bipin Karki, Pawan G.C., Sonu Regmi, Bhaskar Giri, Helen Abadzi, Meena Sharma, Devi Acharya, Kabindra Sitoula, Udaya Mainali, Netra Ghishing, Suresh Baral.

### **ARUN III COMMISSION & ACTIVISTS UNDER PHYSICAL THREAT!**

NHRC-USA is concerned that a group of people claiming themselves as the "supporter" of Arun III attacked the office of the People's Commission on Arun III Hydroelectric Project and mishandled some members of the Commission on July 22, 1994 in Kathmandu. However, no serious injuries occurred. The mob then moved towards the office of INHURED International, the Secretariat of the Arun Concerned Group, with threats of physical attacks to its key officials, but were interrupted by the police. The hooligans were also searching for activists who are leading the campaign and those who came to the World Bank in June to present their arguments on Arun III. NHRC would like to urge the Nepali government to undertake necessary measures for the safety and physical integrity of those who are expressing their concerns on Arun III and take legal action against those involved in such unlawful activities.

### **ELECTION OBSERVATION IN NEPAL**

Nepali human rights groups have formed a National Election Observation Committee (NEOC) to coordinate local and international election observers during the upcoming elections. Washington, DC-based National Democratic Institute is also planning to get involved in the monitoring process.

Gautam (publication), Prabha Bhattarai (cultural coordinator), and Suresh Baral, Ram Malakar and Niva Pradhan and Paul Gallmgher as member at-large.

The annual meeting of the Association of Nepalese in the Americas (ANA) also elected its new Executive Committee. Dr. Amar Giri as President, also held in Washington, DC in July. The representatives of the Arun Concerned Group and the Alliance for Energy highlighted issues relating to Arun III controversy in Nepal for the benefit of Nepalese living in the United States.

### BHUTANESE REFUGEES NUMBER 1,00,000

The number of Bhutanese refugees in Nepal has increased more than one hundred thousands due to continuing suppression of Nepali-speaking minorities in Bhutan. Bi-lateral talks for the resolution of the refugee problem with Bhutan have been held, but without significant progress. The main question remains: How to classify refugees and ensure their safe return to their home-country. These days, refugees are suffering from disease, malnutrition, and lack of adequate shelter despite the relief support of UNHCR and other agencies. Education to children has become a serious problem. Local people are complaining of increasing deforestation, and adverse impacts on social and cultural environment. Internal disagreement and infighting between different Bhutanese political parties and human rights groups have further deteriorated the situation of refugees in the camps. For more information in US, contact: Bhutanese Refugees Solidarity Group, 73 Phillips St., Boston, MA 02114, tel: (617) 742-1942 (J. Stephens).

### NATIONAL CONCERNS SOCIETY FORMED

Inspired by the work and achievement of the Arun Concerned Group in raising hydro-power development-related issues in Nepal, a gathering of concerned citizens, lawyers, journalists, human rights activists and professionals have formed a National Concern Society followed by the protest of Indian army's intervention in Nepal a few months ago. The Society has identified some fundamental issues of national concerns that need to sincerely and immediately be addressed by the government, political parties and citizens of Nepal. These issues include: adverse effects of forced privatization and foreign aid; structural adjustment programs and donors' conditionalities; accountability and transparency of government and parliament; regulation of open Nepal-India border; and control of free-flow of Indian immigrants to Nepal; resolution of citizenship problem with the issuance of national identity card followed by work permit for foreign nationals; cancellation of unequal treaties with India, e.g. so called peace and friendship treaty of 1950, and several others relating to Nepal's water resources; and cut in defense spending. The Society is said to remain completely independent from

any political party and ideology and is only concerned with national issues of common concerns and democratization of Nepali society with full respect to their human rights.

### HUMAN RIGHTS TRAINING TO LAW-ENFORCEMENT OFFICIALS

Kathmandu-based International Institute for Human Rights, Environment and Development (INHURED International) organized a three-day long human rights study session for about 80 law-enforcement officials (police, judges, prosecutors, prison and administrative officials), and lawyers and NGO representatives in Kathmandu in June 1993. The program was supported by the UN Voluntary Fund for the Victims of Torture, and Swiss Development Cooperation/Nepal. Lectures on international human rights norms and standards, minimum use of force, measures for the abolition of the practice of torture, investigation of human rights violations and compensation to victims, and experiences of human rights education and training in other countries were delivered by Nepali and international experts, including Prof. Reynaldo Ty of the University of the Philippines, and Ahmed Othmani of London-based Penal Reform International.

The training was found unique and useful according to the participants. Follow-up training programs are underway with the preparation of a manual on human rights education and training for law-enforcement officials in the country.

### CHILDREN'S RIGHTS SEMINARS AND FORMATION OF CHILD WATCH

INHURED International, Child NGO Federation, Children at Risk and UNICEF-Nepal jointly organized a national seminar on the implementation of the UN Convention on the Rights of the Child in Kathmandu in March 1993. The main purpose of the seminar was to review and make comments on the draft initial report of the government on the Child Convention to be submitted to the UN Committee on the Rights of the Child which is based in Geneva. The 200 participants, including 30 children, coming from different parts of Nepal have made various recommendations to the government for the realization of child rights (particularly survival, development, protection and participation) and formed a follow up federation called CHILD WATCH for the implementation of its Kathmandu Declaration on the Rights of the Child in Nepal—INHURED International as the Coordinator and Secretariat. In addition, the same groups facilitated another week-long national seminar of children, for children and by children with the establishment of a Child Awareness Group and a separate Kathmandu Declaration.

therefore, the project must go ahead—this can not be accepted as an adequate defense. The fact is that the Government is experiencing something entirely new—it is extremely rare in Nepal for a citizens' group to question Government's judgment on public sector investment priorities, much less taking legal action and demanding explanation! However, if we believe in a more open system of government, citizens' involvement in the issues of national interest should be encouraged and appreciated. It follows then that Government's response to ACG should be viewed as an opportunity to build public support for the project and make necessary adjustments if that becomes apparent after debating both sides of the issue. It will build democracy and also will help build a better project.

## CONSTRAINTS OF NEPALI STUDENTS IN AMERICA

- S.D. Shah

Growing affluence of the upper middle class families in Nepal's urban centers and most especially in Kathmandu has tended to boost the imports of luxury items. One of such items has been the college education in American universities.

Accurate statistics are not available but it is suggested that the number of Nepalese college undergraduates in American universities has increased from only a few hundreds a decade ago to at least two or as much as four thousands currently.

There is little doubt that the Nepalese parents who appreciate and can afford quality education for their children are making a right decision in sending their children to American universities. However, it may be too much to expect that these young kids can so easily be transplanted in a foreign land and achieve their full potential.

The harsh truth is that most of these kids get a plane ticket to America and probably a little of pocket money. You must appreciate the fact that five lakhs rupees is still a princely sum in Nepal but its equivalent of ten thousands dollars may be just enough for the plane ticket and one year of the college expense.

The truth then is that most of the affluent family kids coming to America for college education have to take up menial jobs after a few months of arrival. To economize on the tuition costs, they choose less than high class colleges and take fewer than the full load of courses. It is not unusual to see four or five of them sharing one room apartment and arranging work schedules in order to minimize overcrowding of their limited living space. As the time passes, most of them find it difficult to balance their education and work time and, because of the pressing need to earn a living, their education suffers. Probably no more than one fourth of those coming to America for a college education

complete a bachelor's degree and the time it takes to do so is considerably longer than the normal four years.

Because going for a post-graduate education is not as much coveted in America as it is in Nepal, a majority of those finishing up college do not go on to do a Master's or Ph.D.

Despite the hardships many young Nepalese face in America, they still find it attractive to come for college here, especially since the alternatives of staying in Nepal are not all that great.

This perception, however, can change if we can offer quality college education in Nepal. Better still, if we can "import" an American standard of university education to make available to our college bound, affluent kids the American-style college education right inside of Nepal.

Many of us may remember the American University of Beirut. Before the Lebanese civil war that erupted in 1975, this university was the magnet for promising young kids from throughout the Middle East and some parts of Asia. A degree from that university was as much coveted as from the best universities in America and Europe.

Let us then give serious consideration to having universities in Nepal in collaboration with American universities and campuses. It would not take up too much of our own money. Many of the American universities may be willing to provide help—in building the campus as well as making available their teaching staff at only a nominal charge.

## NEWS IN BRIEF

### INFED OPENS ITS KATHMANDU OFFICE

The International Federation of Nepalis (INFED) has opened its liaison office in Kathmandu. INFED is an alliance of Nepalis and their organizations based outside Nepal. Its main objectives and activities are: to work for the rights and benefits of Nepalis living abroad, to encourage and facilitate their contribution for the development of Nepal, to campaign for effective and secure labor-supply laws and institutions and to undertake programs for a democratic Nepal. Those who would like to know more about INFED, and receive its newsletter can write to: P.O. Box 2809, Kha 2/407 Putalisadak, Kathmandu, Nepal. Tel: 977-1-226525. Fax: 977-1-412538.

### ELECTIONS OF ANS & ANA

The annual meeting of the America-Nepali Society held in July in Virginia has formed a new Executive Committee for the 1994 term. The Committee is composed of: Vijaya Shah (President), Linda Shrestha (First Vice-President), Saroj Prajapati (Second Vice-President), Kush Mainali (Secretary), Gajendra Aryal (Treasurer), Surid

factors of production (land, labor, capital, environment). Generally, this theory states that a country finds it cheaper to produce those things which make use of its most abundantly available factors of production. Because of the low cost of production of goods made out of abundant and, implicitly, low cost resource, the country would tend to export its abundant resource intensive products and import those products which are likely to utilize its scarce factors of production more intensively and hence can be more costly to produce.

Since the electricity we produce is based on our most abundant resource—the hydropower—it is unusual that our electricity costs should be the highest in the region and, probably, in any other country for which data are available. The problem can be stated more generally: Nepal happens to be one of the most inefficient countries in the world in terms of the provision of all public services and not just the electricity. It is not that the Government does not spend enough money, relative to its budgetary resources, on the provision of public services—water, sanitation, health, education, roads and, of course, electricity. The more serious problem seems to be that the Government is spending it too inefficiently. The result, invariably, is that the quality of the publicly provided services is low while their cost, in some cases, extremely high.

## V. Available Options

In the context of structural reform, the Government, over the past few years, has been making vigorous efforts to privatize public sector enterprises. Under private management, it is hoped, they will make an effort to become more efficient and compete more successfully or, failing that, they will go out of business. Several industrial and commercial entities have been privatized under this program and, in due course, the program is being expanded to include all of the important remaining such entities. However, there has been little discussion of the privatization of public utilities even when they are widely perceived to be wasteful and inefficient because of their monopoly position in the domestic market and an absence of competition from outside. In fact, about a dozen of the public enterprises have been excluded from the privatization program, of which the electricity and water corporations are the main ones. However, if the privatization program is concerned about improving efficiency and reducing waste, the electricity and water corporations should have on the top of the list of public enterprises to be privatized or, at least, moved from central to local jurisdictions.

Coming back to Arun Project, the Government should have shown more sensitivity to the public concern about poor quality and high cost of electricity services in Nepal before undertaking any new investment in the

public sector. It should be noted that, despite only moderate domestic inflation, electricity tariffs were increased by 60 percent in 1991, 25 percent in 1992, and by some 40 percent in March 1994. To begin with, the Government should have more vigorously perused the reform of the Nepal Electricity Authority (NEA) with a view to substantially reducing personnel costs and ensuring the efficient utilization of its repair and maintenance expenditure. An independent review of the NEA's performance relative its counterpart in neighboring countries would have suggested ways to improve operating procedures and cut costs.

Because of the well-known inefficiency of (Central) Government investment in the energy sector, more consideration should have been given to investments by local governments and by the private sector. Operations of the non-governmental entities would have provided a healthy competition to the NEA and forced it to improve efficiency or go out of business. At the least, the NEA should have been required to privatize its bill collection operations. It is believed that large commercial and industrial users of electricity pay significantly less than what they actually consume because of their substantial resources to influence the concerned officials. (It is rumored that the Soaltee Hotel, for several years, paid as little as 50 rupees per month in electricity charges to the NEA)

Because of the lumpiness of investment in the development of hydroelectricity, it may be difficult to attract local entrepreneurs. Therefore, consideration should be given to encourage private investment from overseas, with or without local participation. In this connection, the Government should look into the possibility of foreign private investment through build-operate-and-transfer (BOT) and build-operate-and-own (BOW) arrangements. Such investments in several countries have played a catalytic role in the development of their hydro resources. Not only would the Government avoid the burden of debt and risks of structural damage to facilities from floods and earthquakes but also the operation of these facilities would provide a yardstick against which the efficiency of similar facilities in the public sector, including that of NEA, can be measured.

## VI. Concluding Remarks

In a statement to the press on the Arun controversy in February 1994 the Government accused ACG for their obstructionist activities and for creating misunderstandings in public minds about the Arun Project. It further added that ACG's actions may lead to delays in the implementation of the project which may prove very costly for the country—total cost may increase to US\$1.1 billion from the present US\$764 million estimate if there is even one year delay.

If that is all the Government has to say in defense of the Arun project—that the delays will cost money and,

5. An unnecessarily large amount—some US\$140 million—is being spent on the 117-kilometer access road to the project. The proposed road will be almost ten times more costly than other similar road projects in Nepal.
6. The Government should have entered an agreement with China for assuring the uninterrupted flow of water to the project since about 80 percent of the Arun River's catchment area falls in Tibet. However, no contacts with the Chinese have been made and, reportedly, the Chinese Government has its own plans to develop hydroelectric resources in the region.
7. The project lies in the seismically active zone which poses great risks to the long-term viability of the project. Also, the risk of flooding from the sudden breaks of glacier lakes has not been evaluated.
8. The feasibility of the project will depend in some part on the sale of surplus electricity to India for which a long-term sales agreement should have been concluded. This has not been done.
9. Because of the distance involved between the project site and Kathmandu where most electricity will be consumed (some 200 kilometers), the Arun Group contends that as much as 30 percent transmission loss can be expected, compared with the normal 10 percent. Other feasible sites closer to Kathmandu should have been investigated.

### III. Cost Effectiveness

Finally, there is the concern about the cost effectiveness of the Arun project which ACG mentions but does not elaborate. However, from the author's point of view, this is the most decisive criterion against which the usefulness of this project and, indeed, of all hydroelectricity projects, past and future—should be judged.

The table below presents electricity tariff rates for household use for regional countries and for two non-regional countries to emphasize the international character of this comparison. It is assumed that households are the predominant user of electricity in developing countries and, therefore, this is the representative rate.

It is rather surprising that the cost of electricity (which is assumed to be reflected in the price to consumers) is highest in Nepal even when the country, reportedly, possesses the world's largest and more accessible hydroelectricity resource, the cheapest of all primary energy source. (Nepal's estimated hydroelectricity potential is said to be 83,000 MW or equivalent to that of the United States and Canada combined). The cost per kilowatt hour is lower even in Bangladesh, which has very little of this resource. The most surprising comparison is with Bhutan; even though both Nepal and Bhutan depends on hydroelectricity resource to about the same degree, per unit cost in Bhutan is only about one tenth of Nepal's. In terms of per capita income, which takes into account factor price differential as a possible source of

variation in cost (for reasons of higher wage and service costs in richer countries), Nepal's comparison with other countries looks more unfavorable.

The fundamental question, then, is not only that whether Nepal should make investments in the Arun project but whether it should at all the business of producing electricity!

Economic efficiency in an environment of an open trading system requires that a country should specialize in the production of only those things that it can produce at lower cost than any other country and, conversely, it should import those things which others can produce at a lower cost. Usually, the services items, including electricity, are not tradable goods and, therefore, would need to be produced locally at any cost if the community desires to use that service. However, in the case of Nepal, because of its location, electricity can be treated as a tradable good, probably amenable to more convenient transport from the neighboring countries than the normal tradable items.

If so, then what is the problem if we let the Nepalese consumers use Bhutanese or Indian electricity at one rupee per kilowatt hour than making them purchase domestic electricity which costs four, and up to 6.2, rupees per kilowatt hour? Certainly, we can manufacture automobiles and airplanes in Nepal but if these can be bought at a fraction of the cost from elsewhere then why bother producing them at all? We should, instead, concentrate our resources on producing only those things in which we have got, to use an economic jargon, a comparative advantage. This surely makes good economic sense and may also help our relations with the neighboring countries.

However, before we can be serious about this particular option, we need to know whether the cost of electricity in Nepal is high because of the natural and technical factors or, so to speak, it is man-made. In my judgment, it is entirely the latter as is reflected by the relative cost of hydropower development in Nepal vis-a-vis Bhutan and Vietnam. Bhutan's 384 MW Chukha hydroelectricity project, built during the 1980s, cost about 200 million US dollars, including the setting up of the transmission lines; this works out about US\$0.5 million per MW capacity. Vietnam's 1,920 MW capacity Hoa Binh hydroelectricity project, completed this year after 15 years' work, cost about US\$1,400 million or US\$.73 million per MW capacity. Even assuming no significant cost overruns, the Arun III project in the first phase (201 MW) will cost at least US\$800 million or US\$4 million per MW capacity. It is unlikely that such huge cost differential, even after discounting for inflation, can be attributed solely to the relative difficulties of the terrain which, probably, can be considered worse in the case of Bhutan.

### IV. Public Sector Efficiency

One of the principal theories governing trade between nations is their relative endowment of the

never been available to Kathmandu residents on a 24-hour basis. Even during those restricted hours when electricity is available (presently, two hours each in the morning and evening), the incidents of brown outs, black outs, and periods of unusual surges in the flow of current (requiring the use of surge suppresser for sensitive appliances) may be almost a daily occurrence. Inadequate and unreliable supply of electricity in the Valley, and also in the rest of Nepal, not only add to the difficulties of daily living but also hamper commercial and industrial activities and discourage the introduction of improved technology based on the use of electricity. This limits the growth of productivity and makes it difficult to improve living standards, locally as well as nationally.

It should be good news then that the Government has finally decided to do something to relieve the shortage of electricity in Kathmandu and probably sell it at a cheaper to the consumers than the current price which is probably the highest in the world (see below). The case in point is the Arun III hydroelectricity project which the Government intends to implement in two phases each having 201 MW capacity. (Nepal's present generating capacity is about 300 MW). The estimated cost of the first phase of the project is 764 million US dollars and it is expected to be completed by the year 2000; the second phase of the project may be completed five or seven years later but that will depend on the success of the first phase of the project.

However, the current news is that all is not going well with the project, still awaiting implementation. A citizen council called the "Arun Concerned Group (ACG)" has petitioned Nepal's Supreme Court to order the Government not to proceed with the project unless certain conditions are met. Under Article 15 of the new Constitution containing citizen rights to public information (similar to the American Freedom of Information Act), the ACG has asked the Court to require the Government to make public all information pertaining to the Arun III project. Further, ACG is using the provision of Article 86 of the Constitution dealing with 'public interest litigation' to raise issue with the technical and financial viability of the project. In ACG's view, the Government must seek a national consensus before making a final decision on the Arun project.

Reportedly, the Supreme Court has sided with ACG and has ordered the Government to make available to them all relevant information on the Arun Project. The Government is contesting that decision.

## II. Issues Raised by the Arun Concerned Group

In a pamphlet issued in February 1994 entitled "Arun III—An Introduction and Issues of Concern", ACG has made several assertions which raise serious doubts whether the project, as presently conceived, is really in the best interest of Nepal. The main points made in the pamphlet are the following:

1. The project is too large relative to the size of the economy. Estimated cost of just the first phase of the project—some 764 million US dollars—is almost one quarter of Nepal's current GDP. Concentration of the country's meager resources on just one project is contrary to the current development theme which emphasizes diversification. ACG contends that, instead of spending such a huge amount of money on a single project, preference should have been given to small and medium size projects chosen from various sites in the country. This would have reduced risk (not putting all your eggs in one basket) and benefited a wider segment of the population.

2. Government's preference for large projects, in ACG's view, is related to the expectation of huge kickbacks from contractors which may not be possible, or as big, if the project is relatively small. Also, ACG argues that the large size and complex nature of the Arun project will require the use of sophisticated technology and skilled manpower which will need to be imported rather than supplied locally. More local resources would have been used if several small projects had been implemented instead.

3. ACG is concerned about the impact of the project on the fragile ecology of the Arun Valley, home for 450,000 people. Up to 10,000 people will work on the project during its peak implementation period but no provision has been made for their housing, education, and health care needs. It is feared that the squatter type settlements will follow inward migration and this will devastate local forestry resources and intensify soil erosion. Surprisingly, in its current form the blueprint of the Arun project includes no plans for the development of the Arun Valley itself—plans that will continue to benefit the local population after work on the project infrastructure is completed.

4. The foreign loan commitments for the project will burden the country with unpayable debt. ACG estimates that, including loan commitments for some other projects, Nepal's foreign debt will increase from US\$1,800 million to US\$2,400 million over the next few years, which will require the Government to spend most of its revenue just for debt servicing. ACG perceives that the country will be pushed into bankruptcy if the Government takes up Arun-type projects with their heavy dependence on loan capital, foreign technology and equipment, and dubious return on investment.

preparation for November elections, particularly:

1. investigate violations of the Bank's Information Policy and operational procedures by the Bank Management;
2. study of issues and concerns raised by NGOs during the June 28th consultation meeting held at the Bank;
3. review the compliance of the Bank's policy, procedures, guidelines and standards relating to the project as the obligations of a borrower country, and access to basic project information by the affected people and the citizens of Nepal;
4. ensure the debate of the project in the next elected Parliament (November 1994) and its approval;
5. respect the decisions of the Supreme Court of Nepal on access to information on Arun III as well as the internal democratic process;
6. take into account the detailed information to be provided by NGOs in Nepal on various issues relating to Arun III, particularly environmental impact assessments and mitigation measures as well as alternatives to Arun III; and
7. satisfy with other unresolved issues relating to the life and sustainability of the project, e.g. riparian issue with China, glacier outburst, alternatives to energy development, adverse impacts in social sectors.

For more information on Arun III, contact: Arun Concerned Group, c/o INHURED International, P.O. Box 2125, Kathmandu, Nepal. Tel: (977-1) 419610 \* Fax: (977-1) 412538. In United States: Lori Udall, Washington Director, International Rivers Network, 1025 Vermont Ave., NW #300, Washington, DC 20005. Tel: (202) 879-4280 \* Fax: (202) 879-3186 \* E-Mail: [irndc@igc.apc.org](mailto:irndc@igc.apc.org)

## SUPREME COURT VERDICT ON ARUN III AND RIGHT TO INFORMATION

Denial of basic information by the Nepali Government, particularly Nepal Electricity Authority (NEA), about the Arun III Hydroelectric Project has been one of the serious matter of concerns for the people and NGOs in Nepal. A formal request was made by the Kathmandu-based International Institute for Human Rights, Environment and Development (INHURED International), Secretariat of the Arun Concerned Group, on December 10, 1993 requesting for all information about the project, and copies of the request letter was also sent to ministries of finance, and water resources as well as to the donors.

A public interest litigation was filed by two human rights activists, Gopal Siwakoti and Dr. Rajesh Gautam, in the Supreme Court on December 31, 1993 under articles 16 (right to information) and 88.2 (right to public interest litigation) of the Constitution of the Kingdom of Nepal. By exercising its extra-ordinary jurisdiction, the Supreme Court delivered a verdict on May 8, 1994 in favor of the petitioners and ordered the Nepali Government to provide all documents and information about the project. The Court decision

went even further and stated that denial of information, fully or partially on any grounds that there may be, can be challenged in the Court within 7 days from the date of such denial. The Court did not believe that the government has fulfilled its constitutional and legal obligations by referring to some public meetings and the setting up of "library" after the case was filed in the Court.

The Supreme Court Justices Hon. Hara Govinda Singh Pradhan and Hon. Keshab Prasad Upadhyay delivering their landmark judgment on the right to information, have also established the following procedures and guidelines for the demand and release of information until appropriate laws are made:

1. The applicant should first demand the list of documents from the defendants.
  2. If the defendants provide the list within seven days, the applicant should demand an inspection of the concerned documents.
  3. If the demand is made according to clauses 2 of these procedures, the defendants should set the time, date, and place and provide information to the applicant within three days.
  4. If the applicant wants to make a note or copy of the document after inspection, he or she should request the specified authority for the same.
  5. In the absence of laws for providing copies, the copies should be certified by accepting the expenses for copies as fees.
  6. If the defendants have to deny the right to provide the list, full or part, or inspection or for providing copies, they should indicate the reason and inform the applicant within three days.
  7. In conditions under clause 1 and 6, where the applicant is denied the right to information, the applicant, if not satisfied with reasons for denial, can file a petition in the Supreme Court within seven days after the receipt of the information of denial.
  8. The procedure for the action described above shall be made according to the rules of the Supreme court.
- This Supreme Court precedent has established the right to information for all citizens on Nepal according to the Constitution. It has also outlined the possible framework for a future law on the right to information.

## ARUN III AND NATIONAL INTEREST

- Vijaya Shah

### I. Introduction

Those of us having the experience of living in Kathmandu need no convincing about the acute shortage of electricity in the Valley. As in the case of municipal water supply, the electric power has

to hydropower generation that recognizes the complementarity of private and public sector elements. It also acknowledges the interdependence between, and complementarity of, the large, medium/small and mini/micro sectors in the industry. It is a process-oriented rather than product-oriented approach, which places equal importance on the establishment of greater hydropower capability as on increased power capacity per se.

The aim of this approach is to plant Nepal firmly on the path to self-sufficiency in hydropower generation, and to reduce the country's dependence on foreign aid and technical assistance in the long term.

The essential characteristics of this approach are:

- Focusing on schemes that use and enhance the country's existing capability
- Investing in building up local capability, in both the public and private sectors
- Switching to a decentralized model of power production, which ensures a sharing of risks among a number of schemes, and promotes local management and control of projects
- Removing the barriers to private sector investment, and creating an environment which is conducive to growth, maturation and expansion of private industry
- Adopting an evolutionary approach to hydropower development, whereby the industry moves ahead in manageable steps, taking on larger and more ambitious projects as its capability grows and matures.

This approach is realistic. Nepal has the technical capability to take it on, though it will still require support for some years before it is totally self-reliant. Financial and institutional arrangements, however, require serious consideration, as the current mechanisms cannot provide the necessary support.

Based on the large number of concerns regarding the Arun project, we would urge your agency to consider utilizing your funds for supporting small and medium hydropower schemes of less than 100MW capacity which are more economically, environmentally and socially sound for Nepal's current situation.

#### NEED OF PARLIAMENTARY DEBATE AND APPROVAL

Another disturbing issue regarding Arun III has been the lack of fruitful debate in the Parliament and its approval. The government has never presented any documents and information, other than policy statements and general information about the construction of the project, in the Parliament despite repeated efforts of Members of Parliament for the disclosure of project documents for debate and approval. A group of Members of Parliament even issued a public statement on January 12, 1994 with other public figures and demanded for the release of project documents and review of the whole project by the Parliament. Around the same time, the largest Opposition

Party in the Parliament — Communist Party of Nepal (UML) — issued an statement and said that it will neither approve project nor assume any responsibility in future if the matter is not debated in the Parliament with the disclosure of project information.

There are several other issues involved relating to the design, funding and implementation of the project that need approval of the Parliament, e.g. approval of agreement with China on riparian issue (since 86% of the water flows from China); status of agreement with India on the sale of energy, if it exists; approval of 10% investment by Nepal of the \$764 million project and other questions relating to the cost, conditionalities of donors, and environmental and social impacts. So far the Parliament has not been provided this opportunity, and significant pressure on the government for the disclosure of project documents and a fruitful debate was expected in the present session of the Parliament, including independent reports by the Opposition Party and the People's Commission on Arun III, which is not the case anymore due to recent political developments in the country.

The recent dissolution of the Parliament, and the calling of mid-term elections on November 13, 1994 have created further uncertainty of Arun III project if it is not critically reviewed by the donors to win the consensus of the fragile political parties and the confidence of the Nepali people. The final decision of the loans for the project will be viewed as undermining the democratic internal process in Nepal as well as seizing of "opportunity" during political turmoil. The status of the project will further degrade if the existing members of the Cabinet and the ruling party get defeated in the November elections leading to new opening of debate on Arun III.

In conclusion, the information release process has just began and it needs more time for their availability in local language for public consultation with the local people as well as national debate in the Parliament. Since a thorough discussion of the project in the Parliament and its approval is highly significant for the better future of Arun III as well as a secure investment of donors, it is important that this opportunity is given to the forthcoming new Parliament to be elected on November 13, 1994 as the existing Parliament has been dissolved on July 10, 1994 due to political infighting in the ruling party. I would like to assure you that the postponement of the Bank date will be viewed by the people, political parties and NGOs in Nepal as the sympathy and support of the Bank and other donors in stabilizing the hard-won democracy in Nepal.

#### WHAT NEEDS TO BE DONE!

It will be essential for the borrower country, the people and the donors to postpone the July 26th voting of the project by the Bank, and review the whole project with careful attention during the period of electoral

petitions from the business community for tariff reductions.

The high tariff is seen to be a direct consequence of the high cost of power generation from the Arun scheme and is doubly unpopular because together with the tariff increase people can expect more load-shedding for the foreseeable future. The further 50% tariff increase that is expected to be needed to pay for the energy produced from Arun will mean that Nepal will have the highest energy prices in South Asia and threatens to destabilize the country politically.

\* There has not been enough preparation for detailed planning of the mitigation measures needed to counter the serious adverse environmental impacts of the access road to the Arun Project.

The Arun Valley is a remote area of vast biological diversity and ecological fragility. The valley is inhabited by 450,000 people comprising 10 ethnic groups. These people will be extremely vulnerable during road and project construction. Over 1000 families will be affected by the loss of their homes, lands and livelihoods. Pre-project mitigation activities to prepare the local people for the effects of the construction of the road has not even begun and there are only some months left before the proposed beginning of construction. The Nepal Electricity Authority which is in charge of co-ordinating the mitigation activities and has full responsibility over environmental management during construction and after commissioning has no capability or experience in this area. There are serious doubts that NEA can execute these functions effectively in spite of the "unprecedented level of planning of mitigation for this project".

\* Public participation both at a local level in the affected district and at a national level has been insufficient in the development of the Arun project.

Serious questions that the people of Sankhuwa Sawa (the district where the project is to be sited) have regarding the alignment of the road, and benefits to the local population of jobs, training and access to electricity have not been adequately answered. The one Public Hearing that was held in the district was not publicly announced. When satisfactory answers to their questions could not be provided during the Hearing, local leaders asked the organizers, more than once, to terminate the meeting and go back to Kathmandu. No documents regarding the project (including the Environmental Impact Assessment in the local language) were available to local people before the Hearing.

The project affects all the people of Nepal in different ways - as consumers of the produced electricity or as those carrying the burden of the loan. Government officials boycotted a Public Hearing in Kathmandu on the project organized by NGOs on February 11th, 1993 and have not organized one of their own. A Public Hearing needs to be held in Kathmandu to discuss the risks of the project to the national economy and the alternatives to Arun that are available to Nepal.

\* The engineering and management capability to build a large project like Arun does not exist in the country, which means that the entire scheme will be built by international contractors.

Previous experience with large hydro projects in Nepal managed in this way (the Marsyangdi and Kulekhani schemes) demonstrates that such dependence on external technologies and expertise does nothing to help local capability grow and mature - in fact, the reverse is often the reality. While there were token provisions made for local capability building in the two projects named above, they never developed into genuine capability building. It is hard to see how Arun will enhance the hydropower capability of Nepal.

The shortcomings of this approach are already clear. Japanese experts had to be brought in to assess the damage on the Kulekhani pen stock (washed away in the floods of 1993) and four years after the completion of the plant, German technicians are still needed long term to run the Marsyangdi power plant. The Japanese experts have pointed out the lack of routine maintenance on the Kulekhani project and almost no record keeping of the maintenance that was done.

Local capability in hydropower has been growing and maturing rapidly over the last 10 years, particularly in the private sector. Local companies are now taking on 50-60MW schemes, which are plenty big enough to meet Nepal's relatively modest energy needs. However, local initiatives require support rather than competition from schemes like Arun.

\* Given Nepal's current development status and priorities, Arun could do more to damage than enhance the country's overall development prospects.

Nepal is one of the 10 poorest countries in the world. Its most urgent needs are for the basic services of clean water, sanitation, health and education. While electricity is high on the list of priorities for Nepal's rural communities (which represent 90% of the population), they stand little chance of gaining access to Grid electricity even in the long term. Stand-alone mini- and micro-hydro schemes offer the only realistic option for many of these communities ever to benefit from electricity.

Given the Bank's emphasis on 'poverty alleviation' strategies for development and the recent concerns raised in the Wapenhans Report about the 'sustainable development impact' of its projects, it is difficult to see how it justifies the construction of Arun, which will benefit so few, generate no income for the country and increase its burden of debt.

#### ALTERNATIVE APPROACH

The alternative approach to hydropower development focuses on a sectoral approach

measures implemented for the original ridge route alignment. Despite this, no land has been identified to offer the option of land for land compensation.

#### 4. Agreements with Neighboring Countries

##### A. Power Sale Agreement Must be Reached with India

Since phase II of the Arun III project and future power development in the valley have been predicated on the sale of power to India, the project must not go ahead until an agreement has been reached. India currently buys power from the Chukha dam in Bhutan at prices significantly below cost price. The high cost of Arun's power means it is highly unlikely that any power sale deal with India will make economic sense.

##### B. The Riparian Issue Must be Resolved with China.

In the Nepali parliament recently, the Water Resources Minister announced that China held "no objection" to Nepal's plans to build Arun III. However, this does not constitute a promise to guarantee Arun's water supply for the lifetime of the project. Even now, a proposal is pending in China for the Changsuo Basin irrigation project on the Arun (Phung Chu) river. In addition, there are a large number of glacial lakes in Tibet which could produce Glacial Lake Outburst Floods to which Nepal has no access. Going ahead with Arun without a firm commitment from China markedly increases the risk of the project.

#### 5. Conclusion

The Bank's failure to ensure that its policies on Environmental Assessment and Information Disclosure are being followed is undermining democratic processes in Nepal. We believe the unresolved issues surrounding this project, and the lack of public consultation and access to information makes it highly unsuitable for Board consideration at this time. We also question whether a project of this magnitude and cost is a reasonable use of IDA funds. If the Bank is to take seriously its publicly stated commitment to sustainable development, then there should be a full investigation of alternatives which are more suitable for Nepal's long term energy needs.

If the concerns outlined in this letter are not addressed adequately by Bank management, NGOs be forced to submit a claim to the Bank's Inspection Panel.

#### OTHER CONCERNS

- With a current price tag of \$764 million, the Arun III hydropower scheme will cost as much as the entire national budget for one year. This is a major financial commitment way beyond Nepal's limited resources.

Although much of the loan for the Arun project is being

made available on concessional terms, it is still a huge burden for a country with such a limited budget. One third of the country's national revenue already disappears into loan repayments. Since only 9% of the population has access to electricity, the whole country will bear the debt burden for the benefits enjoyed by a few. Large, centralized power schemes like Arun will not help the remaining 90% gain access to electricity.

Even to those who will benefit from Arun, the cost will be very high. Despite concessional terms on the loans from the World Bank and Asian Development Bank to His Majesty's Government of Nepal (HMG/N), the Nepal Electricity Authority will be required to make payments to HMG/N for the loan at an interest rate of 10.25%. This cost will ultimately be borne by the consumer, who will pay very high electricity tariffs.

- The scheme will cost \$3,800 per installed KW. Private companies in Nepal can and are building small and medium hydro schemes (up to 60MW) at half that rate.

In the light of the high cost of power production, it is surprising that Arun came out as the best option for Nepal to pursue in the Least Cost Generation Expansion Plan (LCGEP). The LCGEP did not consider all the possible options for hydropower development in Nepal, and largely ignored the small/medium scale sector.

Local private sector initiatives are consistently building schemes for less than \$2,000 per kW installed in the small (1-15MW) and medium (15-100MW) hydro ranges, and \$1,500 per kW in the mini/micro-hydro range. The 20 to 25MW of annual incremental power needs of the national grid can easily be met with a basket of 1-100MW schemes coming on line one after the other.

- Investing in Arun means putting all Nepal's hydropower eggs in one basket. This makes it a high-risk option and provides no answer to the current load shedding problem.

Investing in more, smaller schemes would spread the risks of investment and energy provision. If anything goes wrong with Arun, the country will have no alternatives to fall back on. The start date for the construction of Arun has already been shifted and is likely to be further delayed. Shorter-gestation projects will relieve load shedding much sooner.

- Political stability in the country will be threatened if tariff has to be raised to the level being insisted on by the World Bank for this project to go ahead.

Since the newly elected democratic government came to power, electricity tariff was raised 61% in November 1991 and again 40% in February 1992. This has been followed with an increase of 38% in early 1994. This increase of over 200% in the electricity tariff has led to political protests in all the major cities in Nepal and

came about following a court case filed by NGOs which led to a Supreme Court decision demanding their disclosure. Despite the ruling, which demanded the release of all documents related to the Arun III project, many of the key documents are still being withheld by the Nepalese Government, precluding any meaningful debate.

The library which was established by the Nepal Electricity Authority after the law suit was filed in the Supreme Court does not contain many key documents such as the Memorandum of Understanding between the Government of Nepal and the World Bank or the draft project appraisal documents. In a project of this size and cost which will affect the whole nation of Nepal, the public should be able to access information about existing agreements between the Government and the World Bank. The full environmental impact assessment has not been made available in Nepali, which is a requirement of Bank policy.

#### **C. Failure to Release Bank Documents**

Both the Bank's Environmental Assessment Policy (OD 4.01) and the Information Policy (BP 17.50) require the timely release of information about the project, especially before public consultations take place. This has been violated consistently throughout all project planning and design. The Bank's new information policy requires the release of the Project Information Document and the release of all factual technical information about the project. While the project information document was readily available in Washington, it has not been available in Nepal. Requests for factual technical information on the project, including studies on alternatives to the project were denied until June 10th, when the Bank released a study on alternatives by Argonne National Laboratories. NGOs have not had sufficient time to analyze this document and many of the assumptions used in the document are not explained.

Requests for the green-cover staff appraisal report, and other technical information such as hydrological studies have also been withheld. The staff appraisal report is the basic technical document of a project which contains the project justification and rationale for the Bank's involvement in the project. It is critical that this document be released, before it becomes final. While we realize there may be a small portion of confidential information within, we believe these sections should be excised, and the rest of the document should be released. The Project Information Document has never been updated and it contains so little information that it is useless for NGOs who are questioning the basic assumptions and objectives of the project

### **3. Environmental And Social Issues**

#### **A. The Regional Action Plan Must Be Completed**

The King Mahendra Trust follow-up study to the MBEIS report, which is essential groundwork for the Regional Action Plan, will not be completed for at

least six months. The World Bank Board date and Road construction must be postponed until all portions of the Regional Action Plan are completed and are in place. Previous Bank experience in which project construction was started before to environmental studies were completed and implemented have failed as in the case of Narmada.

#### **B. A Realistic Implementation Program and Timetable for the Regional Action Plan and Road Construction must be Established**

Road construction is currently planned at a rapid rate, which will adversely impact on the 450,000 indigenous people living in the valley, through an influx of up to 10,000 construction workers, which will put pressure on precious food and water resources. There are no mitigation measures in place to ensure that these people are safeguarded. The people of the Arun valley fit the Bank's definition of "indigenous people" in its operational directive OD 4.20. OD 4.20 states that "successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up". For the Regional Action Plan to be effective, it must be started well in advance of the project. The rapid speed of road construction will further undermine the Regional Action Plan's ability to cushion this sensitive region from the long-term and indirect impacts on the valley. The construction schedule for the road must be extended to minimize disruption to local communities and the environment.

Moreover, we question whether the Nepal Electric Authority which has its primary interest in promoting the project has the capability or the will to properly implement the Regional Action Plan.

#### **C. Long Term Cumulative Environmental Impacts of Arun III and Subsequent Projects**

Arun III is only 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. Before the project is approved there should be a comprehensive study of the long term cumulative impacts of dam building and road construction in the entire Arun Valley.

#### **D. The Acquisition, Compensation and Rehabilitation Program (ACRP) Should be Revised to Ensure That Families Receive Equitable Compensation and That the Program is in Compliance With Bank Policy.**

Families whose land will be acquired for the project are being compensated at a rate that is well below the market rate for their land. In this respect the project is failing to comply with the Bank's Operational Directive on Involuntary Resettlement (OD 4.30, para 2). In addition, Bank policy advocates "land for land" compensation, which is particularly important in the Arun valley where people are not linked to the cash economy. Serious problems were highlighted in project documents after the earlier round of cash compensation

approved by the Parliament before it gets a go ahead.

Recently, NGOs from Nepal and others have raised a series of issues and concerns at the World Bank. These include the denial of basic project information to the public, violations of the Bank's operational standards and policies, and lack of study on alternatives to Arun III.

Nepali NGOs say that since the release of information process has just began after the Supreme Court verdict of May 8, 1994, there can be several issues to be taken to the Court in future for review and consideration according to the Constitution and laws of Nepal.

Due to the effect of campaign on issues and concerns on Arun III at national and international levels, this is the first time that the World Bank invited representatives of the Arun Concerned Group, the Alliance for Energy and other NGOs/INGOs to express their concerns at a one-day consultation on June 28, 1994 pertaining to long-term repercussions of the proposed project. (Members of the Nepali non-governmental delegation included: Gopi Upreti, Ganesh Ghimire, Gopal Siwakoti and Arjun Karki from the Arun Concerned Group and Bikash Panday, Dr. Pitambar Chhetri, Rajendra Dahal, Ravi Pradhan from the Alliance for Energy, including Deepak Gyawali as independent), and Lori Udall of the International Rivers Network in Washington, DC has been active as the key facilitator for local and international NGOs.

## FUNDAMENTAL ISSUES

### 1. Adequate Analysis of Alternatives

The very high unit cost of construction and the corresponding high tariff that consumers of the energy from Arun III will have to pay remain a serious concern. Lack of study of the alternatives during the eight years of preparation of this project continues to be a major criticism of this project. The Least Cost Expansion Generation Plan exercise that has been used to justify the project to date has been admitted by Bank Management not to show conclusively the superiority of the Plan A option (the Arun project as currently designed) over Plan B (which proposes to have the project come on line in the year 2009 after the construction of a number of small and medium hydropower schemes) to supply the national grid. The cost of the plan B projects compared with the Plan A option are extremely preliminary. The study 'Arun III - Cheaper Energy for Nepal' put to Bank management in April 1994 indicates that hydropower schemes in the under 100MW range that have been studied in greater detail in the last year have all come up with energy costs lower than Arun III. There has been no response to this document from the Bank.

In the interests of generating energy for Nepal at least cost, it is imperative that the study of the alternatives be taken to at least the feasibility level to allow a proper comparison with the Arun project before the project is

taken to the board for a vote. Unless this is done the Bank will not have fulfilled its policy requirement to compute the Least Cost analysis for additional power generation for Nepal.

### 2. Public Participation and Access to Information

#### A. Public Participation and Consultation:

Public Participation in the project has not been adequate. The project is being portrayed by the government of Nepal as having been chosen through a transparent and open democratic process. However, only in the last six months (with project preparation almost at completion) has there been any serious discussion in Parliament or with the public with the benefit of accurate information. Prior to that, Arun III was consistently presented to the public as a fait accompli. The discussions that have taken place have been forced by concerned groups rather than at the instigation of the Government of Nepal or the World Bank. For example NGOs organized a public hearing in February 1993 which was boycotted by the Ministries of Water Resources and Finance and by the National Planning Association, which meant there was no opportunity to challenge the government about project.

The alternatives to the project (along the lines of Plan B) that are available to Nepal have never been presented to the people or the Parliament. The Nepali government claims to have held 23 public meetings, 11 of which were in the Arun Valley. While it is true that there was one public hearing in Tumlingtar, many of the other meetings being classified as public hearings were meetings strictly to inform people about compensation rates for their land. NGOs who tried to raise issues in the meetings about the adverse environmental and social impacts of the project were prevented from doing so. The Government has also misinformed people in the Arun Valley about the project, leading them to believe they will receive jobs and electricity. In reality there has been no concrete commitment to supply electricity to the people in the Arun Valley and only a small number of jobs will be created for local people, because outside workers will be brought in.

This lack of consultation represents a violation of the Bank's Operational Directive on Environmental Assessment, which requires that the government take into account the views of affected groups and NGOs in the preparation of project design and implementation (OD 4.01, para 19) and to publicly release the draft environmental assessment.

#### B. Failure to Release Information

Despite repeated requests over several years, only in the last few months have any project documents been made available to the Nepali public. Their release only

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*(Views expressed in this newsletter are strictly personal).*

be maintained in the countries receiving their aid, and yet they impose such conditions which put democracies like ours in trouble. I feel they are themselves not sure of what they want." Prime Minister Girija Prasad Koirala in an interview to SUNDAY, Calcutta, as published in WEEKEND, May 28, 1993, Kathmandu.

Notwithstanding PM Koirala's above remarks, the Koirala Government has pushed hard for the Arun III project which will use huge amount of foreign aid money. However, the Arun III project has generated a great deal of controversy and the future of the project looks uncertain.

Some young activists calling themselves the Arun Concerned Group had brought a civil suit against the Nepali Government to force it to disclose information concerning the Arun III Project and clarify issues that the Group considers as vital for the long-term interest of the country. An article on the Arun controversy appears in this issue of Nepal Today which, in our view, makes a fair assessment of the concerns raised by the Arun Group.

From our point of view, the Arun controversy presents a test case for the Government to extend the concept of democracy from the realm of politics to economics. We have fought for democracy to bring transparency and accountability to political decision-making; debates such as for Arun will help us extend the concept of transparency and accountability to economic spheres.

We are not for or against the Arun Project per se. What we desire is that the issue be debated in press and parliament in order to reach a national consensus. The small group of bureaucrats and cabinet officials making decisions on the project will be long gone before the mistakes are discovered and then the Nepalese public will be left holding the bag. It should be noted that some US\$500 million of the project costs will be financed by multilateral loans. There is no forgiveness for such loans and multilateral creditors never take responsibility if the investment fails.

Most pertinent issues highlighted in this issue of Nepal Today by Gopal Siwakoti and Vijaya Shah provide the detailed background of the project, and the efficiency of public sector investment in the energy sector respectively. Our view is that the Government must find ways to achieve at least a comparable level of efficiency as in the neighboring countries before it takes up another rupee worth of investment in this sector.

## CONTROVERSIAL ARUN III PROJECT: MAJOR ISSUES AND CONCERNS

Compiled by Gopal Siwakoti  
 Executive Director, INHURED International

*(The following information are based on issues and concerns that have been raised by the Arun Concerned Group, the Alliance for Energy and other INGOs in Nepal and at the World Bank.)*

The World Bank has postponed the vote on the controversial Arun III hydroelectric project in Nepal up to October 1994. Reportedly this is because the Japanese Government is reluctant to be listed as a donor until it is fully satisfied with the project, and has completed a study mission to Nepal recently.

Other reasons may be that Nepal is facing a political crisis due to the resignation of Prime Minister and dissolution of the Parliament; the mid-term elections are scheduled for November 13, 1994. There is widespread concern both inside and outside the World Bank that the project should be fully debated and

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## **EDITORIAL**

### **MID-TERM ELECTION IN NEPAL I**

The people of Nepal will go for the mid-term elections on November 13, 1994 which is about year and a half before the five-year term of the dissolved Parliament. Last general elections were held in May 1993. Serious questions have been raised in Nepal and around the world regarding the way the Parliament has been dissolved and the unpopular method that the King chose to form a care-taker government to conduct elections. The questions is being asked: Is Nepal's democracy in danger?

The violent pro-democracy struggle of 1990 abolished the partyless Panchayat dictatorship and reduced the absolute power of the king. The people of Nepal hoped that the new political process will begin a new era of democratization and economic development, the Nepali Congress government established with people's mandate will take strong measures against corruption and nepotism and implement basic reforms in education, health care, and other social programs. On the contrary, corruption has increased, education and social sectors have suffered, economic situation has worsened and human rights abuse has not stopped. However, our view is that the present leadership rather than 'democracy' is responsible for this unhappy situation.

The main problem is that our democratic leaders continue to work with outdated vision and attitude. In fact, during 30 years of struggle for democracy, the current old and family-style leadership never did enough homework to run the state affairs, and they are only fighting among themselves for their self-interests after the installation of democracy. Neither the new Constitution nor the party workers and ordinary citizens are responsible for the inter-leadership fight. The infighting within the Nepali Congress reached an anti-climax when the democrats and like-minded youths of the ruling party voted out their own leader, Mr. Koirala, in the Parliament in July.

But, instead of resigning from the government and giving his own party and the opposition an opportunity to form a new government, Mr. Koirala chose to surrender the constitutional powers to the king to dissolve the "sovereign" Parliament which made it possible for him to remain as the care-taker Prime Minister to conduct mid-term elections. The anger in the ruling party, the oppositions and the people have reached to such level that they are calling for protests and demonstrations around the country and demanding for the all-party government to ensure free and fair elections. The worst victims of PM Koirala's unpopular step are the ruling party itself and also the king who may use Mr. Koirala as a conduit to regain absolute power against the will of the people and political parties in the Parliament.

It is a sad moment for Nepal and its people that they may have to undergo further suffering because of the personal infighting of the ruling party leaders who seem to have lost touch with peoples. What Nepal needs now is a new generation leadership with visions for democratic Nepal, and who can work with all democratic forces to meet the needs of the Nepali people and prepare the country to enter twenty-first century as an equal partner with other dynamic countries of the world.

For this, Nepal Human Rights Committee-USA would like to send its best wishes to all the leaders to resolve the present crisis through constitutional means and ensure free and fair elections. The forthcoming election, if not canceled due to the Supreme Court verdict on the controversy in near future, will provide an opportunity to finally get rid of the country out of corrupt and feudal elements which, hopefully, will make it possible for a trusted and democratic leadership to emerge for the betterment of Nepali people and their democratic future.

### **ARUN III CONTROVERSY**

"I am a bit disappointed with the World Bank because sometimes they say one thing and sometimes another. They say they prefer democracy to

So far, several applications have been made to the government authorities according to the Court decision, but they have been continuously denying the disclosure of complete lists of project documents and information and facilitate the process of their disclosure to the claimants. Another petition has been considered to be filed again in the Supreme Court on October 31, 1994 against the Nepali government demanding for the compliance with the Court's previous decision in favor of the claimants.

Most importantly, the Supreme Court's verdict has established its jurisdiction that any issues and concerns that are to be generated from any projects or performance in which the Government of Nepal is a Party, they can be brought in the Court challenging the constitutionality and legality of such governmental policies and actions, including violations of the State's Policies and Directive Principles under articles 25 and 26 of the Nepali Constitution as well as other constitutional and legal rights, e.g. the acceptance of inappropriate conditionalities of lenders and donors in the case of Arun III or compromise of Nepal's sovereignty and national interests. This judicial remedy may be used by the claimants as the last resort in defending the rights and interests that are being and to be affected by the project if other measures are found to be unsuccessful or ineffective.

The following documents are also included for reference:

1. *Arun III: An Introduction and Issues of Concern*, Arun Concerned Group, June 1994, Kathmandu.
2. *Nepal Today*, Vol. 5, No. 1, Summer 1994, a publication of the Nepal Human Rights Committee-USA, Washington, DC containing analytical information about the Arun III.

## ATTACHMENT-X

### Under 9: Additional Efforts

Series of efforts have been made in resolving the above-mentioned issues and concerns that have effects in our rights and interests through the Government of Nepal, the Nepal Electricity Authority, the Arun III Hydroelectric Project Office, the Bank's Residence Office in Kathmandu, the Bank's Headquarters and other prospective lenders. *(Copies of some of the relevant correspondence enclosed.)*

A first-ever public interest litigation of this nature was filed by Advocate Gopal Siwakoti, Executive Director of INHURED International, Dr. Rajesh Gautam, a human rights activist in the Supreme Court of Nepal demanding for the disclosure of all information and documents relating to the Arun III project and review of other issues and controversies surrounding it. On May 8, 1994 the Supreme Court issued an order in favor of the petitioners, namely the Ministry of Finance, the Ministry of Water Resources, the Nepal Electricity Authority and the Arun III Hydro-electric Project. This came after a series of hearings on the right to information regarding the project under article 88(2) of the Constitution of the Kingdom of Nepal. Article 88(2) provides for such litigation and the resolution of any legal and constitutional disputes on matters of public interest under article 16 of the Constitution on the right to information. According to the landmark judgment delivered by Justice Haragovinda Singh Pradhan and Justice Keshab Prasad Upadhyaya, the defendants were obliged to provide all information regarding the Arun III.

Through this verdict the Supreme Court has made a new and historic interpretation of legal principles in the context of the lack of necessary laws for the enforcement of the right to information in Nepal and the situation in which several provisions of other existing laws are yet to come into force. It has decided that up to the time when appropriate laws are not enacted, the government agencies should provide information to the Nepali citizens by applying the following guidelines and procedures in all cases, including the Arun III:

1. The applicant should first demand the list of documents;
2. If the list is provided within seven days the applicant should demand an inspection of the relevant documents.
3. If the demand is made according to clauses 2 of these procedures, the concerned authority should set the time, date, and place and provide information to the applicant within three days.
4. If the applicant wants to make a note or copy of the document after inspection, he or she should request the specified authority for the same.
5. In the absence of any other laws for providing copies, the certified copies of documents should be provided by charging fees, if necessary.
6. If the concerned authority have to deny the right to provide the list, full or part, or inspection or copies, they should indicate the reason and inform the applicant within three days.
7. In conditions under clause 5, where the applicant is denied the right to information, the applicant, if not satisfied with reasons of denial, can file a complaint in the Supreme Court within seven days of such denial.
8. The Rules of the Supreme Court shall be applied as the adjudication procedures in such cases as described above.

The Supreme Court has established the right to information for all Nepali citizens regarding the Arun III as well as other matters of public interest.

... like to reiterate that we examine many of the  
... and are addressing them during our appraisal of  
... support ... as complementary the approach  
... hydroelectric projects

... will be useful to you and your  
... be pleased to visit you  
... here in Washngt. ... the meantime, thank you  
... and observations.

Sincerely yours,

Ann O. ...  
Director

Country  
S.

Mr. Cullen (EXT)

...dale (SAEVE); Hamilton, Groves (SAIDP)  
...h-Weser (ASTEN); O'Leary (SAIEI); ...  
... Center

*Handwritten note: ... written by ...*

June 17, 1997

...ing that 69 MW Mureyangdi Project, which was reconstructed by international contractors under NEA's direction, was completed within budget and within months of the target completion date. The promotion of private projects, parallel with the Arun Project, would foster the development of local capabilities recommended in your letter.

Public Participation

We agree it is important for your Government to explain the Arun Project to the public and to give interested parties opportunities to express their views. Since you wrote to me, you met ADB, IDA and KfW staff in the World Bank office in Kathmandu on May 26, and I understand that representatives from the Alliance for Energy participated in the public meeting with Arun Valley residents at Tumli near on June 2. During our recent mission NEA and officials of your Government indicated that the environmental impact assessment and other project documents would be available to the public at NEA. NEA should hold a public meeting on the Arun Project. The meeting tentatively scheduled for late August/September should be held in Kathmandu, and you would of course be very welcome to meet me and my colleagues here should you visit Washington.

Stability and Development Priorities

We have been concerned that a large power investment program could crowd out other priority programs, particularly in health and education. Several studies of the power program's macroeconomic viability have been conducted in parallel with the technical preparation and environmental studies. As a result of these studies, the project's configuration and phasing were adjusted to reduce capital expenditures. The previous version of the project would have required higher investments. In the process we are updating our economic appraisals, including economic affordability, and IDA's agreement with your Government on the project which will include other high priority programs in the health sector, with relative adequate support.

We agree that the repayment of the loan financing for the project should be provided on highly concessional terms. For example, the loan should be extended to Nepal for 40 years, with a 10 year grace period and a 1% service charge. The project's expected benefits justify such concessional assistance.

We also believe that the relatively small portion of electricity which has access to electricity should not be subsidized. It should be sold on a commercial basis. This is why concessional debt should be loaned from your Government to NEA on terms similar to local market rates -- otherwise the benefits of such assistance would go to power consumers rather than to the Nepalese people through your Government. Furthermore, NEA needs to become commercially viable and to become a reliable customer for privately supplied power.

... presented as part of the appraisal process. I should point out that the studies take account of projects' energy production unit costs in addition to the unit costs of installed capacity, which you cite in your letter. The high ratio of firm to total energy for the Arun Project noted above results in low energy production costs and, therefore, in low collection. This means that when the peak load occurs in the middle of the dry season, the energy production capacity can be maintained. In comparison, the potential of hydroelectric projects by the private sectors would be very substantial.

... the Arun Project... each agreement on your... supply needs during the... participate that this program... energy conservation and... of demand and re... of... the need for... new... hydro-power projects (pre... by... units and... private sector should play an... power supply needs during the 1980s and... the... additional generation capacity necessary to suppo

... know, your Government has recently modified the Electric... increased private sector involvement in developing hydro... particularly emphasized to NEA and the Government the importance... policies and a legal and regulatory framework to encourage private... in the power sector, strongly support the actions taken... helping to identify necessary further steps. However, the largest... power project completed in Nepal so far has a capacity... there is nearing completion, and a 60 MW scheme is... which might be supported by the International Finance... the World Bank's private sector affiliate, among others... private sector still has a small base and limited experience in... demonstrated the capacity to meet Nepal's growing power needs... Furthermore, while the private sector is potentially a very... Government funds to meet Nepal's power supply needs, it... financing arrangements for private projects and the fact that... expects to earn commercial rates of return, maintained in... supply investments significantly increase the sale of... power supply projects. Our view is therefore that projects... in your letter and the Arun Project should be regarded... rather than mutually exclusive elements of Nepal's... development strategy.

Construction by International Contractors

Although the Arun Project would be constructed by international contractors due to the lack of local capacity noted in your letter, the project has been proposed and would be developed under the direction of the Nepal Electricity Authority (NEA). For the first time ever, the project team for the Arun Project has based in Kathmandu and fully integrated NEA contract staff. NEA will continue to oversee the project from conception to design and operation after commissioning. It is

June 17, 1993

M. B. Pandey  
Minister for Energy  
2772  
Kathmandu

Mr. Pandey:

Thank you for your letter of May 16 concerning the proposed Arun  
Electric Project in Nepal. I am also responding to the several letters  
sent to Messrs. Lewis T. Preston, D. Joseph Wood and Mahabub U. El-Ashry.  
You know, IDA and several other co-financiers have initiated appraisals of  
the Project for possible financial support. We are reviewing the issues  
set forth in your letter as part of our appraisal process, and indeed we are  
addressing the specific issues which you highlight. I am pleased that  
representatives from the ACP, TDA and KfW were able to meet your  
representatives in Nepal, as Mr. Groves had suggested. In his letter  
to me you would like to reiterate some of the points raised by O'Leary  
and to comment on the main issues raised in your letter.

Energy Development Strategy

In addition to tourism, hydropower is Nepal's  
primary energy resource. Your Government therefore accords  
high priority to developing this resource efficiently to overcome  
energy constraints and support more rapid economic development.  
Nepal should also benefit from exporting power to

The Project could play a potentially significant role in Nepal's  
development strategy. Because the Arun River is glacier fed, flow  
is year-around and those of rivers more subject to fluctuations in  
flow. Projects developed on the Arun can thus have very few  
seasonal variations in rainfall) to total energy. The geology of the  
project site has been investigated more thoroughly than elsewhere  
elsewhere studied in Nepal, and investigations have indicated  
geological conditions than elsewhere. Furthermore, the project  
site would also provide access to the Upper Arun basin  
providing Nepal the opportunity of developing a series  
of contiguous projects to exploit potential energy  
resources. The project could also connect the valley to the  
network.

part of the...  
connect...  
planning

*[Handwritten signature and notes at the bottom of the page]*

the Ministry of Water Resources. I was concerned by the implication that the Alliance was not invited since their participation and air transportation to the Tumlingtar meeting was paid for by the Nepalese authorities. I was also concerned by your statement that satisfactory answers were not provided to local participants' serious concerns regarding the project's potential benefits to the residents of the Arun basin, since our staff who attended the meeting, including Nepali speakers, reported that the local residents expressed support for the project and indicated that they were looking forward to the employment opportunities it would provide for them. To clarify the situation, we would be pleased to review with you the video recording that NEA made of the meeting.

Once again I would like to thank you for communicating your views on these important topics to us at the World Bank. Because of their interest in these matters, I am sharing this letter with the officials of the Nepalese government and the donors listed below.

Sincerely yours,



Ann O. Hamilton  
Director  
Country Department 1  
South Asia Region

cc: Dr. T.N. Pant, Ministry of Finance, Kathmandu  
Dr. B. Bhadra, Member, National Planning Commission, Kathmandu  
Mr. S.N. Upadhyay, Secretary, Ministry of Water Resources, Kathmandu  
Mr. A.J.S. Thapa, Dr. J.L. Karmacharya, Nepal Electricity Authority,  
Kathmandu  
Messrs. Kinnemann, Brinkmann, KfW, Frankfurt  
Mr. Offermann, BMZ, Bonn  
Messrs./Mes. Morita, Bohun, Addison, ADB, Manila

capabilities. As I have indicated to ITDG and my colleagues reiterated to you, we would be pleased to work with concerned parties to undertake a diagnostic study of local capabilities for preparing and implementing hydroelectric projects and to support development of the local industry.

I am pleased to note that we seem to agree that the private and public sectors can play complementary roles in developing Nepal's hydroelectric resources. However, as I mentioned in my previous letter to you, the largest non-governmental scheme commissioned to date is the 5.1 MW Andi Khola hydroelectric project, while the largest non-governmental scheme under construction is the 12 MW Jhimruk hydroelectric project. The Butwal Power Company developed both of these schemes and is also preparing the larger 60 MW Khimti Khola hydroelectric project with extensive foreign involvement. The Butwal Power Company has estimated the Khimti Khola project's firm capacity to be approximately 22 MW; based on detailed systems planning work, NEA has estimated that by the time it is commissioned, it will meet the system's incremental power and energy demands for only one year.

With respect to the Arun project itself, you suggest that it would create a "drought-flood response" to electricity shortages. In fact one of the advantages of implementing projects such as Arun is to get out of this syndrome. Experience in mobilizing resources and undertaking the Kulekhani and Marsyangdi hydroelectric projects pointed to the need to undertake projects which could satisfy Nepal's power demand for a number of years rather than undertaking smaller projects which could be absorbed very quickly into the grid.

You also suggest that the environmental impact of the Arun project has not been adequately addressed. As the Environmental Executive Summary provided to the Alliance for Energy indicates, the direct socioeconomic impacts of the hydroelectric project component are low (no families to be resettled) and modest for the access road (about 112 families to be resettled). Direct effects on natural resources and ecology are also relatively low. The level of planning of mitigation measures for the project has been unprecedented. The Regional Action Plan to address the project's induced effects is based on the recommendations of a study commissioned by the World Bank and conducted by the King Mahendra Trust for Nature Conservation with UNDP support. We look forward to close cooperation and involvement with the Trust and the Makalu Barun Conservation Project during execution of the Arun project. I would also like to assure you that we regard the Regional Action Plan as an integral part of the Arun project; we will not support the project unless adequate arrangements have been made for the plan's implementation and funding.

I am pleased to note that the Alliance for Energy has participated in several discussions with HMG/NEA, the donors, local representatives and other NGOs on the Arun project. While a good start has been made, we believe that public participation and consultation should continue on a regular basis during project implementation.

I was, however, surprised at your characterization of the public meeting in Tumlingtar in the Arun valley, which was attended by representatives of the Alliance for Energy and which was chaired by Mr. S.N. Upadhyay, Secretary of

October 13, 1993

Mr. Bikash Pandey  
Alliance for Energy  
P. O. Box 2772  
Baluwatar  
Kathmandu, Nepal

Dear Mr. Pandey:

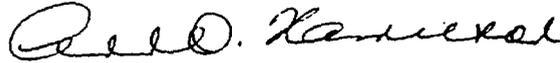
Thank you for your letter of August 29, 1993, which reiterates your concerns about the development of Nepal's power sector and the Arun project in particular. I am pleased that you and Mr. Almond of ITDG had an opportunity to meet Donal O'Leary, Fred Temple and their colleagues from the ADB and KfW during their current visit to Kathmandu. I am writing to comment further on some of the issues you discussed with them, as well as on some points in your letter which were apparently not covered in your discussions.

You cite several possible advantages of undertaking schemes of less than 100 MW. I understand that there is currently one small scheme under implementation (the 12 MW Jhimruk project) and two under active preparation (the 60 MW Khimti Khola and the 10-15 MW Modi Khola projects). Thus, some schemes with short gestation periods are likely to come on line prior to Arun. In considering these and other possible small schemes, the following factors need to be taken into account:

- In terms of firm energy production, up to nine schemes comparable to Khimti Khola would be needed to approximate the energy production of the Arun project's first phase.
- We agree that, all things being equal, the reliability of power supply is enhanced by building power plants close to the load centers. The Arun project, in the Eastern Region, is located about 120 km by transmission line from Birstnager, the second largest load center in the country; other projects under consideration by HMG/NEA in the Central and Western Regions, including Kali Gandaki and Khimti Khola, are located similar distances from major load centers in the Kathmandu Valley. If these projects come to fruition, a reasonable regional balance in new hydropower production would be maintained. However, the main factors that should be considered in project selection are site characteristics (hydrology, geology, etc.) and economic benefits in comparison with other projects.
- We agree that it would be desirable to develop a hydropower industry with multiple economic linkages in Nepal. As my colleagues noted when they met you, there are already several projects underway which support the domestic industry's development. However, given the current indigenous capabilities in Nepal, it is likely to take some time to expand the industry's

Because of their interest I am taking the liberty of sending a copy of this letter to the persons listed below.

Sincerely yours,



Ann O. Hamilton  
Director  
Country Department 1  
South Asia Region

cc: Dr. T. N. Pant, Secretary, Ministry of Finance  
Mr. A. J. S. Thapa, Managing Director, Nepal Electricity Authority  
Mr. R. B. Addison, Asian Development Bank  
Mr. P. Brinkmann, KfW  
Mr. J. Manickavasagam, Resident Mission, Nepal  
Mr. D. Joseph Wood, Vice President, World Bank, Washington, D.C.  
Mr. A. Othman, Executive Director, World Bank, Washington, D.C.

February 22, 1994

Mr. Bikash Pandey  
Alliance for Energy  
P O Box 3934  
Baluwater  
Kathmandu, Nepal

Dear Mr. Pandey:

RE: NEPAL: Arun Hydroelectric Project

Thank you for your letter of December 30, 1993 to Mr. Lewis Preston and other senior Bank officials concerning the Arun Hydroelectric Project, for which the Government of Nepal has requested financing from the World Bank Group. We welcome the views of parties such as the Alliance. Your letter raises similar concerns to your letters of May and August 1993, to which I responded in June and October 1993. Copies of these responses are attached. I would also encourage you to take up this matter with the responsible government officials in Nepal as well, if you have not already done so, as the Government is the ultimate sponsor of the investment.

The issues you raise have been the subject of much study and discussion in Nepal and in the Bank during the six years of project preparation. They are complex issues over which reasonable, well-intended people can and do disagree. There are risks to carrying out the project, as well as important benefits to Nepal. Quantitative assessment of costs and benefits does not definitely favor one option over another. In the final analysis, Bank management has concluded that the project's readiness, the availability of concessional financing to go forward and of programs to safeguard the environment through the period of project implementation to ensure that disadvantages are minimized and the advantages are maximized, and the interests of the affected population tip the balance in favor of the project.

I would like to reiterate that we welcome your views and any constructive suggestions you may care to make.

Given the extensive public interest in the Arun project, indicated by correspondence going back at least four years, we are taking the somewhat unusual step of distributing materials and holding seminars for interested NGOs. I hope you realize that we are committed to broad disclosure under the Bank's new policy, since we recognize that the sharing of relevant information can be beneficial to the Bank and its borrowers, as well as to the interested public. It is for this reason that we have had a large number of consultations with interested parties outside the Bank, in Nepal, UK, Switzerland and USA. We have also prepared a booklet on the most frequently asked questions about the project, and we supervised the preparation, by the Anthropology Department of UCLA, of a video entitled "Sustainable Development in the Arun Basin." Of course, we have also met frequently with the offices of several Executive Directors, and with the staff of many embassies and their aid agencies in Kathmandu, to respond to questions raised indirectly by various NGOs, and we have engaged in extensive correspondence on the project with NGOs and individuals in many countries.

You are invited to attend a day-long consultation on this project on Tuesday 28th June which will start at 10:00 a.m. in the World Bank, room D13-605 (street address: 1809 G Street, N.W.). This meeting will discuss the rationale for the Arun III project and the various alternatives for meeting Nepal's electricity needs. Opening presentations will be made both by World Bank staff and NGOs, and the Argonne report and staff paper mentioned above will provide further background for the meeting.

Please do not hesitate to let me know if we can be of any further assistance.

Sincerely yours,



Ann O. Hamilton  
Director  
Country Department I  
South Asia Region

**The World Bank**  
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street, N.W.  
Washington, D.C. 20433  
U.S.A.

(202) 477-1234  
Cable Address: INTRAFRAO  
Cable Address: INDEVAS

June 15, 1994

1579 04

Fax: 977-1-312-538

Mr. Gopal Shivakoti  
Arun Concerned Group  
P.O. Box 2125  
Putalisadak  
Kathmandu, Nepal

Dear Mr. Gopal:

I am writing about the proposed Arun III Hydroelectric Project in Nepal, which is the subject of considerable NGO interest, particularly in requesting information on the analysis of various power expansion scenarios for Nepal, including what has come to be known as "Plan B."

The various concerns regarding the Arun project -- including macroeconomic and institutional risks, uncertainty regarding the load forecast, and the possibility that Arun would so dominate the future power investment program in Nepal that other smaller projects in which Nepali engineers and contractors could play a more prominent role would be crowded out -- led us to consider alternative generation expansion plans, including some deferring the commissioning of Arun to a later date and introducing first a series of smaller investments in the 30-80 MW range. Although we received many requests for documents describing this version of "Plan B," consistent with the Bank's information disclosure policy, we declined to release the internal assessments and argumentation that were part of our internal decision-making process. We did, however, offer to provide a technical report providing in detail the assumptions and the analysis underlying our view of the alternative investment programs, as soon as it was available.

The draft final technical report, prepared by the Argonne National Laboratories, was received by the Bank some days ago. Although it is still subject to revision, we have made it available in our Public Information Center. Its conclusions are in line with our earlier evaluation, but the Argonne report is more transparent in the specification of the assumptions and contains a richer set of sensitivity analyses. Also available in the Public Information Center is a staff paper, "Justification for Selection of Arun Hydroelectric Project by Nepal," explaining why we decided to support the Arun project, and to do so at this time, which draws upon the technical work done by Argonne. The purpose of this advance distribution is to provide maximum transparency regarding the technical basis for the conclusion that the Arun project does indeed form part of the Least Cost Power Generation Expansion Plan for Nepal. I am sending you via our Kathmandu Resident Mission copies of the Argonne report and the staff paper, together with the Project Information Document on Arun III and a list, prepared by the National Electricity Authority of Nepal, of the large number of reports related to the project and available in Kathmandu. Many, but not all of them, are also available in Washington.

candidates - do not make a prima facie case that the smaller projects will be less costly than Arun III, and even if further work does uncover some that are relatively attractive, they can easily be accommodated into the overall sectoral investment plan.

You suggest that, since the cost difference between Plan A and Plan B is modest, an appropriate allowance for risk and for the capacity building consequences of the different strategies would demonstrate the superiority of Plan B. We have looked at this issue in some detail. While Plan B does offer some advantages in terms of flexibility and protection against natural disasters, the Government's proposed investment program is more likely to solve Nepal's underlying power problem in a timely manner. It is also more in line with the Bank's Operational Directive on the management of environmental risk and has better prospects for effective response if and when environmental or social problems arise during the course of implementation. The consequences of the different strategies for the development of domestic capacity are not all that great, since under either approach there should be continued - indeed intensified - efforts to encourage private involvement in small hydro projects.

Your letter concludes with some comments on the process of future debate. These are, I believe, best left to others such as yourself to consider.

Sincerely yours,



Marie Garcia-Zamor  
Chief  
Energy & Infrastructure  
Country Department 1

cc: Messrs./Mmes. John Clark, OPD  
Geoffrey Lamb, World Bank Resident Representative, London  
Huw Evans/Anna Wechsberg, EDS03  
Helga Jonsdottir/Rune Lindholm, EDS20  
Maria Noel Vaeza, EDS08  
Pietro Veglio, EDS24  
Gerard Steeghs, EDS19  
Bikash Pandey, ITDC, Nepal  
Lori Udall, IRN  
Maike Rademaker, Urgewald

- it still would not follow that the "unselected" small projects are likely to have lower costs.

Accordingly, we do not accept the conclusion that the least cost analysis is fatally flawed because of inadequate consideration of smaller hydro projects. We understand the frustration that has been expressed about the amount of feasibility and pre-feasibility work that has been done in Nepal in recent years on small hydro projects. It is always useful to have more data on investment possibilities. Nevertheless, our appraisal of Nepal's record in developing an inventory of potential hydropower investments does not support the conclusion that its efforts have been seriously inadequate or systematically biased against smaller projects. Indeed, compared to other small poor countries, Nepal has done a quite respectable job in developing an inventory of alternative hydropower investment proposals. Each of the major basins has been surveyed. A total of 107 different sites has been examined, of which 18 have had work done beyond the reconnaissance stage. Almost half of these are less than 100 MW.

This judgement does not imply complacency. Our last power project in Nepal includes funds for further feasibility work. Moreover, as Government representatives have stated on numerous occasions, support for smaller hydro projects is seen as being complementary to, and not competitive with, the Arun III project. As evidence that this is not merely a rhetorical position, I would call your attention to the fact that Government has decided to establish a special Hydro Fund as part of the Arun III project. This Fund will help finance feasibility work and actual implementation of smaller hydro projects.

In addition, as you know, a power purchase agreement for the Khimti Khola project has been reached. We hope that this will be the first of a series of smaller hydro projects to be financed by the private sector. We understand that US AID is already engaged in constructive discussions with the relevant Government agencies regarding assistance to strengthen Nepal's capacity to negotiate future power purchase agreements.

If and when attractive smaller projects emerge, they can readily be accommodated in the investment planning for the sector. The Argonne Report should not be read as determining an immutable least cost sequence. As in the past, the analysis will have to be updated regularly to take account of new information about load growth and the costs of alternative investments. What is, in our view, robust about the Argonne Report is the conclusion that Arun III is part of the least cost generation expansion plan under most plausible assumptions about the future.

Availability of additional, uncommitted and attractive small hydro projects that could realistically be completed over the next several years might - under what we think are relatively optimistic assumptions - add enough firm energy to meet perhaps a year's growth in demand in the middle of the next decade, thereby delaying the optimal commissioning date for Arun by a year or so. The additional costs to Nepal of commissioning Arun a year "prematurely" are very modest in comparison to the costs and risks Nepal would incur through delay. Hence, we do not believe it would be in Nepal's best interest to delay the long gestation (and much studied) Arun III project while more data is being gathered on the costs of smaller hydro projects. Rough comparisons - of the sort done in the Argonne Report on the Plan B

August 26, 1994

Mr. Alex Bush  
Policy Researcher  
Intermediate Technology Development  
Group  
Myson House, Railway Terrace  
Rugby, CV21 3HT  
United Kingdom

Dear Mr. Bush:

Re: NEPAL: Arun III Hydroelectric Project

Thank you for your letter of August 8th concerning the Arun III project. I am responding on Ann Hamilton's behalf.

Her letter to you was copied to Joe Wood, John Besant-Jones and Joe Manickavasagam, our resident representative in Kathmandu.

It is helpful to have your clarification that the April ITDG study was not intended as a "detailed analysis of economic costs on which an investment decision could be made" but rather "a prima facie case for more detailed examination and study of some of the smaller hydro schemes within the context of the least cost analysis." The foundation of the prima facie case is that the costs of total and firm energy for those smaller projects for which good information is available are lower than the costs for Arun.

Ann Hamilton's letter to you challenges this fundamental cost comparison on two grounds: first, that interest during construction has been incorrectly included in the project capital cost and, second, that ITDG's analysis fails to include the costs of complementary thermal power needed in the winter season when hydropower output is lowest due to low river flows. If interest during construction is excluded, then it is no longer correct that Arun III (Phase 1) is more costly in the generation of firm energy than the other projects included in the ITDG report. Hence the premise of the argument developed in the April report is faulty. Similarly, as you will recall, in my letter of May 6, 1994, I discussed the procedures for calculating the economic cost of power. On this basis, the cost of firm energy from Phase 1 of the Arun III project is approximately US\$4.46/kWh in 1993 dollars. This differs considerably from the US\$8.97/kWh calculated by you.

Finally, the projects examined in the ITDG report are those that were selected for feasibility work because the reconnaissance data suggested that they were relatively attractive. Even if it were true that these "selected" small projects had lower costs than Arun III (Phase 1) - which is not the case

**FACSIMILE COVER SHEET AND MESSAGE**

**DATE:** August 26, 1994      **NO. OF PAGES:** 4      **MESSAGE NO.:** SAIEI/386-389  
(Including this sheet)

**TO:** Mr. Alex Bush      **FAX TEL. NO.:** 011-44-788-540270  
**Title:** Policy Coordinator  
**Organization:** Intermediate Technology Development Group  
**City/Country:** Rugby, United Kingdom

**FROM:** Marie Garcia-Zamor      **DIVISION'S FAX TEL. NO.:** (202) 477-5520  
**Title:** Chief      **Dept./Div. No.:** 242-30  
**Division:** Energy & Infrastructure  
**Room No.:** D 11-007      **Telephone:** (202) 473-8694

**SUBJECT/REFERENCE:** NEPAL: Arun Hydroelectric Project

**MESSAGE:**

Mr. Bush:

Following Mr. O'Leary's fax to you of August 12, 1994, please find attached our detailed response to your letter of August 8, 1994 to Mrs. Ann Hamilton. We will be sending copies of our response to those who were sent copies of your original letter. However, we do not have a fax number for Ms. Maike Rademaker, Urgewald. We would be most appreciative if you would provide us with this at your earliest convenience.

Sincerely yours,



Marie Garcia-Zamor  
Chief

Energy and Infrastructure Division  
Country Department 1  
South Asia Region

cc: Messrs./Mmes. John Clark (OPRPG); Geoffrey Lamb (EXTLD); Huw Evans (EDS03); Anna Wechsberg (EDS03); Helga Jonsdottir (EDS20); Rune Lindholm (EDS20); John Cosgrove (EDS09); Struan Little (EDS09); Maria Noel Vaeza (EDS08); Pietro Veglio (EDS24); Gerard Steeghs (EDS19); Bikash Pandey (ITDG-Nepal); Barry Hudson (ODA); Harald Rehm (EDS05); Lori Udall (International Rivers Network); Maike Rademaker (Urgewald)

**TRANSMISSION AUTHORIZED BY:** Marie Garcia-Zamor, Chief, SAIEI

If you experience any problem in receiving this transmission, inform the sender at the telephone or fax no. listed above.

**The World Bank**

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

Resident Office in Nepal  
Jyoti Bhawan, Kantipath  
Kathmandu

Facsimile: 225112  
Telex: 2228 INDEVA NP  
Telephone: 226792/3  
Cable Address: INTBAFFRAD  
KATHMANDU  
Postal Address: P.O.Box 798

October 7, 1994

Mr. Gopal Siwakoti  
Arun Concerned Group  
Putali Sadak  
Kathmandu

Dear Mr. Siwakoti:

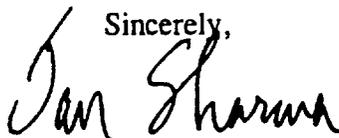
This is in response to your letter of October 7, 1994 requesting for a list of documents on Arun 3 Project. Attached is a list of documents that is available at the Bank's Resident Mission. We also attach a list of documents that are available at the Arun 3 Information Center (managed by NEA) at the Arun Project Office.

You should also be aware that the Bank has a Public Information Center at its headquarters in Washington D.C. The address of the Public Information Center is:

Public Information Center  
The World Bank  
1776 G Street, N. W.  
Washington D.C. 20433  
Telephone: (202) 458-5454  
Fax: (202) 522-1500

If we can be of further assistance, please do not hesitate to contact us.

Sincerely,



Jan Sharma  
Public Affairs Consultant

*JSharma:js*

ATTACHMENT-IX

Under 8: Response on the Previous Complaints

In addition, the members of the Arun Concerned Group, one of the main claimants, have held series of meetings with the Bank's staff at the relevant country departments, the environmental unit, and the Bank's Executive Directors of the Bank. However, their responses during these bi-lateral meetings have neither been adequate nor convincing and satisfactory. *(Copies of some of the relevant correspondence by the Bank to members of the Arun Concerned Group enclosed.)*

**ATTACHMENT-IX**

अरूण सरोकार समूह

पत्र मन्जुषा नं. २१२५  
पुतलीसडक, काठमाडौं, नेपाल  
फोन नं. ४१६६१०, फ्याक्स नं. ४१२५३८

ARUN CONCERNED GROUP

P.O. Box 2125  
Putalisadak, Kathmandu, Nepal  
Tel: (0977-1) 419610, Fax: (0977-1) 412538

May 23, 1994

Aris Othman  
Executive Director  
Nepal Section  
The World Bank  
1818 H Street  
Washington, D.C. 20433  
United States of America  
Fax: 4774116

Dear respectable sir/madam

The Arun Concern Group (ACG), an association of a number of non-governmental organizations, and concerned citizens of Nepal formed to raise the issues of concerns and national interest directly related to and generated by the Arun III Hydroelectricity Project to be constructed in Nepal, would like to bring to your kind notice the following issues and concerns with respect to Arun III project. ACG believes that you would give a due consideration to the concerns expressed in the attached document while making decision about Arun III Project. ACG also requests you to kindly defer and withhold your valuable vote until the issues and concerns raised here are resolved.

Thank you very much. Looking forward to hearing from you soon.

Sincerely yours,



Gopi Upreti

Spokesperson

अरूण सरोकार समूह

पत्र मन्जुषा नं. २१२५  
पुतलीसडक, काठमाडौं, नेपाल  
फोन नं. ४१६६१०, फ्याक्स नं. ४१२५३८

ARUN CONCERNED GROUP

P.O. Box 2125  
Putalisadak, Kathmandu, Nepal  
Tel: (0977-1) 419610, Fax: (0977-1) 412538

May 23, 1994

Huw Evans  
Executive Director  
U, K, Section  
The Wold Bank  
1818 H Street  
Washington, D. C. 20433  
Fax: 6234965

Dear respectable sir/madam

The Arun Concern Group (ACG), an association of a number of non-governmental organizations, and concerned citizens of Nepal formed to raise the issues of concerns and national interest directly related to and generated by the Arun III Hydroelectricity Project to be constructed in Nepal, would like to bring to your kind notice the following issues and concerns with respect to Arun III project. ACG believes that you would give a due consideration to the concerns expressed in the attached document while making decision about Arun III Project. ACG also requests you to kindly defer and withhold your valuable vote until the issues and concerns raised here are resolved.

Thank you very much. Looking forward to hearing from you soon.

Sincerely yours,



Gopi Upreti

Spokesperson (ACG)

अरूण सरोकार समूह  
पत्र मन्जुषा नं. २१२५  
पुतलीसडक, काठमाडौं, नेपाल  
फोन नं. ४१६६१०, फ्याक्स नं. ४१२५३८

ARUN CONCERNED GROUP  
P.O. Box 2125  
Putalisadak, Kathmandu, Nepal  
Tel: (0977-1) 419610. Fax: (0977-1) 412538

May 23, 1994

Yasuyuki Kawahara  
Executive Director  
Japan Section  
The World Bank  
1818 H Street  
Washington, D. C. 20433  
Fax:: 5221581

Dear respectable sir/madam

The Arun Concern Group (ACG), an association of a number of non-governmental organizations, and concerned citizens of Nepal formed to raise the issues of concerns and national interest directly related to and generated by the Arun III Hydroelectricity Project to be constructed in Nepal, would like to bring to your kind notice the following issues and concerns with respect to Arun III project. ACG believes that you would give a due consideration to the concerns expressed in the attached document while making decision about Arun III Project. ACG also requests you to kindly defer and withhold your valuable vote until the issues and concerns raised here are resolved.

Thank you very much. Looking forward to hearing from you soon.

Sincerely yours,



Gopi Upreti

Spokesperson (ACG)

अरुण सरोकार समूह

पत्र मन्जुषा नं. २१२५  
पुतलीसडक, काठमाडौं, नेपाल  
फोन नं. ४१६६१०, फ्याक्स नं. ४१२५३८

ARUN CONCERNED GROUP

P.O. Box 2125  
Putalisadak, Kathmandu, Nepal  
Tel: (0977-1) 419610, Fax: (0977-1) 412538

May 23, 1994

Executive Director  
US Section  
The World Bank  
1818 H Street  
Washington, D. C. 20433  
Fax:: 4772967

Dear respectable sir/madam

The Arun Concern Group (ACG), an association of a number of non-governmental organizations, and concerned citizens of Nepal formed to raise the issues of concerns and national interest directly related to and generated by the Arun III Hydroelectricity Project to be constructed in Nepal, would like to bring to your kind notice the following issues and concerns with respect to Arun III project. ACG believes that you would give a due consideration to the concerns expressed in the attached document while making decision about Arun III Project. ACG also requests you to kindly defer and withhold your valuable vote until the issues and concerns raised here are resolved.

Thank you very much. Looking forward to hearing from you soon.

Sincerely yours,



Gopi Upreti

Spokesperson (ACG)

## अरुण सरोकार समूह

पत्र मन्जुषा नं. २१२४  
पुतलीसडक, काठमाडौं, नेपाल  
फोन नं. ४१६६१०, फ्याक्स नं. ४१२४३८

## ARUN CONCERNED GROUP

P.O. Box 2125  
Putalisadak, Kathmandu, Nepal  
Tel: (0977-1) 419610, Fax: (0977-1) 412538

May 23, 1994

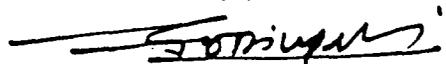
Fritz Fischer  
Executive Director  
German Section  
The World Bank  
1818 H Street  
Washington, D. C. 20433  
Fax: 4777849

Dear respectable sir/madam

The Arun Concern Group (ACG), an association of a number of non-governmental organizations, and concerned citizens of Nepal formed to raise the issues of concerns and national interest directly related to and generated by the Arun III Hydroelectricity Project to be constructed in Nepal, would like to bring to your kind notice the following issues and concerns with respect to Arun III project. ACG believes that you would give a due consideration to the concerns expressed in the attached document while making decision about Arun III Project. ACG also requests you to kindly defer and withhold your valuable vote until the issues and concerns raised here are resolved.

Thank you very much. Looking forward to hearing from you soon.

  
Sincerely yours,

  
Gopi Upreti

Spokesperson (ACG)



# INHURED INTERNATIONAL

INTERNATIONAL INSTITUTE FOR HUMAN RIGHTS, ENVIRONMENT AND DEVELOPMENT

P.O. Box 2125, Putalisadak, Kathmandu, Nepal • Tel: (0977-1) 4-19610 Fax: (0977-1) 4-12538

Fax: (202) 477-2967

May 27, 1994

Executive Director  
Nepal Section, The World Bank  
1818 H St.  
Washington, DC 20433

Dear Sir or Madam:

INHURED International, a Kathmandu-based international non-governmental organization, would like to express its deep concerns about the way that the controversial Arun III Hydroelectric Project is designed and inappropriate conditionalities have been imposed in the process of loan negotiation. It believes that funding of such huge mega-projects in a country like Nepal will only invite further economic and environmental disasters in the name of development as in other countries. INHURED International is quite familiar with the adverse impacts of the policies of the World Bank and its sister organizations on civil, political, economic, social and cultural rights, particularly in the Third World countries, and Nepal is not an exception.

In this regard, INHURED International would like to sincerely draw your utmost attention to the denial of the right to information regarding Arun III Project. This right has been guaranteed under article 16 of the Constitution of the Kingdom of Nepal as well as article 19 of the International Covenant on Civil and Political Rights which Nepal is a State Party.

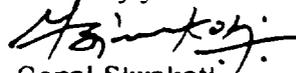
As you may know, a writ petition has been filed in the Supreme Court of Nepal against the Nepali government authorities for the denial of information about the Project, including the Memorandum of Understanding reached between the Government of Nepal and the donor communities. In a historic decision, the Court has ordered the defendants (the concerned government ministries and the Nepal Electricity Authority) for the disclosure of all information regarding the Project. However, the government authorities have still been denying such disclosure and violating further the human rights to know of the Nepali people.

It may also be important to mention you that some concerned citizens and public interest groups are preparing for another round of legal battles in the Supreme Court on grounds of contempt court and the denial of information in accordance with the Court's verdict. This situation may cause further delay in finalizing the status of the Project.

Finally, INHURED International would like to refer to various declarations and conventions of the United Nations that guarantee Nepali peoples' sovereignty over their natural resources and development modules. It also would like to request that no further action should be taken on the part of the Bank and donor communities until all information relating to Arun III Project are disclosed for the public and their participation in decision-making is ensured. Lack of attention to such issues of public concerns at national and international levels may interest the construction of the Project at any stage.

Thanking you for your prompt attention to this matter.

Sincerely yours,

  
Gopal Siwakoti  
Executive Director

cc: Executive Directors, German Section,  
Japan Section, UK Section, and US Section

3) Comprehensively answer all questions being raised about Arun III at local, national and international levels.

4) Ensure that the project is in compliance with all World Bank policies including energy, information disclosure, resettlement, and environmental policies.

5) Ensure that alternatives to the project have been adequately investigated.

It is useless to talk about public participation since there is nothing to "participate" as a result of the absence of relevant information, particularly in local languages. The government has never genuinely held any public hearings or distributed information about Arun III. The series of public meetings that were held in different parts of the Arun Valley and other areas were nothing but distribution of a leaflet telling people about procedures for compensation. No important issues were raised or debated about the Project itself. Some NGOs were invited to attend, but were prohibited from raising any issues other than compensation, and in some cases they were systematically threatened as a result of their activities in encouraging local people to participate in debate on issues of local and national concern relating to Arun III. Furthermore, creation of so called pro-Arun groups only undermined the image and sincerity of the government and donors.

It is difficult for people to understand information distributed by government to local NGOs and the people in a so called consultation with the local NGOs and the people in the Arun Valley in preparing the Regional Action Plan. Can the government or the Bank provide any information about what were the procedures and methods of such consultations and list of NGOs that were part of it ? If so, why did the government or the Bank did not bother to invite the Arun Concerned Group or the Alliance for Energy. Involvement of a few vested interest group or individuals without opportunity for broader participation can only be regarded as a manipulation to legitimize the Arun III Project.

Before there are further negotiations between the World Bank and the Nepali government and before Bank management sends the Arun III project to the Board of Executive Directors, we request the World Bank to ensure that the following has taken place:

- 1) Provide all basic project documents to NGOs and the public, including an update of recent negotiations with the Nepali government officials and new conditionalities, if any.
- 2) Ensure that Bank actions in relation to the project do not undermine democratic processes inside Nepal, including respecting the recent Nepalese Supreme Court decisions.

After the local groups were denied basic information by the Nepali government, the groups filed public interest litigation in the Supreme Court of Nepal demanding the disclosure of all information related to the Arun III project. This culminated in a legal review of the Arun III project and the donor conditionalities. The Court has decided that all information and conditionalities relating to Arun III are subject to the Court's extra-ordinary jurisdiction and review, as specified by Article 16 of the new Constitution of Nepal. The Supreme Court has ordered the Nepal Electricity Authority, and concerned ministries to disclose all information on the Arun III Project to the petitioners and the public. Nonetheless, the Government has repeatedly ignored provisions for the release of basic documents on Arun III: e.g. the Memorandum of Understanding of October 19, 1993. Since further litigation is to be filed very soon to address this violation, any acts which the Government of Nepal may be involved with may soon be declared unconstitutional and in violation of the Supreme Court judgement. It should be understood by the World Bank that the Nepali government must abide by the mandate of the Nepali people, particularly as stated by the Constitution and the judgements of the Supreme Court. Ultimately, these mandates of national sovereignty supersede illegal agreements with outside agents. In this situation, the World Bank must pay full respect the Nepali Constitution and decisions of the Nepali Supreme Court. It is also important to note that the government has lost in all public interest litigations in recent years, including Arun III and the World Bank must not contravene decisions of Nepalese courts.

There is some confusion about the role of the democratically elected Nepali Parliament. So far, the Parliament has never been provided any information about Arun III by the government other than general statements by the ministers. A report on Arun III is expected to be submitted by the Opposition Party in the upcoming session of the Parliament starting from next week. A report and findings of a Public Commission on Arun III is also expected before the vote on Arun III on July 26. If the Bank approves the project on July 26th, this will jeopardize the internal negotiations, voting and democratic processes and will lead to mistrust of the Bank and donors by political parties and the public in Nepal.

### **Public Participation:**

Keeping in mind the above concerns, we would like to highlight a few points the Arun Concerned Group has raised with respect to the World Bank policies of information disclosure and requirements for public participation and beneficiary consultations.

## **Access to Information**

The World Bank has failed to adequately inform the Nepali people, and Nepali NGOs, (e.g. Arun Concerned Group, INHURED International, Alliance for Energy, Rural Reconstruction Nepal) with regards to the Arun III project. The World Bank office in Kathmandu and the Nepali Government consistently failed to provide any information or documentation to groups who issued written requests for basic project documents. Even the Project Information Document for Arun III which is easily available here in Washington was not offered. Given that no information was produced on request, it goes without saying that the local people were not informed of the realities of the Arun III project. The Nepali Government has, however, mounted a campaign of misinformation regarding the alleged benefits that local people will receive from the Arun III project. The Government of Nepal did not promptly make available in local languages a project summary. The only material initially provided in the local language was a leaflet explaining the procedure for receiving compensation for lands required by the Arun III project.

In our understanding that the World Bank's new information policy and the EA policy requires meaningful "access to information". This would imply more than simply informing the Nepali public that Arun III will be constructed. Meaningful disclosure of project details is understood as an invitation to participation, a mandate for public knowledge, critical discussion, and finally--if the project is a good one--public support. When "information policies" act to exclude public participation from project formulation, designing, decision-making, and implementation, the legitimating benefits of democratic participation through informed decision making are invariably lost. In these unfortunate situations, "access to information" only notifies the public of the imposition of projects through the government channels which lack democratic accountability and procedural transparency.

## ISSUES REGARDING ACCESS TO INFORMATION AND PUBLIC PARTICIPATION ON ARUN III

June 28, 1994

First of all, we would like to thank the World Bank for inviting NGOs concerned with the proposed Arun III Hydroelectric Project in Nepal to attend this consultation and to present issues of local and national concern pertaining to long term repercussions of the proposed Arun III project. However, we are seriously concerned about the utility and usefulness of this meeting, particularly on the following matters:

- Is the Bank prepared to review the project negotiation process and modality before final agreement, and before the submission of the Project before the Board on July 26? If not, why is this consultation being held at the final hour of negotiations?

- We understand that the scope of this consultation is limited to issues directly related to the World Bank, and is not intended to address domestic issues and concerns. If this is true, we do not understand the purpose of inviting Nepali government representatives to participate in this consultation. We welcome the opportunity to discuss the broader international and legal issues raised by the Arun III project proposal. Unfortunately, we regret that we may have had to travel here to Washington to hear arguments from the representatives of the Nepali government, a government which totally ignored and undermined all efforts to promote this sort of discussion of the Arun III project in Nepal.

- We are concerned that the value of this consultation will be directly compromised if the situation between the Nepali NGOs and their government representatives becomes confrontational. We are equally concerned that this consultation be respected with regard to the World Bank's decision making for the Arun III project: we anticipate that the final report of this consultation will be publicly released and used during future negotiations and also submitted to the Board of Executive Directors.

*Action Required*

Arun should not go before the board until the following issues have been adequately discussed:

- The issues raised in ITDG's paper on relative costs
- The riparian issue with China
- Power sales to India
- The impact of the project on the people in the Arun valley

Alliance for Energy  
ITDG  
June 1994

- Geographical balance of hydropower development. Hydropower investment and the associated benefits need to be distributed more equitably across the country.
- Risk associated with a single large scheme. Seismic risks, glacial lake outburst floods etc are not specific to any particular project but larger schemes (particularly if there are several in a single valley) make the country's power supply unduly susceptible to these risks. Putting all of the concessionary financing available to the country into one large scheme designed to come on line in eight years time puts the country at risk in terms of unscheduled delays and cost overruns.

Additionally, there are unsettled issues which will be critical to the success of the Arun project - in particular the riparian issue with China and the lack of agreement on further power exports to India.

### *Future Development*

We recognise that, in the long run, larger schemes will be needed to meet the ever increasing demands on the grid if reasonable economic growth is to be sustained. There is also no disagreement that the role of the private sector will be critical. The question is whether the implementation of Arun at this point in time is consistent with a long term vision of sustainable hydropower development.

The Alliance is arguing for the use of concessionary financing for sectoral support rather than for individual projects. Money available from the donor community must be focused on long term strengthening of the sector rather than on producing megawatts in the short term.

The Bank has said that it will 'aggressively pursue the commercialisation and corporatization of, and private sector participation in, developing country power sectors'<sup>3</sup>. This privatisation will not occur spontaneously and it is most likely that the private sector will first want to invest in smaller schemes (say 10-20MW). There is significant money in the commercial sector with no mechanisms in place to utilise this for hydro sector development. A package of institutional reforms will be needed to spark off this process. Banking regulations will need to be changed to allow for longer term loans; legal institutions will need to be put in place to regulate buy-back; schemes will need to be covered by insurance and guarantees.

There is no money now available in either the government budget or the donor loans to even study these schemes. To prevent the long-term recurrence of the 'no-options trap' that has arisen with Arun, such study work must be initiated now in order that the country has a wide range of potential hydropower schemes available to it in a few years time.

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<sup>3</sup>The World Bank's role in the electric power sector, World Bank; 1993

## Plan B and Sectoral Issues

### *The Bank's 'Plan B'*

The debate over the relative merits of Arun and the alternatives has been going on for over a year and the Bank has had an analysis of 'plan B' since July 1993 (see footnote to table 7.9 in the recent Argonne Laboratories report). NGOs have, however, only seen any relevant documents in the last two weeks and have not been given sufficient time for detailed comment.

Nevertheless, it is clear that the results of the comparison of plans A and B are inconclusive. The 3-4% difference in the two models is easily within the margin of error of the assumptions. In April of this year, ITDG presented its own analysis<sup>1</sup>, suggesting that all of the small hydro schemes for which it could gather firm data were very significantly cheaper than Arun in terms of the costs of generated power. As yet the Bank has made no response at all to that paper.

The Bank's examination of plan B appears to make an arbitrary choice of six projects from a range of over 20 possibilities. No justification of the selection has been presented. In addition, the Bank claims that the schemes in plan A and plan B cannot be directly compared because the plan B schemes have not been studied to the same extent. A proposal to study these schemes has been with the Bank since July 1993<sup>2</sup>, yet it has taken no action. In order to make a clear comparison of plans A and B, such studies must be carried out before Arun is presented to the board as the least cost option.

### *Beyond Least Cost*

Given that the results of the plan A/B comparison were inconclusive, it is even more imperative that the Bank looks at the wider developmental parameters which are not considered by a least cost methodology.

The key issues in the context of this particular project are:

- Capability building. The adoption of such a large scheme as Arun when indigenous institutions are weak does nobody any favours. Adding local man hours to such a project is not 'institution building'. The need is for planned development of whole institutions around smaller schemes so that the country can implement complete schemes in the future.

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<sup>1</sup> Arun III - Cheaper energy for Nepal?; ITDG; April 1994

<sup>2</sup> Hydropower Development in Nepal: taking a sector wide view; ITDG; July 1993

of the Arun III project, more wide-reaching campaigns are bound to take place in the days to come.

We demand that the Arun III project be delayed until:

- 1) The appropriate groundwork for the RAP has been done (including the King Mahendra Trust follow-up study for the new road alignment), adequate funding has been secured, and the construction schedule is modified to allow for RAP implementation to proceed in advance of project construction.
- 2) The construction schedule for the road is extended to maximize the use of local labour, minimize impact on the environment and allow work to commence from a single roadhead.
- 3) The ACRP programme is overhauled, so that people are given a "land for land" option and are offered a fair price for their land.
- 4) A panel of experts is appointed to evaluate and modify the EIA.

the King Mahendra Trust Study of the Management of Basinwide Environmental Impacts - consultation was limited to discussions of how best to deal with a *fait accompli*.

\* The Bank's OD 4.01: Environmental Assessment requires that "the borrower provide relevant information prior to consultations ... in a timely manner and in a form that is meaningful for, and accessible to, the groups being consulted" (Art. 21). Let alone the timely manner, most of the relevant information was never disclosed to interested parties. Our Government was found to be negligent in this respect by the Supreme Court earlier this year.

\* OD 4.20: Indigenous People states that "Successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up" (Art. 14g). This is one of the universal truths of development, yet the Bank and the Government's greed for Arun's power has bulldozed this concern aside. For the RAP to be effective, it must be started way in advance of the project. Building the road at such high speed will exacerbate the difficulties in overcoming the already almost insurmountable challenge of trying to implement such an ambitious mitigation programme alongside project construction, rather than in advance of it.

I would like to remind you, at this point, the fate of the Sardar Sarovar Project (Narmada Dam) in India which had much to do with the non-compliance with the Bank's own requirements.

4. Many of the mitigation measures for direct and immediate adverse environmental impacts are not just practical. For example, the loss of fertile top soil is supposedly to be prevented by taking a layer off in selected sites prior to the project activity and storing it until it can be returned to its original place. Villagers in the Arun valley would laugh at such an absurd suggestion.

5. The RAP is supposed to take care of the long-term, indirect and broader socio-economic, cultural and environmental impacts of the project in the whole valley. However, the RAP appears to be little more than a wonderful shopping list of good intentions. Were it to be taken seriously, the resources required would stretch way beyond the budget set aside for it (\$17 million). But money is only part of the problem. Much more concerning is the capability in the executing agencies to execute such an ambitious and far-reaching plan. A \$14 million grant is sitting in Kathmandu, set aside for a clean-up program for the capital, yet bureaucratic inertia has prevented any work from going ahead. If such a straight-forward project like this cannot be managed, how can we be expected to have confidence in implementation of the RAP?

We strongly differ with the Bank's assertion that there is little opposition to the project in Nepal. Within the last six months alone, opposition to this project from among the people at large, intellectuals, professionals, politicians, NGOs, and political parties in Nepal has grown tremendously. And opposition will rise dramatically once local people start realizing the impacts on their lives once construction work begins. Unless satisfactory answers are given and the issues raised are resolved with regard to the controversies of the present form

economic justification for the project relies on the assumption that the high cost of the project will be offset by the Upper and Lower Arun schemes, since the opening up of the valley facilitates developing these schemes. But, at the same time, the cumulative environmental and social implications of opening up the whole valley are given only a cursory mention in the Environmental Impact Assessment (EIA) and other environmental studies. If the benefits of other schemes are to be accounted for to justify Arun III's high cost, then the much more serious environmental consequences of building these schemes, also must be taken into consideration at the same time.

2. The rapid pace of construction, particularly of the road, has much more serious environmental implications than presented in the project documents. The road route, timing and methods of construction have been chosen with the single objective of commissioning the power from Arun III as soon as possible. This 120km road is planned to be built in only three years. Quite apart from the huge costs this will incur (including extensive air support), managing the construction in compliance with the proposed mitigation measures will be extremely difficult, if not impossible. To meet the deadline, 6-7 camps of up to 1,500 workers will need to be set up at 10 km intervals spread all the way up the valley. This will make policing of the contractor's compliance to the mitigation plan impossible in practice.

3. Preparations for the project have failed to comply with several World Bank policies. We trust that that these violations will be taken seriously by the bank. For example:

\* There has been a violation of the Bank's Operational Directive 4.30 on Involuntary Resettlement which outlines one of its primary aims as "providing people displaced by a project with the means to improve, or at least restore, their former living standards, earning capacity, and production levels" (Art. 2). Quite the opposite is happening. The people in Tumlingtar, for example, are being compensated at rates far below the market price of their land. Similarly, the Bank strongly advocates "land for land" compensation, which is particularly important in the Arun valley where people are not linked in to the cash economy and where serious problems have already been highlighted from cash compensation measures implemented for the original ridge route alignment. But the Acquisition, Compensation and Rehabilitation Program (ACRP) has not identified a single piece of land for this purpose, despite the fact that much of the compensation has already been paid.

\* The Bank's Operational Directive (OD) 4.01 on Environmental Assessment states that for "major, highly risky, or contentious projects with serious and multi-dimensional environmental concerns" (Art. 13), an Environmental Advisory Panel must be engaged in preparation of the EIA. No such panel has been appointed for the Arun III project, despite its classification as a Category A project.

\* The same Directive also expects "the borrower to take the views of affected groups and local NGOs fully into account in project design and implementation, and in particular in the preparation of EAs" (Arts. 19,20). There was no public consultation at all in the preparation of the EIA for the valley route for the road. Neither was there any open consultation on

ENVIRONMENTAL AND SOCIAL ISSUES RELATING TO  
ARUN III PROJECT

GANESH GHIMIRE, ARUN CONCERNED GROUP

June 28, 1994  
Washington, DC

The Arun Concerned Group is an open platform of NGOs, professional groups, and individuals concerned with various issues relating to the Arun III hydroelectric project. Some of us, including myself, are from the Arun valley, where the project is to be located. The name of the river, "Arun", means the sun and it represents life. Like life itself, Arun basin is full of diversity, both environmentally and culturally. Within 100 km, the valley rises from only a few meters above the sea level to about 8500 meters, which gives rise to its unique and rich environment and culture.

The World Bank has recognized the Arun valley as a biodiversity hotspot of global importance. But at the same time, it is allowing the intricate and dynamic balance between the natural processes and human activities to be seriously threatened by the Arun III project. The area is very remote, and its people are vulnerable and naive. They live, however, in peace, social harmony and tranquility. The Arun III project documents acknowledge that the project, especially the road, will bring many negative and irreversible changes to communities and the environment. These documents further acknowledge that many of the indirect environmental and social impacts cannot be predicted now. Given the rapid construction plan and the size of the project, a vast package of measures has been proposed to mitigate against its likely direct and immediate impacts. In addition, a Regional Action Plan (RAP) has been designed to take care of the indirect and long-term environmental and social impacts.

Despite the impressive amount of paperwork produced, we do not believe that the measures proposed will protect the people and the environment from the negative irreversible changes expected. The mitigation measures are inadequate, misleading, often unrealistic, and also exhibit non-compliance to the World Bank's own requirements. It is irresponsible for the Bank to allow the project to proceed until these issues are resolved. I would like to give you some examples to demonstrate how we have arrived at this conclusion.

1. Some serious environmental and social impacts have been ignored, underplayed or in some cases, removed from early drafts of project documents. For example, part of the

# ARUN CONCERNED GROUP

Address in Nepal:  
Secretariat, P.O. Box 2125, Kathmandu, Nepal  
Tel: (977-1) 419610, fax: 412538

Address in United States:  
1025 Vermont Avenue #300, NW  
Washington, DC 20005  
Tel: (202) 879-3186, Fax: (202) 879-4293

July 7, 1994

Ann Hamilton  
Country Department I "SA/1"  
The World Bank  
1818 H Street, NW  
Washington, DC 20005

Dear Ms. Hamilton:

I am writing to request you the complete set of documents on Arun III Hydroelectric Project in Nepal based on the attached list which was made available by the Bank.

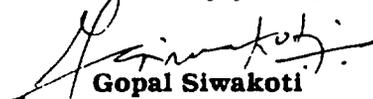
The documents with the following "Report No." are either already available or not needed at the moment.

<u>Report No.</u>	<u>Page</u>
27 to 51	2
218 to 242	8
265 to 298	9-10 (Video and Audio documents)

I appreciate very much if you provide the rest of the documents upon your earliest.

Thank you very much for your cooperation.

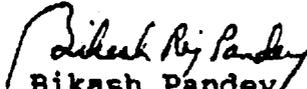
Sincerely yours,

  
Gopal Siwakoti  
Secretariat

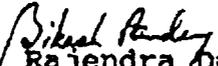
If these concerns are not addressed adequately by the Bank, we may be forced to submit an appeal to the Bank's Inspection Panel.

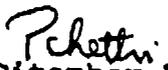
Thank you for your attention to these matters.

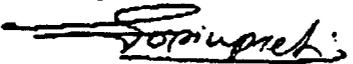
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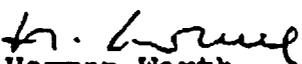
  
Bikash Pandey  
Alliance for Energy  
Nepal

  
Arjun Karki  
Arun Concerned Group  
Nepal

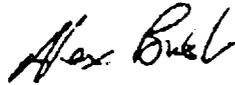
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Rajendra Dahal  
Alliance for Energy  
Nepal

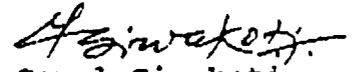
  
Pitamber B. Chettri  
Alliance for Energy  
Nepal

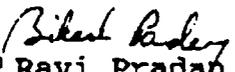
  
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Arun Concerned Group  
Nepal

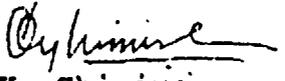
  
Herman Warth  
Urgewald  
Germany

  
Lori Udall  
International Rivers Network  
USA

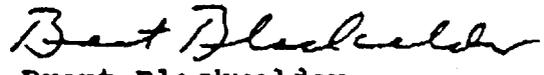
  
Alex Bush  
Intermediate Technology  
England

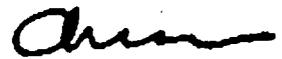
  
Gopal Siwakoti  
Arun Concerned Group  
Nepal

pp/   
Ravi Pradhan  
Alliance for Energy  
Nepal

  
Ganesh K. Ghimire  
Arun Concerned Group  
Nepal

  
Yukio Tanaka  
CEPAT  
Japan

  
Brent Blackwelder  
Friends of the earth  
USA

  
Chad Dobson  
Bank Information Center  
USA

cc: Lewis T. Preston, The World Bank  
D. Joseph Wood, The World Bank  
Ismail Serageldin, The World Bank  
Ann Hamilton, The World Bank

compensation, which is particularly important in the Arun valley where people are not linked to the cash economy. Serious problems were highlighted in the project documents after the earlier round of cash compensation measures implemented for the original ridge route alignment. Despite this, no land has yet been identified to offer the option of land for land compensation.

#### **D) Agreements with Neighboring Countries**

##### **1) Power Sale Agreement Must be Reached With India**

Since phase II of the Arun project and future power development in the valley have been predicated on the sale of power to India, the project must not be approved until a bilateral agreement has been reached. India currently buys power from the Chukha dam in Bhutan at prices significantly below cost price. The high cost of Arun's power means it is highly unlikely that any power sale deal with India will make economic sense.

##### **2) The Riparian Issue Must be Resolved with China.**

In the Nepali Parliament recently, the Water Resources Minister announced that China held "no objection" to Nepal's plans to build Arun III. However, this does not constitute a promise to guarantee Arun's water supply for the lifetime of the project. Even now, a proposal is pending in China for the Changsuo Basin irrigation project on the Arun (Phung Chu) river. In addition, there are a large number of glacier lakes in Tibet which could produce Glacier Lake Outburst Floods to which Nepal has no access, in order to manage premature drainage. Approving Arun III without a firm commitment from China markedly increases the risk of the project.

#### **E) Conclusion**

*The Bank's failure to ensure that its policies on environmental assessment and information disclosure are being followed is undermining democratic processes in Nepal. We believe the unresolved issues surrounding this project, and the lack of public consultation and access to information makes it highly unsuitable for Board consideration at this time. We also question whether a project of this magnitude and adverse impacts is a reasonable use of IDA funds, particularly when viable alternatives are available. If the Bank is to take seriously its publicly stated commitment to sustainable development, then there should be a full investigation of alternatives which are more suitable for Nepal's long-term energy needs.*

**2) A Realistic Implementation Programme and Timetable for The Regional Action Plan and Road Construction must be Established.**

Construction of the 122 km road is currently planned at a rapid rate of just over three years. The road will adversely impact on the people living in the valley, through an influx of up to 10,000 construction workers and their families, which will put pressure on precious food, forest and water resources. Many of the people of the Arun Valley fit the Bank's definition of "indigenous people" in its operational directive OD 4.20 which states that "successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up". For the Regional Action Plan to be effective, it must be started well in advance of the project. The rapid speed of road construction will further undermine the Regional Action Plan's ability to cushion this sensitive region from the long-term and indirect impacts on the valley. The construction schedule for the road must be extended to minimize disruption to local communities and the environment.

Moreover, we question whether the Nepal Electricity Authority which has its primary interest in promoting the project has the capability or the will to properly implement the Regional Action Plan.

**3) Long-Term Cumulative Environmental Impacts of Arun III and Subsequent Projects Must be Studied**

The World Bank's Environmental Assessment Policy recommends that regional environmental assessments be used in cases where significant development activities with potentially cumulative impacts are planned for a localized area. Arun III is only first phase in a plan to build a total of three dams in the Arun Valley. Despite this, environmental studies have only covered the potential adverse impacts of Arun III. Before the project is approved, there should be a comprehensive study of the long-term cumulative impacts of dam building and road construction in the entire Arun Valley.

**4) The Acquisition, Compensation and Rehabilitation Program Should be Revised to Ensure that Families Receive Equitable Compensation and that the Program is in Compliance with Bank Policy.**

Families whose land will be taken for the project are being compensated at a rate that is well below the market rate for their land. In this respect the project is failing to comply with the Bank's Operational Directive on Involuntary Resettlement (OD 4.30, para 2). In addition, Bank policy advocates "land for land"

Requests for the green cover staff appraisal report, and other technical information such as hydrological studies and the cost/benefit analysis have been denied. The Bank has released a list of documents on the project which was compiled by the Nepali government, but it is not clear what documents the Bank is prepared to publicly release. The staff appraisal report is critical for local groups because it is the basic technical project document which contains the project justification and rationale for the Bank's involvement in the project. It is critical that this document be released, before it becomes final. While we realize there may be a small portion of confidential information within, we believe these sections should be excised, and the rest of the document should be released. The Project Information Document has never been updated and it contains so little information that it is useless for NGOs who are questioning the basic assumptions and objectives of the project.

### **C) Environmental And Social Issues**

The Arun Valley is a remote area of vast biological diversity and ecological fragility. The Valley is inhabited by 450,000 people, comprising 10 ethnic groups. These people will be extremely vulnerable during road and project construction. About 1,760 families will be affected by the loss of their homes, lands and livelihoods. Other families will be adversely affected by the large influx of workers and the pressure put on local food, forest and water resources. It is estimated that subsistence farmers adversely affected by the road will lose 20% of their income.

The Arun III project, along with the upper and lower Arun project will cause irreversible, long term cumulative impacts to the environment and the people. Many of these cumulative impacts have not yet been assessed. Because there have already been violations of the World Bank's environmental and social policies, we question the commitment of Bank management and Nepal Electricity Authority to implement the project with proper environmental and social safeguards.

#### **1) The Regional Action Plan Must Be Completed**

The King Mahendra Trust follow-up study to the Makalu-Barun Environmental Impact Study, which is essential groundwork for the Regional Action Plan, will not be completed for at least six months. The World Bank Board date and road construction must be postponed until all portions of the Regional Action Plan are completed and are in place. Previous Bank experience with projects such as Sardar Sarovar in India where project construction was started before environmental studies were completed and implemented have failed.

This lack of consultation represents a violation of the Bank's Operational Directive on Environmental Assessment, which requires that the government take into account the views of affected groups and NGOs in the preparation of project design and implementation (OD 4.01, para 19).

## **2) Failure to Release Information**

Despite repeated requests over several years, only in the last few months have any project documents been made available to the Nepali public. Their release only came about following a court case filed by NGOs which led to a Supreme Court decision demanding their disclosure. Despite the ruling, which demanded the release of all documents related to the Arun III project, many of the key documents are still being withheld by the Nepali government, precluding any meaningful debate.

The library which was established by the Nepal Electricity Authority after the case was filed in the Supreme Court does not contain many key documents such as the Memorandum of Understanding between the Government of Nepal and the World Bank (October 1993) or the draft project appraisal document. In a project of this size and cost which will affect the whole nation of Nepal, the public should be able to get access to information on existing agreements between the Government and the World Bank, and basic project documents. Additionally, the full environmental impact assessment has not been made available in the local language, which is a requirement of Bank policy (OD 4.01, para 21).

## **3) Failure to Release World Bank Documents**

Both the Bank's Environmental Assessment Policy (OD 4.01) and Information Procedures (BP 17.50) require the timely release of information about projects in preparation, especially before public consultations take place. This has been violated consistently throughout all project planning and design. The Bank's new information policy requires the release of the Project Information Document and the release of all factual technical information about the project. While the project information document was readily available in Washington, it has not been available in Nepal. Requests for factual technical information on the project, including studies on alternatives to the project were denied until June 9th, when the Bank released only a study on alternatives by Argonne National Laboratories. NGOs have not had sufficient time to analyze this document and many of the assumptions used in the document are not explained.

In the interests of generating energy for Nepal at least cost, it is imperative that the study of the alternatives be taken to at least the feasibility level to allow a proper comparison with the Arun project before the project is taken to the Board for a vote. Unless this is done the Bank will not have fulfilled its policy requirement to compute the Least Cost analysis for additional power generation for Nepal.

## **B) Public Participation and Access to Information**

### **1) Public participation and Consultation**

Public Participation in the project has not been adequate. The project is being portrayed by the Government of Nepal as having been chosen through a transparent and open democratic process. However, only in the last six months (with project preparation almost at completion) has there been any serious discussion in Parliament or with the public with the benefit of accurate information. Prior to that, Arun III was consistently presented to the public as a *fait accompli*. The discussions that have taken place have been forced by concerned groups rather than at the instigation of the Government of Nepal or the World Bank. For example, NGOs organized a public hearing in February 1993 which was attended by Nepal Electricity Authority but boycotted by the Ministries of Water Resources and Finance and by the National Planning Commission. As a result, there was no opportunity to challenge key government ministries about the project.

The alternatives to the project (along the lines of Plan B) that are available to Nepal have never been presented to the people or the Parliament. The Nepali government claims to have held 23 public meetings, 11 of which were in the Arun Valley. While it is true that there was one public hearing in Tumlingtar, many of the other meetings being classified as public hearings were meetings strictly to inform people about compensation procedures for their land. NGOs who tried to raise issues in the meetings about the project and its adverse environmental and social impacts were prevented from doing so. The Government has also misinformed people in the Arun Valley about the project, leading them to believe they will receive jobs and electricity. In reality, there has been no concrete commitment to supply electricity to the people in the Arun Valley and only a small number of jobs will be created for local people, because outside workers will be brought in. Because of the magnitude, cost and adverse impacts of the project and the implications for the national budget of Nepal, we believe this project is a national issue and we have also requested that there be public hearings in Kathmandu.

# Alliance FOR Energy

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Executive Directors  
The World Bank  
1818 H Street  
Washington, D.C.  
20433

July 6, 1994

BY FAX

Dear Executive Director,

We would like to thank you for meeting with us during the week of June 27th, and hearing our concerns about the Arun III hydro-electric project in Nepal. We hope that through these meetings, you have come to understand the risks, drawbacks and wider implications of Board approval of the Arun III project as currently designed. We remain unconvinced that our concerns are being taken seriously by Bank management. Because of the many unanswered questions and unresolved issues relating to the project, we believe it would be irresponsible of the Bank to allow Arun III to come to the Board on July 26th. We urge you to delay the Board date until the following issues have been adequately addressed:

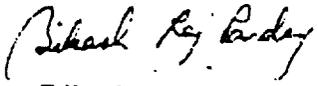
## A) Adequate Analysis of Alternatives:

The very high unit cost of construction and the corresponding high tariff that consumers of the energy from Arun III will have to pay remain a serious concern. Lack of study of the alternatives during the eight years of preparation of this project continues to be a major criticism of this project. The Least Cost Expansion Generation Plan exercise that has been used to justify the project to date has been admitted by Bank Management not to show conclusively the superiority of the Plan A option (the Arun project as currently designed) over Plan B (which proposes to have the project come on line in the year 2009 after the construction of a number of small and medium hydropower schemes) to supply the national grid. The cost of the Plan B projects compared with the Plan A option are extremely preliminary. The study 'Arun III - Cheaper Energy for Nepal' sent to Bank management in April 1994 indicates that hydropower schemes under the 100MW range that have been studied in greater detail in the last year have all come up with energy costs lower than Arun III. There has been no response to this study from the Bank.

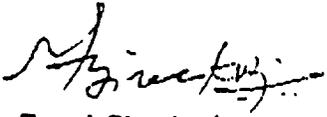
Based on the large number of concerns regarding the Arun project, we would urge your agency to consider utilizing your funds for supporting small and medium hydro-power schemes of less than 100MW capacity which are more economically, environmentally and socially sound for Nepal's current situation:

Thank you for your attention to these urgent matters.

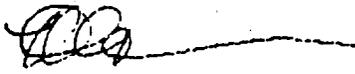
Sincerely,



Bikash Pandey  
Alliance for Energy  
Nepal



Gopal Siwakoti  
Arun Concerned Group  
Nepal



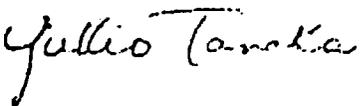
Lori Udall  
International Rivers Network  
USA



Chad Dohson  
Bank Information Center  
USA



Brent Blackwelder  
Friends of the Earth  
USA



Yukio Tanaka  
CEPAT  
Japan

- \* ***The engineering and management capability to build a large project like Arun does not exist in the country, which means that the entire scheme will be built by international contractors.***

Previous experience with large hydro projects in Nepal managed in this way (the Marsyangdi and Kulekhani schemes) demonstrates that such dependence on external technologies and expertise does nothing to help local capability grow and mature - in fact, the reverse is often the reality. While there were token provisions made for local capability building in the two projects named above, they never developed into genuine capability building. It is hard to see how Arun will enhance the hydropower capability of Nepal.

The shortcomings of this approach are already clear. Japanese experts had to be brought in to assess the damage on the Kulekhani penstock (washed away in the floods of 1993) and four years after the completion of the plant, German technicians are still needed long term to run the Marsyangdi power plant. The Japanese experts have pointed out the lack of routine maintenance on the Kulekhani project and almost no record keeping of the maintenance that was done.

Local capability in hydropower has been growing and maturing rapidly over the last 10 years, particularly in the private sector. Local companies are now taking on 50-60MW schemes, which are plenty big enough to meet Nepal's relatively modest energy needs. However, local initiatives require support rather than competition from schemes like Arun.

- \* ***Given Nepal's current development status and priorities, Arun could do more to damage than enhance the country's overall development prospects***

Nepal is one of the 10 poorest countries in the world. Its most urgent needs are for the basic services of clean water, sanitation, health and education. While electricity is high on the list of priorities for Nepal's rural communities (which represent 90% of the population), they stand little chance of gaining access to Grid electricity even in the long term. Stand-alone mini- and micro-hydro schemes offer the only realistic option for many of these communities ever to benefit from electricity.

Given the Bank's emphasis on 'poverty alleviation' strategies for development and the recent concerns raised in the Wapenhans Report about the 'sustainable development impact' of its projects, it is difficult to see how it justifies the construction of Arun, which will benefit so few, generate no income for the country and increase its burden of debt.

Arun scheme and is doubly unpopular because together with the tariff increase people can expect more load-shedding for the foreseeable future. The further 50% tariff increase that is expected to be needed to pay for the energy produced from Arun will mean that Nepal will have the highest energy prices in South Asia and threatens to destabilize the country politically.

- \* ***There has not been enough preparation for detailed planning of the mitigation measures needed to counter the serious adverse environmental impacts of the access road to the Arun Project.***

The Arun Valley is a remote area of vast biological diversity and ecological fragility. The valley is inhabited by 450,000 people comprising 10 ethnic groups. These people will be extremely vulnerable during road and project construction. Over 1000 families will be affected by the loss of their homes, lands and livelihoods. Pre-project mitigation activities to prepare the local people for the effects of the construction of the road has not even begun and there are only a few months left before the proposed beginning of construction. The Nepal Electricity Authority which is in charge of co-ordinating the mitigation activities and has full responsibility over environmental management during construction and after commissioning has no capability or experience in this area. There are serious doubts that NEA can execute these functions effectively in spite of the "unprecedented level of planning of mitigation for this project".

- \* ***Public participation both at a local level in the affected district and at a national level has been insufficient in the development of the Arun project.***

Serious questions that the people of Sankhuwa Sawa (the district where the project is to be sited) have regarding the alignment of the road, and benefits to the local population of jobs, training and access to electricity have not been adequately answered. The one Public Hearing that was held in the district was not publicly announced. When satisfactory answers to their questions could not be provided during the Hearing, local leaders asked the organizers, more than once, to terminate the meeting and go back to Kathmandu. No documents regarding the project (including the Environmental Impact Assessment in the local language) were available to local people before the Hearing.

The project affects all the people of Nepal in different ways - as consumers of the produced electricity or as those carrying the burden of the loan. Government officials boycotted a Public Hearing in Kathmandu on the project organized by NGO's on February 11th, 1993 and have not organized one of their own. A Public Hearing needs to be held in Kathmandu to discuss the risks of the project to the national economy and the alternatives to Arun that are available to Nepal.

few. Large, centralized power schemes like Arun will not help the remaining 90% of the population gain access to electricity.

Even to those who will benefit from Arun, the cost will be very high. Despite concessional terms on the loans from the World Bank and Asian Development Bank to His Majesty's Government of Nepal (HMG/N), the Nepal Electricity Authority will be required to make payments to HMG/N for the loan at an interest rate of 10.25%. This cost will ultimately be borne by the consumer, who will pay very high electricity tariffs.

- \* ***The scheme will cost \$3,800 per installed kW. Private companies in Nepal can and are building small and medium hydro schemes (up to 60MW) at half that rate.***

In the light of the high cost of power production, it is surprising that Arun came out as the best option for Nepal to pursue in the Least Cost Generation Expansion Plan (LCGEP). The LCGEP did not consider all the possible options for hydropower development in Nepal, and largely ignored the small/medium scale sector.

Local private sector initiatives are consistently building schemes for less than \$2,000 per kW installed in the small (1-15MW) and medium (15-100MW) hydro ranges, and \$1,500 per kW in the mini/micro-hydro range. The 20 to 25MW of annual incremental power needs of the national grid can easily be met with a basket of 1-100MW schemes coming on line one after the other.

- \* ***Investing in Arun means putting all Nepal's hydropower eggs in one basket. This makes it a high-risk option and provides no answer to the current load shedding problem.***

Investing in more, smaller schemes would spread the risks of investment and energy provision. If anything goes wrong with Arun, the country will have no alternatives to fall back on. The start date for the construction of Arun has already been shifted and is likely to be further delayed. Shorter-gestation projects will relieve load shedding much sooner.

- \* ***Political stability in the country will be threatened if tariff has to be raised to the level being insisted on by the World Bank for this project to go ahead.***

Since the newly elected democratic government came to power, electricity tariff was raised 61% in November 1991 and again 40% in February 1992. This has been followed with an increase of 38% in early 1994. This increase of over 200% in the electricity tariff has led to political protests in all the major cities in Nepal and petitions from the business community for tariff reductions.

The high tariff is seen to be a direct consequence of the high cost of power generation from the

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Christian Sundgren  
Director  
FINNIDA  
Katajanokan Laituri 3  
SIN00160  
Helsinki  
Finland

12 July 1994

By Fax: 358-0-341-6375

Dear Mr. Sundgren,

We are writing to you regarding the Arun III hydroelectric project in Nepal which is being considered for funding by FINNIDA. We believe that alternatives to the project have not been adequately investigated or publicly debated. We also submit that the long term cumulative environmental and social impact of development and road building in this remote and pristine environment have not been adequately addressed. Moreover, public consultation and access to information has been inadequate in the preparation of the project. Listed is an elaboration of our major concerns:

- \* ***With a current price tag of \$764 million, the Arun III hydropower scheme will cost as much as the entire national budget for one year. This is a major financial commitment way beyond Nepal's limited resources.***

Although much of the loan for the Arun project is being made available on concessional terms, it is still a huge burden for a country with such a limited budget. One third of the country's national revenue already disappears into loan repayments. Since only 9% of the population has access to electricity, the whole country will bear the debt burden for the benefits enjoyed by a

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Philippe Jurgensen  
Director General  
Caisse Francaise de Developpement  
35 rue Boissy  
D'Anglas 75379  
Paris  
France

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**P.O. Box 2125**  
**Kathmandu, Nepal**  
**Tel: (977-1) 419610**  
**Fax: (977-1) 412538**

12 July 1994

By Fax: 33-1-4742 7514

Dear Mr. Jurgensen,

We are writing to you regarding the Arun III hydroelectric project in Nepal which is being considered for funding by Caisse Francaise de Developpement. We believe that alternatives to the project have not been adequately investigated or publicly debated. We also submit that the long term cumulative environmental and social impact of development and road building in this remote and pristine environment have not been adequately addressed. Moreover, public consultation and access to information has been inadequate in the preparation of the project. Listed is an elaboration of our major concerns:

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Carl Tham  
Director General  
SIDA  
Birger Jarlsgatan #69  
S-IL525  
Stockholm  
Sweden

July 12, 1994

By Fax 468-322-141

Dear Mr. Tham,

We are writing to you regarding the Arun III hydroelectric project in Nepal which is being considered for funding by SIDA. We believe that alternatives to the project have not been adequately investigated or publicly debated. We also submit that the long term cumulative environmental and social impact of development and road building in this remote and pristine environment have not been adequately addressed. Moreover, public consultation and access to information has been inadequate in the preparation of the project. Listed is an elaboration of our major concerns:

- \* ***With a current price tag of \$764 million, the Arun III hydropower scheme will cost as much as the entire national budget for one year. This is a major financial commitment way beyond Nepal's limited resources.***

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Akira Nishigaki  
President  
Overseas Economic Cooperation Fund  
Takebashi Godo Building, 4-1  
Otemachi 1-chome  
Chiyoda-ku  
Tokyo, Japan

July 12, 1994

BY FAX 81-33-215-2897

Dear Mr. Nishigaki,

We are writing to you regarding the Arun III Hydroelectric project in Nepal which is under consideration to receive funding by the OECF. We are also following up on a June 5th meeting we had at OECF in Washington D.C. with Mr. Hasegawa, in which we discussed our concerns about the project as currently designed.

We believe that alternatives to the project have not been adequately investigated or publicly debated. We also submit that the long term cumulative environmental and social impact of development and road building in this remote and pristine environment have not been adequately addressed. Moreover, public consultation and access to information has been inadequate in the preparation of the project. Listed is an elaboration of our major concerns:

- \* ***With a current price tag of \$764 million, the Arun III hydropower scheme will cost as much as the entire national budget for one year. This is a major financial commitment way beyond Nepal's limited resources.***

Although much of the loan for the Arun project is being made available on concessional terms, it is still a huge burden for a country with such a limited budget. One third of the country's national revenue already disappears into loan repayments. Since only 9% of the population has access to electricity, the whole country will bear the debt burden for the benefits enjoyed by a

**LIST OF KEY MEMBERS OF THE ARUN CONCERNED GROUP**

**International Institute for Human Rights, Environment and Development  
(INHURED International), Secretariat**

**Alliance for Energy**

**Coalition Nepal (environmental NGO)**

**Rural Reconstruction Nepal (RRN)**

**Informal Sector Service Centre (INSEC)**

**Centre for the Victims of Torture (CVICT)**

**Forum for Protection of Human Rights (FOPHUR)**

**International Human Rights Lawyers' Society**

**Child Workers in Nepal Concerned Centre (CWIN)**

**Women's International League for Peace and Freedom - Nepal Section (WILPF)**

**National Concerns Society**

**Child Watch**

**Nepal Ad Hoc Committee on the People-Centred Development in the South - Nepal  
(Secretariat of the International Coordination Committee in South Africa)**

6. take into account the detailed information to be provided by NGOs in Nepal on various issues relating to Arun III, particularly environmental impact assessments and mitigation measures as well as alternatives to Arun III; and
7. satisfy with other unresolved issues relating to the life and sustainability of the project, e.g. riparian issue with China, glacier outburst, alternatives to energy development, adverse impacts in social sectors.

Please do not hesitate to contact for further information or clarification.

Thank you.

Contact address in Washington, DC:  
c/o International Rivers Network  
1025 Vermont Avenue #300, NW  
Washington, DC 20005 USA  
Tel: (202) 879-4280  
Fax: (202) 879-3186

approval of agreement with China on riparian issue (since 86% of the water flows from China); status of agreement with India on the sale of energy, if it exists; approval of 10% investment by Nepal of the \$764 million project and other questions relating to the cost, conditionalities of donors, and environmental and social impacts. So far the Parliament has not been provided this opportunity, and significant pressure on the government for the disclosure of project documents and a fruitful debate was expected in the present session of the Parliament, including independent reports by the Opposition Party and the People's Commission on Arun III, which is not the case anymore due to recent political developments in the country.

The dissolution of the Parliament this week, and the calling of mid-term elections on November 13, 1994 have created further uncertainty of Arun III project if it is not critically reviewed by the donors to win the consensus of the fragile political parties and the confidence of the Nepali people. The final decision of the loans for the project will be viewed as undermining the democratic internal process in Nepal as well as seizing of "opportunity" during political turmoil. The status of the project will further degrade if the existing members of the Cabinet and the ruling party get defeated in the November elections leading to new opening of debate on Arun III.

#### WHAT NEEDS TO BE DONE!

It will be essential for the borrower country, the people and the donors to postpone the July 26th voting of the project by the Bank, and review the whole project with careful attention during the period of electoral preparation for November elections, particularly:

1. investigate violations of the Bank's Information Policy and operational procedures by the Bank Management;
2. study of issues and concerns raised by NGOs during the June 28th consultation meeting held at the Bank;
3. review the compliance of the Bank's policy, procedures, guidelines and standards relating to the project as the obligations of a borrower country, and access to basic project information by the affected people and the citizens of Nepal;
4. ensure the debate of the project in the next elected Parliament (November 1994) and its approval;
5. respect the decisions of the Supreme Court of Nepal on access to information on Arun III as well as the internal democratic process;

obligations by referring to some public meetings and the setting up of "library" after the case was filed in the Court.

Following the Court's verdict, the petitioners first demanded the list of documents and information from NEA that only provided a list of 151 reports in the second week of June in which many of the project documents and basic information were missing. It was only after a threat of another litigation and the contempt of the Court, the government provided a copy of the Memorandum of Understanding of October 1993 on June 26, 1994 at the outset of the Consultation with NGOs on June 28, 1994 by the World Bank. It is found out that NEA has supplied the World Bank a list of 298 reports which was not available in Nepal.

Efforts of seeking project documents and basic information are still underway and there are strong possibilities of the second round of legal suits in the Court by challenging the complete or partial denial of basic project documents by the government without valid legal justifications. Similar efforts are also being made at the World Bank office in Washington, DC for the disclosure of project documents and information according to the list of 298 reports that was made available by the Bank on June 15, 1994.

In conclusion, the process of access to information on the Arun III project has just began and several obstacles are foreseen in future despite the Court verdict for their release.

#### ABSENCE OF PARLIAMENTARY DISCUSSION AND APPROVAL

Another disturbing issue regarding Arun III has been the lack of fruitful debate in the Parliament and its approval. The government has never presented any documents and information, other than policy statements and general information about the construction of the project, in the Parliament despite repeated efforts of Members of Parliament for the disclosure of project documents for debate and approval. A group of Members of Parliament even issued a public statement on January 12, 1994 with other public figures and demanded for the release of project documents and review of the whole project by the Parliament. Around the same time, the largest Opposition Party in the Parliament — Communist Party of Nepal (UML) — issued an statement and said that it will neither approve project nor assume any responsibility in future if the matter is not debated in the Parliament with the disclosure of project information.

There are several issues involved relating to the design, funding and implementation of the project that need approval of the Parliament, e.g.

people, political parties and NGOs in Nepal as the sympathy and support of the Bank and other donors in stabilizing the hard-won democracy in Nepal.

#### DENIAL OF ACCESS TO INFORMATION

Denial of basic information by the Nepali Government, particularly Nepal Electricity Authority (NEA), about the Arun III Hydroelectric Project has been one of the serious matter of concerns for the people and NGOs in Nepal. A formal request was made by the Kathmandu-based International Institute for Human Rights, Environment and Development (INHURED International), Secretariat of the Arun Concerned Group, on December 10, 1993 requesting for all information about the project, and copies of the request letter was also sent to ministries of finance, and water resources as well as to the donors.

As response to this letter, NEA provided the following documents on December 16, 1993:

1. Environmental Assessment and Management, May 1993
2. Environmental Management and Sustainable Development in the Arun Basin, October 1991

Since the above documents only give a general knowledge about the environment aspect in the Arun Valley, and not the details of the project and the environment impact assessment, a follow-up letter was sent for the availability of complete set of documents and information on the project, including frequent visits to NEA officials but without a success. Formal and informal requests were also made for the cooperation of the World Bank office in Kathmandu about the availability of basic project documents and information. It is now confirmed from the World Bank list of reports that about 13 major environmental assessment-related documents were denied by the government until very recently.

A public interest litigation was filed in the Supreme Court on December 31, 1993 under articles 16 (right to information) and 88.2 (right to public interest litigation) of the Constitution of the Kingdom of Nepal. By exercising its extra-ordinary jurisdiction, the Supreme Court delivered a verdict on May 8, 1994 in favor of the petitioners and ordered the Nepali Government to provide all documents and information about the project. The Court decision went even further and stated that denial of information, fully or partially on any grounds that there may be, can be challenged in the Court within 7 days from the date of such denial. The Court did not believe that the government has fulfilled its constitutional and legal



# INHURED INTERNATIONAL

INTERNATIONAL INSTITUTE FOR HUMAN RIGHTS, ENVIRONMENT AND DEVELOPMENT

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## MEMORANDUM SUBMITTED TO EXECUTIVE DIRECTORS AND BILATERAL DONORS ON ARUN III HYDROELECTRIC PROJECT IN NEPAL REGARDING ACCESS TO INFORMATION AND PARLIAMENTARY DISCUSSION

Presented by  
Gopal Siwakoti, Executive Director  
Member, Arun Concerned Group

July 12, 1994  
Washington, DC

First of all, I would like to express sincere thanks for meeting the members of the Arun Concerned Group during the past two weeks and giving careful attention to issues that were raised regarding the proposed Arun III Hydroelectric Project in Nepal about access to information and public participation, environmental and social impacts, alternatives for energy development and the process of design and implementation of the project. I hope the following information will assist you further in understanding the critical issues and debates that are taking place in Nepal with regards to the merits and demerits of Arun III if it is implemented in its present form, shape and size as well as its possible adverse impacts in national economy and development process.

It is our belief and understanding that the postponement of the Board date of July 26th will provide all of us a unique opportunity in carefully looking at all aspects of Arun III and take appropriate policy and implementation measures in future. It is mainly because the information release process has just began and it needs more time for their availability in local language for public consultation with the local people as well as national debate in the Parliament. Since a thorough discussion of the project in the Parliament and its approval is highly significant for the better future of Arun III as well as a secure investment of donors, it is important that this opportunity is given to the forthcoming new Parliament to be elected on November 13, 1994 as the existing Parliament has been dissolved on July 10, 1994 due to political infighting in the ruling party. I would like to assure you that the postponement of the Bank date will be viewed by the

अरुण सरोकार समूह

पत्र मन्जुषा नं. २१२४

पुतलीसडक, काठमाडौं, नेपाल

फोन नं. ४१६६१०, फ्याक्स नं. ४१२४३८

ARUN CONCERNED GROUP

P.O. Box 2125

Putalisadak, Kathmandu, Nepal

Tel: (0977-1) 419610, Fax: (0977-1) 412538

October 7, 1994

The World Bank  
Resident Office  
Kathmandu

Dear Sir or Madam:

I am writing to request you for a list of documents relating to the proposed Arun III Hydroelectric Project that are available for public in your office. The Arun Concerned Group would like to obtain the copies of basic documents and information about the project for study and research upon the availability of such list.

Thank you very much for you co-operation.

Sincerely yours,



Gopal Stwakoti

cc: The World Bank Headquarters, Washington, DC

ATTACHMENT-VIII

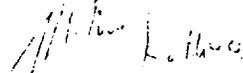
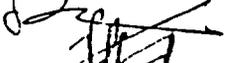
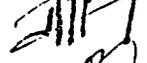
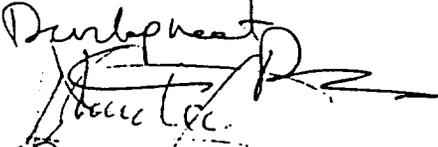
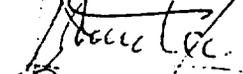
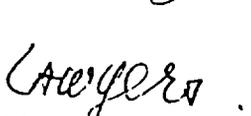
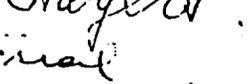
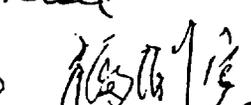
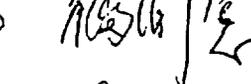
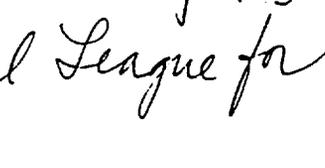
Under 7: Previous Complaints to the Bank

The claimants have been complaining the Bank of issues and concerns relating to their rights and interests that have been or will be affected by the project. The following documents are some direct evidence of such efforts:

Corresponding Date	Authority	Concern	Response
October 7, 1994	Bank's Residence Office, Kathmandu	Project documents	Incomplete list provided
July 12, 1994	Bank's Executive Directors	Issues and concerns	No response
July 7, 1994	Ann O. Hamilton, Director Country Dept. 1, South Asia	Project documents	No response
July 6, 1994	Bank's Executive Directors	Issues and concerns	No response
June 28, 1994	Bank's consultation meeting with NGOs	Three presentations on alternatives, information and public participation, and environmental & social issues	No adequate response
May 27, 1994	Bank's Executive Directors	Issues and concerns	No response
May 23, 1994	Bank's selected Executive Directors (Japan, Germany, Nepal, United Kingdom, United Nations)	Issues and concerns	No response
December 30, 1993	Ann O. Hammlton, Director Country Dept. 1, South Asia	Alternatives and other issues	No adequate response
August 29, 1993	Ibid	Ibid	Ibid
May 16, 1993	Ibid	Ibid	Ibid

Bi-lateral meetings were also held with the Bank staff before, during and after the Bank's one-day consultation meeting on June 28, 1994 in Washington, DC as well as during its annual meeting and the "50th anniversary" in Madrid in September/October 1994.

**ATTACHMENT-VIII**

NAME	ORGANIZATION	SIGNATURE
MILTON KOTLIKOFF	HABITAT INTERNATIONAL CONDITIONS	
Frank C. Newman	Human Rights Advocate	Frank C. Newman
'Disabled Peoples' International		
SOTTAS Eric	OFICET/SOS Torture	
RICARDO CHANGALA	SERPAJ-AL	
Myriam Schreiber	International movement against all forms of discrimination and Racism	
LAURI ADAMS	SIERRA CLUB LEGAL DEFENSE FUND	Lauri Adams
Karen Parker	International Educational Development	
Consejo Indio de Sud America CISA		
International Indian Treaty Council		Robert Cry
International Association of Democratic Lawyers		
International Movement for Fraternal		
Union among Races and People		
C. M. EYA, NIGERIA		
Janet Bruin	Women's International League for Peace and Freedom	

In conclusion, structural adjustment programs and the conditionalities that are tied to development projects such as Arun III have negative effects on these rights all over the world. Such policies seriously interrupt "the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" as provided for by article 25 of the Covenant.

Finally, we would like to urge the Sub-Commission to request:

I. that the international financial institutions as part of the United Nations system:

1. comply with all international human rights instruments in designing and financing of any projects;
2. review all lending conditionalities and effects of structural adjustment programs in order to comply with the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development;
3. provide all project documents and information to NGOs, affected people and the public;
4. ensure that their actions in relation to projects and finance schemes do not undermine internal democratic processes;
5. allow investigation by UN human rights bodies into compliance of the policies, procedures, guidelines and standards relating to projects and obligations of a lending agency and a borrowing country; and
6. respect the right of the peoples to freely enjoy and dispose of their national resources.

II. that the Government of Nepal:

1. comply with its international human rights commitments and obligations in reaching lending agreements with all bi-lateral and multilateral lenders and donors;
2. review existing economic policies and development projects, including Arun III, to ensure that:
  - a. the design and financing of projects will not reduce currently available resources in economic and social sectors and cultural activities; and
  - b. the benefits of such projects will be equally distributed to all the people of Nepal for the effective realization of economic, social and cultural rights and the right to development.

Finally, we would like to urge the Sub-Commission to undertake a follow-up study of the impacts of policies and programs of the international financial institutions based on country cases and experiences and make recommendations for the monitoring of such matters by the human rights bodies of the United Nations.

#### ORGANIZATIONS WITH CONSULTATIVE OR OBSERVER STATUS TO THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS

Disabled Peoples' International  
Consejo Indio de Sud America  
Habitant International Coalition  
Human Rights Advocates  
International Association of Democratic Lawyers  
International Educational Development  
International Indian Treaty Council  
International Movement against All Forms of Discrimination and Racism  
International Movement for Fraternal Union among Races and Peoples  
OMCT /SOS Torture  
SERPAJ-AL  
Sierra Club Legal Defense Fund  
Women's International League for Peace and Freedom

*Submitted on August 23, 1994*

While the government and local police have been informed of these threats and attacks, no action was taken due to government support of the project.

On one occasion, due to national and international outcry against injustices committed by the government, the Prime Minister of Nepal, who was furious with the World Bank for dictating Nepal's electricity tariff rate-increase and cuts in other public services, said: "I am a bit disappointed with the World Bank because sometimes they say one thing and sometimes another. They say they prefer democracy to be maintained in the countries receiving their aid, and yet they impose such conditions which put democracies like ours in trouble. I feel they are themselves not sure of what they want." (*Weekend, May 28, 1993 Kathmandu*). The Prime Minister's statement is an example of how even a democratically elected government, with its commitment to human rights, can fail in realizing the economic and social rights.

The experience of Nepal in the realization of economic, social and cultural rights is that the current development models being imposed by the international financial institutions and industrialized countries are inappropriate, undemocratic, and are inconsistent with international human rights provisions. For example, the proposed Arun III hydroelectric project to be funded by the World Bank and other sources have raised serious questions regarding their negative impacts on economic, social and cultural rights and the right to development due to pre-conditions set by the lenders for the project. The people of Nepal had been denied information about the project (until the Supreme Court of Nepal delivered a landmark decision against the government on the question) and an opportunity for broader participation in the process of design and implementation. The project, and the lenders have been widely criticized for ignoring the adverse effects and the pre-conditions that will further reduce existing and future resources and budgetary allocation in the economic and social sectors, e.g. welfare programs, health, education, housing. Furthermore, there is lack of accountability and transparency, and no definite plans exist for equitable distribution of benefits to be generated by the proposed project.

According to information received from INHURED International, which has been raising issues of the effective realization of economic, social and cultural rights under the International Covenant on Economic, Social and Cultural Rights under continuous physical threat and intimidation, the people of Nepal will never be able to realize these rights if the project is implemented in its present shape, size, and lending conditions. In July of this year, a regional meeting of NGOs in Kathmandu discussed the impact of structural adjustment programs in South Asian countries and concluded that the living standards and health and educational attainments of the world's largest population are dramatically decreasing. They found that the Bank has been violating its own information and operational policies and procedures in designing and financing projects, including the acquisition, compensation and rehabilitation of the affected people and the communities. For example, there has been a violation of the Bank's Operational Directive 4.30 on Involuntary Resettlement regarding Arun III project which outlines one of its primary aims as "providing people displaced by a project with the means to improve, or at least restore, their former living standards, earning capacity, and production levels" (art. 2). But, the affected people are being compensated at rates far below the market price of their land. Similarly, the Bank strongly advocates "land for land" compensation, which is particularly important in the Arun Valley where people are not linked in to the cash economy and where serious problems have already been highlighted from cash compensation measures.

As State Parties to the International Covenant on Economic, Social and Cultural Rights, governments have international obligations to ensure the full realization of economic, social and cultural rights of their people by adopting policies and programs that are consistent with the treaty provisions, including article 25 of the Universal Declaration of Human Rights, and article 11 of the Covenant on the right to an adequate standard of living: e.g. health, housing, food, and a safe environment for the continuous improvement in living standards. Likewise, no consideration has been given to the local culture of the people of the Arun Valley, which is largely composed of traditional ethnic groups, in the proposed construction of the project that will depend on foreign, rather than local labor, bringing a huge influx of outsiders into an isolated region of the country. The obligation of States Parties to take necessary steps for the conservation and the development of such culture is provided under article 15(2) of the Covenant.

Forty-Sixth Session of the UN Sub-Commission on Prevention of  
Discrimination and Protection of Minorities

Palais des Nations, Geneva, Switzerland  
August 1-26, 1994

Agenda Item 8

JOINT WRITTEN STATEMENT ON THE REALIZATION OF ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS AND THE RIGHT TO DEVELOPMENT

First of all, we would like to draw the attention of the Sub-Commission to the deteriorating status of economic, social and cultural rights and the right to development on the countries of the Third World, especially due to the adverse impact of the policies of international financial institutions and the industrialized countries. We also acknowledge the work of the Commission on Human Rights and the Sub-Commission in identifying obstacles, difficulties, and measures that need to be undertaken at various levels — inside and outside the United Nations system.

We are concerned about the fact that countries that are States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant instruments have not been able, despite their political will and interest in many cases, to undertake development policies and welfare programs for the full enjoyment of economic, social and cultural rights as provided for by the Covenant. Since many of these countries have been forced by these institutions, particularly the World Bank and the International Monetary Fund (IMF), to adopt free-market economic policies and structural adjustment programs, the people in these countries have been facing tremendous cuts in social spending. Privatization, investment in mega-development projects, and debt re-payment and servicing further drain resources needed for development.

To understand the gravity and seriousness of the above-mentioned problems, we can find several cases from different countries where governments have been forced to design and implement development projects without popular participation and meaningful access to information regarding decision-making processes. Governments that hesitate to implement such World Bank-IMF dictated policies and programs face the threats that development assistance and loans will be suspended. This leads to isolation in trade and commercial transactions as well as economic and trade embargoes. However, it is widely experienced that no adequate consideration has been given to a country's international treaty obligations and human rights commitment in designing and implementing such projects and other programs by the World Bank or the IMF. On the other hand, these institutions act as the sister organizations of the United Nations, but without complying with its goals and objectives.

It may be relevant to take the example of Nepal for an in-depth study of this subject. Nepal, one of the least developed countries, established a multi-party system in 1990. It became a State Party to several major international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, and adopted policies of economic equality and justice as well as social welfare services in its new Constitution. However, certain economic and development policies pursued by the government have resulted in criticisms in the Parliament and public protest. This has sometimes led to State-sponsored repression, indiscriminate killings in demonstrations and other violations of civil and political rights. For example, last month, a group of about sixty reportedly burst into the office of the Arun Public Commission, an independent non-governmental body which is conducting hearings on the controversial Arun III hydroelectric project, and wrestled the Commission members. The group then announced plans to break into the office of Kathmandu-based International Institute for Human Rights, Environment and Development (INIURED International) to attack its officials. Similar attacks have also been threatened against members of the Arun Concerned Group. In January, INIURED's Executive Director and Program Director received death threats after filing a petition at the Supreme Court of Nepal for public disclosure of Arun III information — a right guaranteed under the Constitution and international human rights treaty provisions.

## ATTACHMENT-VII

### Under 6: Responsibility of the Bank

Martin Karcher, the Division Chief for Population and Human Resources, Country Department 1 in the South Asia Region at the World Bank stated in an interview with the Environmental Defense Fund after his resignation (see Attachment-IV.A above): "...I don't think I am divulging any great secret by saying that poverty alleviation is the stated overriding objective of the Bank's country assistance strategy for Nepal .....".

We fully agree in what Mr. Karcher said, and we appreciate the Bank for formulating such strategy as this would hit the nut-cell of Nepal's existing problems. But, unfortunately, the Arun III project proposal does not fit into the above strategy. In designing and implementing any economic and development plan for Nepal. The cycle of extreme poverty and unemployment must be taken into primary consideration. In Nepal, for example, more than 85% of the 20 million population live in the rural areas where unemployment is very high. They are out of productive employment for about eight months throughout the year except for the cultivation and harvesting periods. We claim that projects like the Arun III in its present form do not create adequate employment opportunity for the local people comparable to the size of investment. In addition, the long-term benefits must be guaranteed from such projects to uplift their living standards and fulfill their basic needs. But, the Bank has not considered such options which fit in the stated objective of the Bank's country assistance strategy for investment that are widely available in Nepal, even within the hydropower sub-sector. Even in case of the Arun III, the access road and various other elements could be proposed to be constructed by broad-based labor intensive approach which would generate income opportunities for the local poor people. We strongly oppose the Bank's failure of compliance with its own stated objective of country assistance strategy for Nepal by imposing the Arun III project.

In addition, the claimants would also like to refer to the following documents as per broadly understanding the goals, objectives and responsibilities of the United Nations system in which the Bank is one of the sister organizations:

1. *International Covenant on Economic, Social and Cultural Rights; adopted by the UN General Assembly resolution 2200 A (XXI) of 16 December 1966; entry into force on 3 January 1976; accession by the Kingdom of Nepal on 14 May 1991.*
2. *Permanent Sovereignty Over Natural Resources; General Assembly resolution 1803 (XVII) of 14 December 1962.*
3. *Declaration on the Right to Development; adopted by the UN General Assembly resolution 41/128 of 4 December 1986.*
4. *Realization of Economic, Social and Cultural Rights; Preliminary report by Danilo Türk, Special Rapporteur; E/CN. 4/Sub. 2/1989/19; progress report, E/CN. 4/Sub. 2/1990/20 and Add. 1; and Second progress report, E/CN. 4/Sub. 2/1991/17.*
5. *Copy of the Joint Statement Submitted by 13 International Non-Governmental Organizations at the 46th Session of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities; Geneva, 1-26 August, 1994. (Attached)*

ATTACHMENT-VII

## ATTACHMENT-VI

### Under 5.B: Threatened Adverse Direct Impacts on Claimants in the Arun Valley

#### A. Increased Food Deficit, Loss of Income and Increased Unemployment

The EIA states that the road and its associated impacts are expected to lead to a loss of income of farm households of 20%. The project is also expected to lead to an increase in unemployment by 6%. The claimants believe that these factors directly and adversely threaten and affect them. While the claimants are not opposed to the road *per se*, they are opposed to the road being built rapidly before the consideration of the needs and concerns of local people and before the environmental and social safeguards are in place. Furthermore, the alignment of the road was changed from the Hill route to the Valley route because of the shorter construction time period, and not because of perceived benefit to the local people.

#### B. Food Availability, Prices and Nutrition

There is already a food deficit in the Arun Valley. According to the EIA, increased population among other things will affect the food balance situation negatively. Impacts include a food deficit of up to 19.35 kg per capita during construction, higher food prices and temporary food shortages. This will have an effect on food availability for poor families. The EIA states "nutritional standards of those not able to access construction-related cash stream are likely to fall further. The number of such families is not known, but one third of families in the MBEIS project area household survey have already mortgaged their land to buy food."

#### C. Destruction of Forests

The claimants and local communities depend on the forests for fuel, fodder and hunting. The Valley route will traverse forested areas for the major part of its length (71 out of 124 kilometers). The total direct forest loss is estimated at 205 hectares. Indirect impacts on the forest resources are expected to be "highly significant" according to the EIA (September 1992). These include increased pressure on forests and deforestation due to accidental fires, demands for forest products from construction workers and their families and demands created by additional cash.

#### D. Adverse Health Impacts

The EIA reports that the influx of workers to the region will put increased pressure on local health care facilities which do not have the capacity to deal with the increase. Increase in Malaria and waterborne diseases are expected. The claimants believe these increased health risks will directly impact on the local people and their families.

#### E. Deterioration of Living Standards as a Result of Cash Compensation

Since Nepal is largely an agricultural country, the people are not used to cash economy. The cash compensation for their traditional lands might have been seen attractive at the beginning but the people are now complaining that their economic condition is deteriorating as the cash money has been used in paying debts or purchase of supplies or entertainment. They further complain that the HMG/N did not inform of any provision for the land to land compensation before and during the compensation process.

**ATTACHMENT-VI**

# Communist Party of Nepal

(Unified Marxist & Leninist)

Central Office

Kathmandu

Ref : \_\_\_\_\_

Date : \_\_\_\_\_

cc:

Ministry of Water Resources, HMG/N

Ministry of Finance, HMG/N

Nepal Electricity Authority, Kathmandu

Arun III Hydroelectric Project, Kathmandu

The World Bank, Residential Office, Kathmandu

Asian Development Bank, Philippines

Caisse Francaise de Development, France

Finish International Development Agency (FINNIDA), Finland

Kreditanstalt fur Wiederaufbau (KfW), Germany

Overseas Economic Cooperation Fund (OECE), Japan

Sweden International Development Agency (SIDA).

# Communist Party of Nepal

(Unified Marxist & Leninist)

Central Office

Kathmandu

Ref: \_\_\_\_\_

(2)

Date: \_\_\_\_\_

As you might be aware of, our Party has been expressing its serious reservations about the way the Project has been designed and proposed. The Party has made its commitment absolutely clear in its election manifesto that in implementing mega projects like the Arun III the national interest will be given highest priority. We are also committed that if we are elected to form the government an evaluation of investment versus the outcome as well as problems relating to environment, settlement, etc. will be made prior to any final decisions.

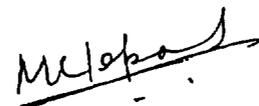
We are of the impression that the present caretaker government is keen to enter into agreement with project lenders and contractors as soon as possible. As there is a lot of controversy about the project inside and outside Nepal, we would not think that such an action by the present government would be appreciable.

We also understand that, as a result of the on-going public debate and controversy about the Project, the World Bank Board date has been postponed up to November 3, 1994 which is about just two weeks before the mid-term General Elections for the House of Representatives in the country. Thus, if the case of Arun III is decided by the Bank earlier than the formation of the new Parliament and the government, we suspect that this will be followed by consequential agreements by the present government with the lenders and the contractors. If this happens to be the situation, still bigger controversies will crop up leaving no room for debating the project in the Parliament and for building necessary national consensus.

Finally, our party views that the proposed project must be reviewed by the new government in light of the on-going controversies before Nepal makes any commitment to such projects.

Thank you very much for your prompt attention to this serious matter. Please contact for any further that you may need.

Sincerely yours,



Madhav Kumar Nepal  
General Secretary, CPN (UML)

# Communist Party of Nepal

(Unified Marxist & Leninist)



Ref: \_\_\_\_\_

Date: ~~October 18, 1994~~

Mr. Lewis T. Preston  
President,  
The World Bank  
1818 H St. NW  
Washington, D.C. 20433

Dear Mr. Preston,

I am writing you to express our deep concerns over the proposed Arun III Hydroelectric Project to which the World Bank is one of the lending agencies. As we understand, the Project, largest ever built in Nepal, is going to generate serious and long term consequences for Nepal. For a country which makes just over one hundred million US dollars as its annual development investment in one fiscal year from its internal sources, the size of investment on the Arun III project is too big to be decided during a politically unclear situation. We would like to draw your attention to the fact that the present government is a caretaker government with limited mandate. It does not have the right to undertake any negotiations or reach into agreements that may have long-term consequences in the interest of Nepal and the Nepali people. Furthermore, all the political parties have recently unanimously decided that the caretaker government should not take any actions having long-term implications as part of the Code of Conduct for the forthcoming elections. (Notice of the Election Commission, Gorakhapatra, October 12, 1994)

We certainly are more than willing to attract foreign investment in developing our water resources. But at the same time, any large funding arrangement, we feel, should only be made after reaching into national consensus. There exists a great possibility of building national consensus among the major political parties in Nepal, at least, in exploiting water resources with a view to promote national development. It is also important that a formal and meaningful debate takes place in the Parliament, and a national consensus is built therefrom before any final decision is made about large projects like the Arun III. As far as the previous discussions of the project in the Parliament are concerned, they were basically limited to providing information by the concerned minister on questions raised by some Members of Parliament during "zero hour sessions". And any formal and meaningful discussion about the proposed project with the availability of basic project documents and information in advance has not yet taken place in the Parliament.

## ATTACHMENT-V

### Under 5.A.4: Undermining Democratic Process Inside Nepal

Hydropower investment and associated benefits need to be distributed more equitably across the country. Because of the long design and construction period and resource drain from building a project like Arun III, other areas in Nepal will suffer a longer than necessary period of unsupplied demand. Many pockets of small demand such as remote rural areas which are far from centralized production facilities, could receive power for their critical needs using micro and mini hydro projects. If resources were available, these decentralized schemes could provide power to over 50% of the population. However in the Fiscal Year 94/95 these type of schemes have only received \$300,000 (0.3 million) as compared to the \$100 million from the national budget that is expected to be spent on Arun III each year of its construction. This is a ratio of 300 times for one project which will serve the needs of only 10% of the population.

The Bank's claim of discussion in the Parliament "on numerous occasions" is no more than misrepresentation of facts to legitimize the public debate aspect of the Bank's own policy. In fact, the project has not gone through formal process of meaningful debate in the Parliament with the availability of basic project documents and information in advance. The Bank's reliance on the pre-prepared set of answers provided by the Water Resources Minister in March 1994 to question(s) raised by some Members of Parliament during "Zero Hour Session" does not justify the public debate aspect of the project in the Parliament. The Bank has already undermined democratic processes inside Nepal by failing to release information about the project in a timely manner and failing to actively promote true public involvement in the planning and design of the project. (See the letter of the Communist Party of Nepal — Unified Marxist & Leninist, the main opposition party in the previous Parliament and one of the main contenders in the forthcoming November 15 elections, to the President of the World Bank dated October 18, 1994).

Currently, there is only a caretaker government in Nepal and the Parliament has been disbanded. The government collapsed on July 10, 1994 as it was unable to get the support that it needed in the Parliament to endorse its policy and programs for the fiscal year. The aid consortium for Nepal which was originally scheduled for October 1994 has even been postponed until next year in order to allow involvement by the new government. Despite this, the Bank Management is pressing ahead to have the Arun III project approved on November 3, 1994 at the outset of the Nepali General Elections. This further underscores the Bank's disregard for democratic processes involving public debate, transparency, accountability and deliberation over its projects.

Additionally, an independent Public Commission on Arun III was set up in Nepal in June 1994 to investigate the controversies about the project will be issuing a report in November after the conduct of the elections. The Commission, headed by the former Acting Chief Justice of the Supreme Court of Nepal, is expected to release its findings after the November 15 elections. It is reported that the Commission is conducting research and interviewing experts and the concerned citizens on the project in spite of the lack of cooperation from the concerned government officials for project information and testimony. Once completed, the report will be publicly released and circulated widely among press, parliamentarians, government officials, NGOs and the international community to facilitate a broad public debate on the project, particularly inside Nepal. Despite this, the Bank is rushing for project approval before the release of the Public Commission's report and the resulting public scrutiny.

**ATTACHMENT-V**

management support in our attempt to assist the government to formulate a targeted poverty alleviation strategy and program directed at those people who are too poor to participate in economic development. Whereas a special Japanese grant of \$800,000 was made available to prepare a project that would be directly targeted at the poorest people in Nepal, the feeling was that it would distract too much of the government's attention, and that senior government officials should focus on macro-economic management issues. As division chief and a member of the Department's management team, I felt I shared in the responsibility for the decisions taken in the Department, particularly for such momentous decisions as the power sector investment program, which can affect the fate of the whole country. And since I had serious reservations and misgivings, I felt that one way of making that statement more effectively than through my previous memos, would be to say I no longer want to be part of the decision-making process.

sufficient to invest in quality improvements in education but not in an expansion of the primary education sector in line with the growth of the school-age population. So it is still a fairly constrained budget. It doesn't allow for major expansion of secondary education, which on the basis of a report which the Bank has just completed, is another area where the needs are extremely large. Moreover, as mentioned earlier, in order to be able to carve out the budgetary resources required to allow for an 8% yearly expansion in social sector spending, the government would have to implement and sustain a number of very difficult revenue mobilization and expenditure prioritization and control measures. In other words, they would need to achieve an unprecedented high level of economic management and performance for Nepal. Is it realistic? Two years ago, Bank management arrived at the opposite conclusion, even though, as I now recall, the total power sector investment program was smaller than the one proposed now.

EDF: Just one final question. Has your decision to retire from the Bank had anything to do with how the Arun project was handled and managed at the Bank.

Karcher: Yes it does. It was not an easy decision, after 29 years with an institution that had provided me with tremendous opportunities for professional growth. My feeling was that the project was not being handled in an objective and even-handed manner. Since senior management seemed to be committed to the project, a serious and open debate was no longer possible, and even common sense questions were being dismissed. All the available energy went into building the case in favor of the project, rather than examining alternatives. By contrast, we received very little

EDF: When you, over the past years or months, have had various questions about the affordability of project -- has there been a response? Have there been discussions about the concerns you were raising? Are these problems actually being actually-being aired or are they being suppressed?

Karcher: I think I got a hearing. I want to be fair. If you look at the most recent Country Economic Report, basically what it is, it's a public expenditure review for Nepal, trying to see if the government proceeds with its full investment program in the power sector, including Arun, what is likely to be the crowding out impact, and what measures the government needs to take in order to accommodate such large investments. The bulk of the report is on that issue, and we were consulted, in the social sectors, about what are the needs. Initially, we were given an envelope for social sector investments which assumed a 5% real growth in social sector investments. We said that that was absolutely insufficient, that if investments in the social sector only grow by 5% a year, the government would not even be able to meet its commitments under the basic and primary education project that IDA is funding, and it would not be able to invest as much in the health and population sector as they were about to commit themselves. So that constraint was relaxed. It was decided that the social sectors would get an 8% rate of increase.

EDF: Which is significant.

Karcher: Yes. In real terms that means something. But it doesn't allow for a major expansion, say, in the number of teachers. It doesn't allow catching up with the huge backlog of children who don't attend school. It is

more efficient than it is today. Given the past record of the NEA and given the fact that there won't be too much leverage once the credit is signed, how much incentive is there going to be for the NEA to implement major reforms?

EDF: This is a generic question about capacity building. Obviously requirements for consultants and procurement for this project are going to be very large. What will happen to capacity building, for instance at NEA?

Karcher: According to my colleagues, the past record has not been very good. NEA has not really been taking advantage of technical assistance that they received in the past, and they have received quite a lot. How much better they will do in the future, that is a big question.

EDF: One of the reasons why the Bank rejects Plan B or a series of smaller investments is that it claims that this would provide too little incentive to improve NEA's management and finance. You need the big investment to provide the adequate incentives. From a common sense perspective, it just doesn't add up. What do you think?

Karcher: Is the rationale that you need a bigger carrot? What's wrong with starting with smaller-size projects and gradually developing the institutional capacity? In fact those smaller projects are not that small compared to the existing capacity of less than 300 MW. My sense has always been that if you went with smaller projects, there would be more work for Nepali engineers to develop their skills, to generate employment for them. You wouldn't have to rely as much on large foreign consulting firms. You may still need foreign contractors and all that. But there would be more local capacity building, in a true sense.

trip in the country, while visiting some primary schools being constructed with World Bank assistance, we found that on some stretches of the road it was easier for us to drive alongside the road than on the road itself, basically because maintenance had not been adequate for several years, so that the road had virtually collapsed. I am mentioning this simply to illustrate that the resource requirements just to preserve the existing stock of capital are enormous in Nepal, and we know from experience that the economic rates of return on road maintenance and rehabilitation programs are significantly above 15 percent. Similarly, World Bank studies have found that investments in human resource development yield even higher returns, especially in low-income countries. Under those circumstances, how do we justify using an opportunity cost of capital as low as 10% if there are significant funding gaps and risks that such gaps will continue to exist? When I raised the question of using a higher opportunity cost of capital against which to assess the Arun project, I was told: "We have always used 10 percent; why change for this project?" I do not consider this a satisfactory answer to my question. This is not just an esoteric, theoretical question. It has practical consequences regarding the composition of the government's investment program. The higher the opportunity cost of capital, the less attractive the large capital-intensive hydro-projects become.

EDF: Is the calculation of the benefits of the project based on the initial ca. 400 megawatts project?

Karcher: Actually, it's based on much more than 400 megawatts. As I recall, it's based on the government's entire power investment program from 1994 through to maybe 2010 or 2015. So it doesn't isolate the Arun project

as such, but it takes into account the whole sectoral investment program. The analysis doesn't disaggregate the rate of return on phase 1 of the project. I understand from colleagues in the energy sector that that is the way it's done. We use the least cost generation expansion plan methodology to determine the most attractive investments and then we compute the economic return on the total investment program rather than on the individual projects. In light of the important up-front investments required, however, my strong suspicion is that the rate of return on phase 1 of the Arun project would be significantly smaller, probably less than 10%.

EDF: If you had several discrete much smaller hydro power plants which are much more flexible and decentralized, then you would avoid putting all your eggs in one basket.

Karcher: Right.

EDF: You could stop the project if at some point you see that current costs are much more than you thought or if ...

Karcher: If consumption is less because of tariff increases or some other reason, or if the government faces major budgetary resource shortfalls, then you can still do something about it. You have to recognize that the government of Nepal has already significantly increased tariffs over the past 3 years. How much more they will be able to increase them remains to be seen. However, it's an important issue since the government's ability to fund priority investments in the power and in the social sectors will now be dependent on the capacity of the National Electricity Authority (NEA) to generate substantial financial surpluses. NEA would have to become much

Karcher: I think that the economic rate of return came down from about 18% to maybe 15%. Since the costs of the program haven't come down, there must have been some moderation of the imputed economic value of a kilowatt hour but it may still be unrealistically high. This is a question that deserves to be looked into.

EDF: If there is this eight-fold higher figure for the cost of a kilowatt hour in Nepal as compared to Washington, obviously this strains anyone's credibility..... How can the task manager and the country manager proceed with such a project?

Karcher: The economic analysis had to be redone. The problem, however, with waiting for such a late stage in the project processing cycle before doing a proper economic analysis is that the opportunity to use the results of the analysis to shape the design of the investment program is then lost. The analysis merely serves to justify the project after the fact. Had the analysis been done earlier, it would have been helpful to learn from the sensitivity analysis that plausible variations in the load forecast or in the discount rate have a significant impact on the timing of the project. For instance, should electricity consumption grow at a rate which is only 75% of the base case, phase 1 of the Arun project would be needed 6 years later (in 2009, rather than 2003). Similarly, should the opportunity cost of capital be 12% instead of ten percent, the commissioning of the project would be delayed by some 7 years to 2010. Now, besides electric power, there are other important unmet needs in Nepal. The demand for electricity can be moderated simply by reducing the rate of new household connections. This may allow for meeting other priority such as highway maintenance, for instance. What is striking as you travel in Nepal, is the enormous need for road maintenance and rehabilitation. On my last field

service salaries, these are issues. A significant part of the energy goes to the urban elites, including civil servants. The government may increase electricity tariffs, but then there may also be an induced effect on civil service salaries. And the government will be collecting with one hand what it may have to hand out with the other.

EDF: What do you think about this estimated economic rate of return of 15.4 percent?

Karcher: I have not seen the latest documents. As I was starting to say, I had major concerns about the economic analysis which was first shared back in January. The methodology was based on the consumers' willingness to pay for electric power. First of all, how does one estimate that? What is the shape of the demand curve? When I looked at the the imputed economic value of a kilowatt hour in Nepal, I found that on average this was about 7 1/2 times what consumers were paying and I was wondering how is it possible that you can assume that the average Nepali consumer would be willing to pay something like \$0.53 per kilowatt hour, when we in Washington pay something like 7 or 8 cents? Obviously, if you use these kinds of values, then any project becomes feasible and justified. My colleagues, in the department, also felt that the figures lacked credibility, and that one needed to do something to improve the economic analysis of the project. I have seen a draft of the revised economic analysis, but I have not been able to figure out what is the revised imputed economic value of a kilowatt hour.

EDF: It is probably not too different because otherwise wouldn't there have to be a revision of the economic rate of return?

Karcher: No. Because, to some extent in the social sectors in Nepal the government is still in the process of developing the capacity to provide those services, and it's not an easy task. Providing health services that reach into every village in Nepal is not an easy task. You need trained personnel; you need women with a certain level of education to provide those services. So, to some extent, the limiting factor in the social sectors is the implementation capacity, but as I was saying earlier, this is a constraint which is being lifted, so that in the medium term--we are talking about three to five years--you would be able to expand those services quite rapidly. And it is at that point that the issue is going to come up: will there be sufficient resources available?

EDF: It appears that the economic viability of the project depends to large degree on the Nepalese Energy Authority (NEA) increasing tariffs of electricity.

Karcher: Right.

EDF: There have been huge tariff increases in the past and there have been riots in the streets. How much over the current price do current energy costs have to increase?

Karcher: As I recall, the average tariff had to increase by about 100% between 1994 and the year 2000. So you would have to continue increasing these tariffs quite regularly and significantly over the next six years or so. Whether that is feasible or not remains to be seen. Whether electric power is going to be affordable and to whom, and what kind of impact this is going to have on the cost of living and possibly on civil

Nepal's bargaining position, because Nepal will already have invested its own resources in those facilities, and India may simply offer to pay a tariff covering the incremental costs of generation, such as additional turbines and transmission lines. But let us take it that the power development program was designed to meet domestic consumption. The question then becomes what should be the priority given to meeting the local demand for electricity in relation to other needs, and is the methodology for selecting power projects adequate to answer that question? Starting out with a demand forecast for electric power, the Least Cost Generation Expansion Plan methodology seeks to find a sequence of investments that minimizes the cost of meeting the projected demand. Now I think that kind of methodology is okay if the size of the investments is not too out of line with the size of the country's economy. I mean if you are talking about relatively small increments to the power system and if you have a program that doesn't really overwhelm the whole macroeconomic framework, then that kind of methodology makes sense. But if the methodology throws up huge investments which carry significant risks for the balanced development of the country, then you have to ask yourself why is it that it is so important to meet fully the projected consumers' needs for electricity? Why is it not equally important, perhaps even more important, to meet the needs for primary education, for water supply, or for family planning services? Why is electricity consumption, a significant proportion of which goes to the better-off urban dwellers, more important than the needs of the poor, especially for an institution like the Bank which is primarily concerned about poverty alleviation?

EDF: Are you saying, that for other sectors--health, education, and so on--you don't find this analysis--an assumption--saying that education needs have to be met completely or that health needs have to be met completely?

project. If poverty alleviation is the overriding objective, there must be alternative ways of stimulating productive employment than by concentrating so much of the available government and donor resources on this one sector.

EDF: What do you think of the economic analysis of the project?

Karcher: I have some serious reservations about the economic analysis. First of all it was difficult to get hold of the economic analysis until quite late in the project processing cycle. Somehow that information wasn't being shared very readily. Then in January 1994, when we finally did get a copy of the draft Staff Appraisal Report for the project, I found many problems with the analysis. At the sectoral level, there was no clarity as to what the composition of the government's overall investment program in power actually was and to what extent it was designed to serve export needs in addition to domestic consumption. Part of the justification was that the project was going to help Nepal export electric power to India, but there was no indication that Nepal could produce power at a cost and sell it at a price which would yield an attractive return to Nepal. Although Nepal has major hydro potential, the unit cost of installed hydro capacity is quite high. Therefore I would have liked to see a demonstration that the electricity generated by the project and the follow-on projects in the Arun Valley was actually competitive and that those projects would constitute an attractive investment for Nepal. This was missing. Moreover, if electricity exports were an objective for the program, then it seemed to me that the Nepal government should have entered into negotiations with India before going ahead with the investment because of the major up-front investments required for the access road to the dam site and the other facilities for the first phase of the Arun project. To do otherwise may seriously weaken

out investments in the social sectors. It's possible to construct scenarios where that will not happen, but they usually rest on rather optimistic assumptions. You may have access the latest country economic memorandum of the World Bank on Nepal which was issued last March and is, I believe, a public document. It describes the set of measures the government of Nepal would have to implement over the next 10 or 12 years in order to avoid the crowding-out impact. I personally fear that those measures, which include revenue mobilization, strict recurrent expenditure control, investment prioritization, and steep tariff increases, may be very difficult to implement and especially to sustain over a long period of time. I'm not casting doubts on the good intentions of the government of Nepal but if and when the crunch comes, then I think there is a significant risk that the government will have to cut back on its priority programs in the social sectors, as well as in some other important sectors. Prudence would argue in favor of less risky alternatives.

EDF: We have not been able to obtain a copy of the Country Assistance Strategy, as it is not available to the public. How does the Arun project fit into the overall strategy of sustainable growth and poverty alleviation?

Karcher: I don't think that I am divulging any great secret by saying that poverty alleviation is the stated overriding objective of the Bank's country assistance strategy for Nepal. This requires broad-based, labor-intensive growth to generate income opportunities for the poor, and investments in basic social services. In light of what I said earlier, obviously I have doubts about how the project fits into such a strategy, because it does not appear to be consistent with the goal of labor-intensive growth, and the Arun project's benefits will not readily trickle down to the poor, the overwhelming majority of whom live in the rural areas that will not be served by the

scale of the investments and the nature of the risks one is taking with such a large project and perhaps even two of them (because I understand the plan is now to go ahead simultaneously with both the Arun and the Kali Gandaki projects). A related concern has to do with the fact that, whereas the World Development Report of 1990 calls for labor-intensive growth (labor often being the most plentiful resource in poor countries), I do not see that such large investments in the power sector lead to labor-intensive growth, certainly not in the short to medium term. Therefore, it seems to me that the government and the donors need to consider alternatives investment programs and a more balanced pattern of development, which would generate more productive employment, particularly among the poor.

EDF: The question many people have raised is that with total project costs close to \$760 million, more than Nepal's entire annual budget, is this not likely to crowd out many the social investments that your division is interested in, such as expenditures for education, health, and human resource development?

Karcher: Even though the costs of the Arun project will be spread over 8 or 9 years, that has been a real concern of mine. In Nepal human resource development is still at a very early stage. The levels of education and health services, family planning services are still so inadequate that major investments are required. Nepal is presently developing the potential to expand those services quite rapidly. My main concern has been about what happens in the medium term, when you have developed the capacity to provide better primary education, to improve secondary and higher education, and to provide health and family planning services at the village level to reach very poor women. It is at that point that those large investments in the power sector, once having started, are liable to crowd

Transcript

NEPAL'S ARUN DAM

Environmental Defense Fund Interview with Martin Karcher, Division Chief for Population and Human Resources, Country Department 1 in the South Asia Region at the World Bank (September 9, 1994)

Karcher: Before we start, let me point out that, having left my office about two months ago, I cannot claim to be fully up-to-date on what's happening with the Arun Project.

EDF: The basic facts of the size of the project and costs involved probably have not changed. In view of the Bank's claim that poverty alleviation, and specifically your area, population and human resources development are its first priority, what is the rationale of IDA funding for this mega-project?

Karcher: The Bank's rationale for the project is that it will generate economic growth. This is the first of the two-and-a-half prongs of the poverty alleviation strategy outlined in the World Development Report of 1990. Firstly, you need income growth in poor countries to alleviate poverty. Secondly you need to invest in human resources. And thirdly, as you still have some people who are not going to benefit directly from economic growth, you may also need targeted poverty alleviation programs to reach those people, particularly the absolute poor, including women. So the basic rationale for the Arun project is that it will help generate economic growth, because you need electricity in order to promote industrial growth, including small scale industry, and tourism. Let me make clear at the outset that I am not against the development of power in Nepal. The country needs power but what is at issue, in my mind, is the

#### ATTACHMENT-IV.A

### Under 5.A.1: Project Cost and Crowding Out of Social Sectors

Even bank staff have expressed the view that the size of the domestic investment requirement will crowd out the social sectors. In a recent public statement by Martin Karcher, a Division Chief for Population and Human Resources, Country Department 1 in the South Asia Region at the World Bank stated in an interview with the Environmental Defense Fund who resigned over Arun III controversy stated:

"Even though the costs of the Arun project will be spread over 8 or 9 years, that [crowding out of investments in social sectors] has been a real concern of mine. In Nepal human resource development is still at a very early stage. The levels of education and health services, family planning services are still so inadequate that major investments are required. Nepal is presently developing the potential to expand those services quite rapidly. My main concern has been about what happens in the medium term, when you have developed the capacity to provide better primary education, to improve secondary and higher education, and to provide health and family planning services at the village level to reach very poor women. It is at this point that those large investments in the power sector, once having started, are liable to crowd out investments in the social sectors." *(See interview with Martin Karcher, September 9, 1994 attached).*

ATTACHMENT-IV.A

## ATTACHMENT-IV

### Under 4.E.4: Land-Based Resettlement

In the case of Arun III project, about 640 families reportedly are expected to be directly affected by the Valley route, and about 1650 families from the previous Hill route. At first glance, the Valley route seems to affect fewer families. However, one has to take into account what has already occurred in the area of the originally proposed Hill route. Because, the HMG/N has already acquired the land of many families living on the originally proposed Hill route which is now no longer needed. The Valley route displacement should be viewed for what it is — additional displacement — above and beyond what has already unnecessarily taken place. Given the timing of the Bank's decision to rearrange the route (based solely upon financial objectives), what could have been viewed as compliance with the objective of minimizing displacement now has to be viewed as an aggregation of involuntary resettlement.

The RAP could be considered a development program though the executing agencies in general, are not aware of their responsibilities to carry out this program (interview by Janet Bell with the Chief District Officer of Sankhuwa-Sava District, April 1994). It is also difficult to determine what is a recommendation and what is a mandated responsibility as there is no clear-cut regional action plan. In the case of the Hill route for the access road, displaced persons had not been given sufficient resources in order to replace their lost resources.

A cash compensation is still the centerpiece of the Nepali government's Land Acquisition Guidelines 2050. The EIA reports that "Access Road guidelines are based on the premise that resettlement of affected families to new land is impractical, mainly because, firstly, there is no new land available, and secondly, families do not wish to leave the area of their ancestral homes. Therefore, compensation is cash-based." According to the same EIA, it is expected that Valley route PAFs will have even less ability to be able to comprehend cash compensation because they are already poorer than those affected on the Hill route.

The updated Land Acquisition, Compensation and Rehabilitation Plan (ACRP) has attempted to cope with these issues by insisting that project affected people be given the option of receiving land instead of cash. The burden of identifying this land, however, has been placed upon the displaced themselves and they must further arrange for the state to purchase the land. Those already displaced by the project do not have the option of land, and it has been proven in earlier EIAs that the amount of compensation has not been adequate.

Furthermore, no socio-economic survey has been carried out on the Valley route in order to determine the value of the lands of the affected families. This violates section 11 of OD 4.30. In addition, no resettlement plan has been established for those who will lose their households because of the power transmission lines. In fact, no environmental or social and health plans have been developed for this portion of the project.

The indigenous peoples-component needs to include baseline data, protection of communally held lands, a strategy for local participation, a strengthening of institutional capacities for responsible organizations, a separate monitoring and evaluation unit, an implementation plan, etc. In the absence of the plan for indigenous peoples, the components for the plan are missing as well.

ATTACHMENT-IV

The cash compensation has been shown to fall in the case of those compensated for the no longer operational Hill route of the access road. According to the EIA, "A majority of Access Road, Hill Route Project Affected Families (PAFs) and Seriously Project Affected Families (SPAFs) have already spent their cash compensation on debt repayments, consumer purchases, or subsistence needs, and have been unable to reinvest in land or capital assets. The same lack of ability to plan ahead is likely to happen to the present Valley route PAFs."

The HMG/N has given a 30-day notice of land acquisition of Manakamana Village in the project area on October 5, 1994 asking the affected families to claim for compensation. According to the notice, acquisition of land for the access road is to take place under the Nepal's Land Acquisition Act, 1979. Study of the Act and the procedures for land acquisition makes it explicitly clear that there is no sufficient provision for a land for land compensation. The sole use of the Act for the purpose of ACRP of the Arun III contradicts with the relevant Bank policies and procedures. Thus, the later is violated by the ACRP implementation process.

**ATTACHMENT-III**

in reality, to offset the extreme adverse environmental and social impacts. The claimants believe the RAP is unlikely to be implemented by NEA since it is the same agency which is promoting the project by all means. Moreover, according to the EIA for the Valley route (September 1992), serving the needs of the local population is secondary to providing access to the project site (page 2-1). The route of the road was changed to the Valley purely for expediency and on financial grounds, and not to help the local people for sustainable development.

## ATTACHMENT-II

### Under 4.C.1: Environmental Information

To our knowledge the project authority organized two meetings, one in Hile and the other in Tumlingtar in which various aspects of the project were discussed to some extent. (The first meeting was held in Hile only on December 2, 1993 with the distribution of a booklet in a local language on compensation procedures, but no other project documents and information were made available to the public at that time). Even in the so called 23 public meetings too, except for distributing a leaflet with some project data and compensation procedure, no information on the critical aspects of the project were disclosed. However, there was an attempt to answer questions at the Tumlingtar meeting by the NEA officials without the wider availability of basic project documents and information. Regarding participation in these meetings letters were sent only to the elected representatives of the Village Development Committees, and the meeting was neither announced over the radio nor publicized through leaflets or posters before the meetings such as in Tumlingtar so that the concerned people could participate. There was no mentioning of the likely adverse environmental impact during the meetings by the project authorities. The carefully guarded meetings held in the Arun Valley were to explain the affected people about the legal procedures on compensation as described earlier. In some of these meetings, the claimants also made attempts to address the local people or distribute some critical literature about the project, they were either prevented to speak with the people or warned to limit their statements on the compensation alone.

There is no single occasion one recalls in which the likely adverse environmental impacts were made public and the views of the local people were sought. It can be believed that during the initial stage of the field work for the environmental impact studies, the designated professionals interacted with the local people. But that was primarily focused in obtaining information from the local people, but not to let them know the likely adverse impacts and listen to their recommendations. The local people were not offered choices.

The proposed road as the project documents claim is highly desired by the local people which is a fact. But this road will cause severe disruption in the economic, social and cultural patterns of the lives of the Valley people which they are not properly informed of. In the latest environmental mitigation plan prepared by the NEA, the introductory chapter states "The Arun-III project, particularly the road, will bring major changes. Without effective intervention, the impacts on the Valley could be severe particularly on the poorest families." Whether the local people are adequately informed by the project authorities about these severe impacts is the important question. The claimants strongly feel that they have not. The local people are never asked about their choices between a "road built with environmentally tolerable pace and with environmental friendly approach and techniques" and "the one being proposed". They are disguised by creating dilemma of either the proposed road or the environment.

The Arun Valley is an area of immense biological diversity. It contains one of the few intact pristine forests left in the Himalayas. According to the EIA, the Arun III project, 122 km access road and transmission lines will bring many irreversible and negative changes to the Valley. Because of the expected negative impact to the region, the HMG/N has prepared a "Regional Action Plan". However, the claimants have strong reasons to believe that the RAP will not be properly implemented, and the construction of the project will proceed before environmental and social safeguards are in place.

Although the RAP and the access road has been publicly promoted as an "area development plan" for the people of the Arun Valley, the RAP is only a mitigation plan.

**ATTACHMENT-II**

## ATTACHMENT-I

### Under 4.C.1: Arun III Project Information and Document

Throughout the project cycle, the claimants have been denied access to basic project information in a timely manner. This has violated the Bank's stated policy-commitment of accountability and transparency, and the Bank has also failed to operationalize the presumption in favor of disclosure of information. Timeliness is critical because failure to release information to the claimants prevented local people and NGOs from challenging the project or its various aspects and shielded the project from public debate and scrutiny at critical junctures in project design and planning.

For example, the Alliance for Energy, a local group and one of the founding members of the Arun Concerned Group, the claimant, that had been promoting alternatives to the Arun III project for two years was always at a disadvantage because they did not have access to the Bank's analysis on alternatives, least cost analysis, cost/benefit analysis or financial plan. It was only after pressure and involvement from international NGOs based in the Bank's major donor countries that the Bank finally began to release this information.

Information about the project that was actually available in the Arun Valley was mostly on compensation procedures and compensation rates for land which is being acquired for the project. The EIA documents and the Project Information Document (PID) were not available in the Arun Valley or in the Nepali language.

ATTACHMENT-I

**OFFICE MEMORANDUM****ORIGINAL**

RECEIVED

DATE: November 21, 1994

TO: Mr. Ernst-Günther Bröder, Chairman, The Inspection Panel

94 NOV 22 AM 8:43

FROM: Ernest Stern, Managing Director, EXC

THE INSPECTION PANEL

EXTENSION: 82004

SUBJECT: Request for Inspection - Nepal: Arun III Hydroelectric Project

1. Kindly find attached for your consideration the Management Response to the above Request for Inspection.
2. We believe that the Response appropriately addresses the questions raised in the Request, and demonstrates that the Bank has followed its operational policies and procedures with respect to the design and appraisal of the proposed project.
3. The Response addresses the substance of the Request's complaints. It does not address the issue of the eligibility of the Request under the applicable provisions of the Resolution establishing the Panel.

Attachment

cc: Messrs. Mr. L. Preston, President, EXC  
Mr. I. Shihata, Senior Vice President, LEG  
Mr. D. Joseph Wood, Vice President, SAS

ORIGINAL

RECEIVED

94 NOV 22 AM 8:45

THE INSPECTION PANEL

**NEPAL: ARUN III**

**MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION**

## ACRONYMS

<b>ACRP</b>	<b>Acquisition, Compensation, and Rehabilitation Plan</b>
<b>BP</b>	<b>Bank Procedures</b>
<b>DSM</b>	<b>Demand Side Management</b>
<b>EA</b>	<b>Environmental Assessment</b>
<b>GIS</b>	<b>Geographic Information System</b>
<b>GLOF</b>	<b>Glacier Lake Outburst Floods</b>
<b>HMG/N</b>	<b>His Majesty's Government of Nepal</b>
<b>IDA</b>	<b>International Development Association</b>
<b>IEPS</b>	<b>Initial Executive Project Summary</b>
<b>kWh</b>	<b>Kilowatt hour</b>
<b>LCGEP</b>	<b>Least Cost Generation and Expansion Plan</b>
<b>MIS</b>	<b>Management Information System</b>
<b>MW</b>	<b>Megawatts</b>
<b>NEA</b>	<b>Nepal Electric Authority</b>
<b>NGO</b>	<b>Non-governmental Organization</b>
<b>OD</b>	<b>Operational Directive</b>
<b>OP</b>	<b>Operational Procedures</b>
<b>OPN</b>	<b>Operational Policy Note</b>
<b>PAFs</b>	<b>Project Affected Families</b>
<b>PIC</b>	<b>Public Information Center</b>
<b>PID</b>	<b>Project Information Document</b>
<b>RAP</b>	<b>Regional Action Plan for Arun III Project</b>
<b>SAR</b>	<b>Staff Appraisal Report</b>
<b>SPAFs</b>	<b>Seriously Project Affected Families</b>
<b>UNDP</b>	<b>United Nations Development Programme</b>
<b>WDR</b>	<b>World Development Report</b>

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SOUTH ASIA REGION  
November 21, 1994

## CHAPTER 1: STRATEGIC CONTEXT AND PROJECT BACKGROUND

### I. STRATEGIC CONTEXT

1. Nepal is the seventh poorest country in the world. Annual GDP per capita is under \$200. Its social indicators are on a par with the least developed countries in Africa. Population is increasing rapidly; it is projected to double within 30 years. The absolute poor constitute almost half the population.

2. The ranks of the poor have been increasing in Nepal. GDP has been rising by 3.5 percent per annum. But this is not fast enough to reduce the number of poor people, when population itself is growing at 2.5 percent per annum. Economic growth would need to accelerate for the number of poor people to begin to decline.

3. Nor can significant inroads into poverty be achieved through redistributive policies. Since such a large percentage of the population is poor, there is simply too little to redistribute for such policies to be an important part of the poverty reduction strategy. This suggests that the core 1990 WDR strategy of efficient labor-intensive growth plus investments in human capital is the right approach for Nepal.

4. The Government has been pursuing this approach. It has adopted a number of policy reforms in recent years. Expenditures on basic social services have been increased and are programmed to rise further — by over 5 percent per annum in real per capita terms over the next 10 years.

5. While the results of these efforts have been positive, they have been constrained by two major factors — implementation capacity to convert the higher social sector spending into markedly improved literacy and health outcomes and power to fuel the private sector supply response to the reforms.

6. The proposed Arun III project addresses the second of these constraints. It will help put an end to the load-shedding and power shortages that have kept the labor-intensive micro-enterprise and tourist sectors from expanding and relieve existing pressures on fuelwood and on forest resources. By providing the basis for sustained and efficient growth, it is central to Nepal's — and IDA's — poverty reduction strategy.

7. The economic analysis of the proposed project suggests that the expected rate of return is 13.5 percent. This is adequate by Bank standards, which typically uses a minimum 10 percent benchmark for the opportunity cost of capital as a cutoff. Moreover, for Nepal, the critical constraint is not the availability of donor financing — indeed, Nepal's calculated "norm" IDA allocation is not being fully taken up for lack of good projects, and donor-financed project disbursements are among the slowest in the world. Rather the key constraint is absorptive capacity. Accordingly, the 10 percent opportunity cost benchmark overstates the value that the Arun project funds could earn in alternative uses over the next few years.

8. In the circumstances, Bank strategy is to work with the Nepalese authorities simultaneously on three fronts:

- First, we are helping Nepal to build institutional capacity on a broad front. As noted, implementation capacity is the key development constraint that Nepal faces. We are working with the authorities to relax that constraint and to increase the country's absorptive capacity for donor and other inflows. We are doing it through projects, economic and sector work, and technical assistance. This is a staff-intensive process, but essential for Nepal's development prospects.
- Second, we are continuing to work with the Nepalese authorities on the policy and public expenditure framework for sustained growth and poverty reduction. Critical here is the continuation of the program for revenue increases and expenditure prioritization — including the emphasis on increased spending for basic social services — set forth in the Policy Framework Paper.<sup>1</sup>
- Third, within the broader context of support for efficient power sector development in Nepal, we are proposing to finance (with other donors) the Arun project. The primary objective of this project is to meet Nepal's growing power requirements at least cost so that this constraint on growth and poverty reduction can be overcome.

## II. PROJECT BACKGROUND

9. Nepal's per capita commercial energy consumption is one of the lowest in the world. Only 9 percent of the population has access to electricity. Fuelwood is the most important energy source for cooking and heating. Indeed, the main energy sources are fuelwood (72 percent), agricultural residues (12 percent), dung (9 percent), and hydropower (1 percent); the remainder is imported (6 percent). Nepal's hydropower potential is estimated at 25,000 megawatts (MW), of which only 241 MW has been developed to date. The least-cost generation expansion plan for the Nepal grid identifies the Arun III hydropower project as one of the core investments in meeting Nepal's medium-term energy needs.

10. The proposed project, given its situation in the Arun Valley, poses a unique and complex set of environmental and socio-economic issues. The Valley is now accessible only by foot. Its 450,000 inhabitants lead a harsh subsistence life, with limited access to education and health services. They have no access to electricity or safe drinking water. Rapid population growth contributes to pressure on food supplies, jobs, and natural resources, in particular forests. Against this background, the proposed project represents a major opportunity — and poses major risks — for the future of the Valley. The access road required for project development and maintenance will greatly reduce transport costs into and out of the Valley and facilitate tourism and labor market development. But these changes, coupled

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<sup>1/</sup> See Nepal: Policy Framework Paper, 1994-96; SecM94-324, March 30, 1994.

with construction activities, could also have major effects on the fragile environment of the area.

11. In recognition of the various development-related risks, a very detailed environmental and socio-economic analysis was undertaken during project preparation. The analysis, led to the formulation of an Environmental Action Plan, with three major components: an Environmental Mitigation Plan, a Land Acquisition, Resettlement, and Compensation Plan, and a Regional Action Plan. Taken together the planned mitigation measures cover the full range of environmental and socio-economic risks. They aim to limit negative direct impacts and to maximize the Valley's prospects for sustainable growth and poverty reduction.

## CHAPTER 2: REQUEST FOR INSPECTION

1. The Request for Inspection alleges violation of Bank operational policies and procedures in six areas:

- ***economic analysis of projects:*** The allegations are that alternatives have not been properly considered and that the risk analysis is faulty. The latter is ascribed to the failure to treat properly three issues — possible upstream developments in China; possible shortfalls in power exports to India; and the valuation of large-project risks.
- ***energy policy:*** The allegation is the omission of demand side management measures from the program.
- ***disclosure of information:*** The allegations are that the PID lacks required detail; that technical material was released too late to be useful; and that the Environmental Assessment was not available in Nepali in a timely and convenient manner. There is also a request to make public the SAR.
- ***environmental assessment:*** The allegations are that alternatives were not fully considered; that there was insufficient material available before the public meetings; and that the cumulative impacts of Arun Valley development were not adequately analyzed. The lack of an assessment of the transmission line is alleged, along with the lack of mitigation plans for fish, floods, and disposal of construction spoils.
- ***involuntary resettlement:*** The allegations are that there were insufficient compensation and failure to provide electricity to the Valley and permanent employment and land to displaced families; that there was no socio-economic survey; and that resettlement planning was not done in a timely manner.
- ***indigenous peoples:*** The allegations are that there are no local benefits for the Valley's indigenous peoples, who will suffer only adverse impacts and that there is no mitigation or indigenous peoples development plan; that the cadastral survey was late; and that the indigenous peoples were insufficiently consulted.

2. The Request for Inspection also alleges adverse effects on the Requesters' rights and interests, in terms of:

- crowding out of social sector spending;
- too heavy reliance on foreigners for construction;
- crowding out of small power projects;
- undermining democratic processes; and
- adverse effects in the Arun Valley, including income loss, unemployment, food deficit, deforestation, health problems, and loss of livelihood from land.

## CHAPTER 3: PROJECT-SPECIFIC ISSUES RAISED IN THE REQUEST FOR INSPECTION<sup>1</sup>

### I. ECONOMIC EVALUATION OF INVESTMENT OPERATIONS

#### A. *The studies of possible alternative investments and approaches to meeting Nepal's power needs undertaken during project preparation meet the requirements of OP 10.04: the Economic Evaluation of Investment Operations.*

1. According to OP 10.04, consideration of alternatives is one of the most important features of proper project analysis throughout the project cycle. Bank procedures for the analysis of power projects involve the identification of the least-cost generation expansion plan (LCGEP) for meeting the projected load growth. The resulting least-cost investment program is then subjected to economic rate of return and risk analysis.

2. The analysis of Arun III followed this approach. The SAR summarizes the LCGEP analysis, for which many (some 3,000) alternative generation and expansion plans were initially considered. Underlying the LCGEP are 11 individual hydro investment project candidates of varying sizes, which had been examined to the pre-feasibility level or beyond. Thermal options were also considered, subject to technical feasibility constraints. The SAR includes a detailed description of the economic and risk analysis.<sup>2</sup>

3. In response to questions, additional alternative strategies were investigated in order to check the robustness of the standard least-cost analysis. This involved the consideration of project candidates that preliminary analysis had previously screened out. With the expanded project candidate set, the LCGEP model was constrained to *not* introduce Arun before 2010. This constraint led to the inclusion of several "Plan B" projects in the 2000-2009 period's LCGEP.<sup>3</sup> Using the set of assumptions considered by the Bank's appraisal team to be most likely, the cost of this alternative investment program was higher than the cost of the HMG/N's proposed investment program.<sup>4</sup>

4. The Request for Inspection argues that the Bank violated its operational policies and procedures by not ensuring that the Plan B project proposals were investigated to the pre-feasibility stage. This is an area where there are no hard-and-fast rules; professional judgment — about the likely costs and benefits of further study, and of the associated delay — is the determining factor. The appraisal team's assessment, endorsed by Management, was that the number of hydro candidates explored to the pre-feasibility level represented a very respectable effort for a country such as Nepal — especially in view of the time and expense

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<sup>1/</sup> Document numbers refer to the documents requested by the Panel in Mr. Bröder's November 4 memorandum to Mr. Wood. See Annex B for the list of documents and the corresponding numbering.

<sup>2/</sup> See Document #1: pp. 54-62; Annexes 5.4 and 5.7.

<sup>3/</sup> Plan B is described in Document #1: Annex 5.4, para 41.

<sup>4/</sup> See Document #5. See also Document #1: Annex 5.4, para 42.

incurred by the authorities in investigating them.<sup>5</sup> Hence the Bank's policy requirement was, in our view, met by the standard least-cost analysis. The reasonableness of this judgement is supported by the supplemental analysis done on the Plan B alternative. There is no evidence that further study of projects in the 30-80 MW range would displace Arun III from Nepal's LCGEP. Meanwhile, analysis and refinement continues. Indeed, the project contains funding for further pre-feasibility and feasibility work for small hydro projects. If attractive projects do emerge, they can be accommodated in the periodically-revised LCGEP.

**B. *The analysis of project risks meets the requirements of OP 10.04.***

5. As summarized in OP 10.04, the Bank's approach to risk analysis is to identify the costs and benefits of the various possible outcomes and to assign probabilities to them, as the basis for calculating the project's expected economic rate of return. This approach was carefully followed in the economic analysis of Arun III. The approach described in Annex 5.7 of the SAR goes beyond standard Bank practice — in the transparency and explicitness of the delineation of the assumptions underlying the analysis and the number (72) of possible outcomes considered.<sup>6</sup>

6. The breadth and depth of the risk analysis notwithstanding, it does not consider the risks to project viability of the possible construction of the Changsuo Basin Irrigation Project referred to in the request for inspection. This is because the appraisal team judged these risks to be minimal. As noted in the SAR, the catchment area of the Changsuo Basin is about 230 km<sup>2</sup>, less than 1 percent of the Arun Basin catchment, so any diversion is likely to be almost imperceptible at the project site.<sup>7</sup> Even if the flow in the tributary were totally cut off, the impact would not be significant. In the wet season, the Arun River flow would still be more than 400 m<sup>3</sup>/second; in the dry season, the river is fed by aquifers throughout the basin as well as by glacier melt. The Chinese authorities have recently reconfirmed that, because of its small size, the Changsuo Basin Irrigation Project is likely to have no effect on downstream water users.<sup>8</sup>

7. The Request for Inspection suggests that Arun III's viability depends on power sales to India; hence it argues that project approval must await a bilateral agreement. The economic analysis assumes "committed" energy sales to India — but for only up to 50 MW; purchases from India up to the same level are also assumed. This modest assumption is fully

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5/ At an estimated average cost of \$1-1.3 million per pre-feasibility study and \$2.5 million per feasibility study, and with detailed engineering ranging up to approximately \$7 million for Kali Gandaki and \$15 million for Arun, the volume of engineering work carried out by Nepal represents considerable effort and investment of resources, or an estimated \$50 million since 1983.

6/ For a discussion of standard Bank practice, see *Econ Report: Economic Analysis of Projects — Towards a Result-Oriented Approach to Evaluation*: World Bank, 1992.

7/ See Document #1: paras 3.15-3.16.

8/ See communications (October 24, 1994 and November 14, 1994) between Guangyao Zhu, Advisor to the World Bank Executive Director for China and Donal O'Leary, World Bank Senior Systems Planner/Engineer.

in line with recent levels of power trade between Nepal and India. The absence of a formal agreement has not impeded this volume of sales, even during the 1989-1990 trade and transit dispute which disrupted other trade flows. Recognizing the greater uncertainty associated with "surplus" sales to India (above 50 MW), they are *not* included in the demand forecast which was used in the least-cost analysis, and the economic analysis both values them at half the price of current sales and tests the sensitivity of the project's viability to their realization. The result — if no surplus sales occur — is a one percentage point drop in the project's economic rate of return, which remains above the opportunity cost of capital.

8. The Request for Inspection suggests that the project's large size needs to be factored into the risk analysis. OP 10.04 does not mention the treatment of risks in large projects, and special analytic techniques are not required. Nor does the Bank have an explicit policy with respect to the *valuation* of risks — as distinguished from the analysis and/or management of risks — associated with large projects. That said, the recognition of Arun's magnitude and importance to the Nepalese economy was what led the Bank to undertake such comprehensive risk analysis of this project, which is now considered a best-practice example of such analysis.

## II. POWER AND ENERGY POLICY

### A. *The design and appraisal of the project are/were consistent with Bank policies on the power sector and energy efficiency.*

9. A central tenet of Bank power and energy policy is the focus on countries with a clear commitment to improving sector performance.<sup>9</sup> Nepal has demonstrated the requisite commitment through the framework it is introducing under Arun III for the transparent regulation of the sector, the commercialization of the Nepalese Electricity Authority (NEA), and the promotion of private sector provision of power.<sup>10</sup> In addition, building on the IDA-financed FY92 Power Sector Efficiency Project, Arun III provides a vehicle for integrating energy efficiency issues into the policy dialogue — fully in line with Bank policy — for which the use of tariffs as an instrument of demand side management (DSM) is a critical issue. Following large increases in 1991 and 1993, electricity tariffs were raised by 38 percent in March 1994 — bringing them to about 70 percent of long-run marginal costs. Under the project, NEA is committed to further increases in order to meet its financial requirements;<sup>11</sup> with base case assumptions, they would average 4 percent per annum in real terms during the 1996-2004 period. By the latter date, tariffs would equal long-run marginal costs.

10. NEA's DSM program also includes non-price measures such as equipment sizing, timing of plant operation, power factor correction, and energy efficient lighting, as well as

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<sup>9</sup>/ See World Bank, *The World Bank's Role in the Electric Power Sector and Energy Efficiency and Conservation in the Development World*, 1992.

<sup>10</sup>/ See Document #1: paras 1.23-1.27.

<sup>11</sup>/ See Document #1: paras 1.18, 4.23, and 4.27.

efficiency improvement of non-electrical loads such as industrial steam cycle systems.<sup>12</sup> A central outreach facility to institutionalize these activities with the involvement of the private sector is also planned. Meanwhile, NEA has been carrying out a program to identify and systematically reduce network losses. NEA staff are trained in repairing defective meters, rehabilitating service connections and deteriorated lines, and related tasks. Equipment has been introduced to monitor losses, meter testing facilities have been improved, and exempt consumers (such as temples and NEA's own consumption) have been brought within the billing system. Non-technical losses are being addressed by improved meter reading and billing procedures, as well as by field inspections and correction of irregular connections. The resulting improvements in energy efficiency have been built into the Arun III load forecast and LCGEP.

### III. DISCLOSURE OF INFORMATION

#### A. *The content and dissemination of the Arun Project Information Document were substantially in line with Bank policy and procedures.*

11. This is an area where Bank policy and procedures have been evolving rapidly alongside project developments. Indeed, BP 17.50: *Disclosure of Operational Information* was issued in September 1993 — at the same time that the project was being appraised. The Arun Project Information Document (PID) was prepared on January 24, 1994, and made available to the Public Information Center (PIC) in March 1994. That the PID was not subsequently revised is fully consistent with BP 17.50. The latter requires revision of the initial PID before appraisal; revision after appraisal is called for only if there are major changes in the project. However, Arun III had been appraised by the time the initial PID was issued, and, in any case, appraisal did not result in major changes.

12. The PID provides the information required by BP 17.50. However, the PID does not discuss some issues required by BP 10.00, Annex A, *Outline for an Investment Project Information Document*. The latter was issued in June 1994; hence it does not apply to the Arun III PID. By that time, the availability of project information to the public in both Nepal and Washington already far exceeded the expanded requirements of the PID.

#### B. *Bank policies and procedures on the release of factual technical information have been complied with.*

13. Notwithstanding initial delays in implementing the new disclosure policy, the provisions of BP 17.50 on the release of factual technical documents have been adhered to. A number of factual technical documents<sup>13</sup> were cleared for public release and made available at the PIC during June/July 1994. More recently, sections of the SAR that deal with factual technical matters have been printed separately; they have been available at the PIC since September 1994.

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<sup>12/</sup> Ibid: paras 1.28-1.29.

<sup>13/</sup> See May 31, 1994 letter from Ms. Garcia-Zamor to Government of Nepal.

- C. *The dissemination of the results of the Environmental Assessment was substantially in line with Bank policies and procedures.*

14. The Environmental Assessment Summary was published in Kathmandu in May 1993; it was made available in the Arun Project Information Center in Kathmandu, which opened in October 1993. The results of the assessment were made available in Nepali in the Arun Valley in June 1993.<sup>14</sup> An oral presentation in the Valley was also arranged; a video tape of this meeting is available for the Panel's review. With respect to the Environmental Assessment for the Valley alignment of the access road, the key questions requiring feedback concern the compensation arrangements and appeal mechanisms for land acquisition. These have been summarized in Nepali and distributed widely along the proposed route.<sup>15</sup>

#### IV. ENVIRONMENTAL ASSESSMENT

- A. *The Environmental Assessment complies with Bank policies and procedures governing the environmental analysis of alternative investment possibilities, as reflected in OD 4.01: Environmental Assessment.*<sup>16</sup>

15. The Environmental Assessment Executive Summary<sup>17</sup> meets the requirements of OD 4.01 with respect to the treatment of alternatives. Chapter 6 of the summary addresses alternative technologies, three dam sites in the Arun Valley, and two different access road alignments. It clearly states that identification of Arun III was based on least cost studies undertaken up to 1990; these studies addressed environmental/social issues at the reconnaissance level for all feasible sites.

16. The access road has the most significant environmental impact of all the components of the Arun III development program. Full Environmental Assessments were conducted for both the Hill and Valley alignments — the two alternative access road routes

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<sup>14/</sup> See Document #1: para 3.37. See also November 11, 1994 communication from J.L. Karmacharya, Director-in-Chief to Donal O'Leary.

<sup>15/</sup> See para 31 below.

<sup>16/</sup> OD 4.01 is not applicable to this project since the IEPs for the Project was issued on February 5, 1987. Nevertheless, Management proceeded as if it were applicable. OD 4.01 is applicable to all projects for which IEPs are issued after October 1, 1991. Projects for which IEPs were issued earlier are subject to OD 4.00, Annex A, issued on October 31, 1989; for these projects, OD 4.01 is to be applied "where appropriate and feasible". OD 4.00, Annex A is, however, applicable to projects which reached the IEPs stage after October 15, 1989. For other projects past the IEPs stage, the requirement was to review "how to achieve the objectives" of OD 4.00, Annex A within the existing time and resources constraints. See also Annex A.

<sup>17/</sup> See NEA, *Nepal Arun III Hydroelectric Project: Environmental Assessment Summary*; SecM93-460, May 12, 1993.

considered.<sup>18</sup> The impacts are compared in the Environmental Assessment Summary. The selected Valley route is significantly shorter and affects less people, as illustrated in detail in the Environmental Assessment Summary. In addition, the construction period planned for the road (3-4 years) was carefully designed to allow for full implementation of all mitigation measures.<sup>19</sup>

- B. *The basin-wide environmental sustainability study meets the Bank's requirements with respect to the analysis of possible cumulative impacts of the development of the Arun Valley's hydropower resources.*

17. OD 4.01 states that a *regional* Environmental Assessment may be used where a number of similar but significant projects are planned with potentially cumulative impacts. With this as one of its objectives, a basin-wide study was prepared by the King Mahendra Trust for Nature Conservation.<sup>20</sup> This study, which is described in a 13 volume report entitled *Environmental Management and Sustainable Development in the Arun Basin*, investigated "ways in which management of the resources, economy and environment of the Arun Basin as a region might best respond to the processes of change brought by the hydroelectric development program".<sup>21</sup> In addition, project-specific Environmental Assessments covered Arun III, the alternative access roads, and the transmission line; they are discussed in the Environmental Assessment Summary. The effects of Upper Arun, which are likely to be environmentally more sensitive than Arun III, were studied separately.<sup>22</sup> Lower Arun, essentially a downstream powerhouse, is generally recognized to have less significant impacts.

- C. *The project's environmental studies and mitigation plans in respect of the transmission lines, risks to fish, and disposal of construction spoil are in conformity with Bank policies and procedures.*

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<sup>18/</sup> See Joint Venture Arun III Consulting Services, *Addendum to the June 1990 Environmental and Social Impact Study Report: Volume 2: Arun Access Road*, January 1992; and *Environmental Impact Assessment for Arun Access Road – Valley Route*, September 1992.

<sup>19/</sup> *Ibid.*

<sup>20/</sup> The King Mahendra Trust, which is a Nepalese environmental NGO, was chosen to carry out the work because of its internationally-recognized work in nature conservation in the Chitwan National Park and in setting up the Annapurna Conservation Area, where it has worked closely with indigenous peoples in income generation schemes and in promoting nature conservation and eco-tourism. See also paras 21, 31 and 35 below.

<sup>21/</sup> King Mahendra Trust for Nature Conservation, *Environmental Management and Sustainable Development in the Arun Basin*, Volume 1: Summary and Synthesis, October 1991: p. 1.

<sup>22/</sup> Morris and Knudsen Engineers, et al, *Upper Arun Hydroelectric Project – Feasibility Study, Phase II: Final Report*, December, 1991: Chapter 11.

18. The Request for Inspection's allegation notwithstanding, a full Environmental Assessment for the transmission line was conducted.<sup>23</sup>

19. Under the project, the risk from floods including glacier like outburst floods (GLOFs) and the effects and method of spoil disposal and appropriate mitigation measures were carefully studied.<sup>24</sup> The results were reviewed and approved by the Project's Panel of Experts.<sup>25</sup>

20. Fisheries studies conducted as part of the Environmental Assessment determined the effects of the project to be not significant. Critical spawning periods are during the monsoon season when adequate discharge is available from the (run-of-the-river) project; nevertheless, further work will be undertaken in the first year of the project to verify that potential impacts are minimal and identify mitigation measures, as necessary.<sup>26</sup>

**D. *The preparation of the Environmental Assessments took into account the views of affected groups and local NGOs, in line with Bank policies and procedures.***

21. Extensive public consultations took place in Nepal during — and in the wake of — the project's environmental studies. Numerous consultations were held in 1990 and 1991 in the course of the King Mahendra Trust basin-wide study. More recently — in 1993 and 1994 — there have been a series of public consultations on the project in the Arun Valley. These have drawn on various project-related documents — in Nepali — including the above-mentioned environmental summary.<sup>27</sup> Reflecting the consultations, changes were made in the project to accommodate the views of affected people — including the provision of priority training and jobs with project contractors, and changes in the placement of the access road. The Government has responded to the disappointment expressed by some communities on the changes in the access road alignment by making a commitment to build spur roads to link these communities with the access road. The Regional Action Plan (RAP) also was designed with the direct participation of those to be affected; recognizing that indigenous people have traditionally managed their forests on a community basis, the RAP includes a program for forestry user groups.<sup>28</sup>

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<sup>23/</sup> See Joint Venture Arun III Consulting Services, *Addendum to the June 1990 Environmental and Socio-Economic Impact Study Report: Volume 3 — EIA of the Transmission Line System*, January 1992.

<sup>24/</sup> See Environmental Assessment Summary: pp. 39 and 60.

<sup>25/</sup> See Document #1: paras 3.23 and 3.44(b) for a discussion of the Panel of Experts. See also *Compendium of Panel Reports*.

<sup>26/</sup> See Environmental Assessment Summary: p. 78.

<sup>27/</sup> See para 14 above. See also November 11, 1994 communication from J.L. Karmacharya, Director-in-Chief, NEA to Donal O'Leary.

<sup>28/</sup> See also paras 33, 35, and 36 below.

V. INVOLUNTARY RESETTLEMENT

- A. *The compensation provided for under the Acquisition, Compensation, and Rehabilitation Plan (ACRP) is fully consistent with the requirements of OD 4.30: Involuntary Resettlement.*

22. Arun III does not involve the resettlement of communities or of very large numbers of people. A total of 1,097 project affected families (PAFs) have been identified in the project area. Of these, 140 have been identified as seriously project-affected families (SPAFs).<sup>29</sup> The Acquisition, Compensation, and Rehabilitation Plan (ACRP) developed under the project is consistent with OD 4.30.<sup>30</sup> The ACRP addresses the compensation of families affected by land acquisition and provides — in addition to normal compensation under Nepal's Land Acquisition Act — rehabilitation grants to help both PAFs and SPAFs during the period of transition after their land is acquired by the project.<sup>31</sup> Based on comments provided by the Bank, ACRP implementation arrangements were agreed at negotiations.<sup>32</sup>

- B. *While land-based resettlement strategies are preferable according to OD 4.30, they are not required, and may not be appropriate, for projects with the scale of displacement of Arun III. Nonetheless, seriously affected families are being given the option of land compensation, and all PAFs are being offered full cash compensation for their land.*

23. Despite efforts to minimize land acquisition, some families face permanent loss of land. The type of compensation provided — cash versus land — depends on the significance of land in the affected family's income-earning activities. However, the actual value of compensation paid will be same whether it is paid in cash or in kind (land); all valuations are done according to standards laid out in the ACRP. SPAFs facing significant loss of land-based income under the project have been offered the option of receiving land instead of cash as compensation. Because there is no issue of large-scale community resettlement and family land-holdings are often fragmented and widely distributed within the community, SPAFs are being given the flexibility of identifying their preferred replacement holdings. NEA, not the Government, will purchase any replacement land chosen by SPAFs.<sup>33</sup>

24. All other affected families are to be provided cash compensation for their land. The ACRP provides for compensation for land, buildings, and immovable assets on acquired

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<sup>29/</sup> A household is classified as an SPAF if it (1) loses its dwelling unit or (2) if its main source of income is from land and at least half of total income will be lost due to project-related land acquisition. See Document #1: Annex 3.3, para 2.

<sup>30/</sup> Joint Venture Arun III Consulting Services, *Acquisition, Compensation, and Rehabilitation (ACRP): Action Plan*, Initial Report, April 1993; Final Update, June 21, 1994.

<sup>31/</sup> Ibid: Sections 3.3 and 3.4 and Appendix A.

<sup>32/</sup> See *Arun III Agreed Minutes of Negotiations*: para 9 and Annex 5, Attachment 2.

<sup>33/</sup> Ibid: Section 3.8. See also Document #1: Annex 3.3

land at market values, based on detailed cadastral surveys of the entire access road area.<sup>34</sup> SPAFs who opt for cash compensation and PAFs will receive sufficient funds to purchase land of similar size and quality. Grievance procedures are included explicitly in the ACRP.<sup>35</sup>

25. A cadastral survey of all areas expected to be affected by the project was completed prior to land acquisition.<sup>36</sup> Compensation arrangements are covered under the ACRP for all land so surveyed, which includes land held under sole proprietorship formal and informal tenancies, and land owned by a group or community. In addition to compensation provided to landholders, the ACRP provides for land compensation and rehabilitation grants for tenants. Where clear ownership of land or property affected by the project by a group of people or a community can be established, then the group or community is to be treated as a PAF for compensation purposes.<sup>37</sup>

**C. *The objective of the Bank's resettlement policy is to ensure that the population displaced by a project are provided opportunities to share in project benefits. It contains no requirements as to how project benefits should be shared, nor does it require that permanent employment be provided to displaced persons.***

26. The project has been designed to ensure that residents of the Arun Valley receive a range of benefits from the project. From the point of view of valley residents, the main direct benefit derives from the access road, which will reduce transportation costs into and out of the Valley dramatically. In addition, construction of the access road and other infrastructure will create substantial project-related employment in the Valley, and local residents are being given priority in filling these jobs.<sup>38</sup> The RAP provides for rural electrification of the Valley through micro-power stations; contract documents contain provisions for turning project power sources over to local communities on completion of construction. This will allow electrification of most of the major villages in the valley downstream of the project site.<sup>39</sup> Electric power is another direct benefit of the Arun III project.

27. OD 4.30 does not require SPAFs to be compensated through permanent employment. It does require that displaced persons be no worse off, if not better off, than before displacement. To this end, on top of compensation for loss of land, at least one person in each SPAF household is to be offered employment by NEA under the ACRP. A special

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34/ See ACRP Action Plan: Appendix A.

35/ Ibid: Section 3.9.

36/ Ibid: Section 3.1.

37/ ACRP Action Plan: Section 11.2.

38/ See Document #1: Annex 3.2, para 25.

39/ See Document #1: Annex 3.2, paras 12-15.

training program is being set up to impart job skills to those participating in this program,<sup>40</sup> which is intended to help increase SPAFs' earnings capacity on a permanent basis.

**D. *Detailed socioeconomic surveys were carried out during project preparation, as required by OD 4.30.***

28. Full socioeconomic surveys, covering all PAFs, were carried out in 1990 for the Hill (road) alignment, and in 1993 for the Valley itself. Detailed cadastral surveys have also been undertaken.<sup>41 42</sup> A Management Information System (MIS), integrated a Geographic Information System (GIS), and a project management subsystem have been developed for planning and monitoring the ACRP, and information from the cadastral and socioeconomic surveys are currently being entered into the system. This is the first time that an integrated MIS/GIS has been developed to manage land acquisition programs for a Bank-financed project prior to project implementation. The integrated MIS/GIS will provide a unique opportunity for Bank and ACRP staff to closely monitor the impacts of the project on affected families throughout the implementation phase.<sup>43</sup>

**E. *The timeliness of resettlement planning under the project meets the requirements of OD 4.30.***

29. In line with OD 4.30, the draft ACRP was prepared prior to project appraisal, including all necessary surveys of affected families and properties.<sup>44</sup> All families to be affected by construction of the access road or the hydropower site have been identified. An initial identification has been made of families potentially affected by construction of the transmission lines and the principles for their compensation arrangements have been agreed. (Definitive identification is pending decisions on the final alignment of the lines, which will be constructed five years after the start of the project.) Permanent displacement of families due to construction of transmission lines will be minimal; at most only eight households are expected to be permanently displaced.<sup>45</sup> Much of the land affected by the transmission lines will require only way-leave and building height restrictions. Arrangements have been made under the ACRP to compensate affected families for any such restrictions.<sup>46</sup>

30. Thus the vast majority of affected families know already that they will be displaced by the project and what form of compensation they will receive. However, they do

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40/ See *ACRP Action Plan*: Section 3.8.

41/ See Document #1: para 3.32 and Annex 3.3, para 11.

42/ See also paras 25 and 34.

43/ See Document #1: Annex 3.3, para 21.

44/ See footnote 30 above.

45/ See Document #1: Annex 3.3, Table 1.

46/ See Document #1: Annex 3.3.

not know the precise date of displacement. Given the complexity and duration of the project, the timetable of land acquisition, compensation, and rehabilitation activities is to be finalized on a two-year rolling basis. The implementation timetable for ACRP activities in the first two years of the project (primarily construction of the road) will be finalized within three months of the time that a decision is taken to begin construction. The ACRP timetable for successive years will be prepared annually, covering at least the following two years.<sup>47</sup>

31. To make clear the policies and procedures being followed, NEA has prepared a *Due Process Manual* in Nepali.<sup>48</sup> The Manual describes the ACRP, compensation procedures, land acquisition procedures, payment of compensation and rehabilitation grants, provision for special treatment of SPAFs, compensation of public properties and facilities, consideration of informal tenant rights, grievance procedures, and monitoring and evaluation of the ACRP. Over 3,000 copies of the Nepali version of the *Manual* have been distributed to PAFs and to other concerned persons, and it has been discussed extensively in public meetings in the project area.<sup>49</sup>

## VI. INDIGENOUS PEOPLES

### A. *Mitigation efforts proposed under the project and included in the Regional Action Plan are consistent with OD 4.20: Indigenous Peoples.*

32. OD 4.20 requires the preparation of a culturally appropriate development plan, based on full consideration of the options preferred by the indigenous people affected by the project. To this end — and at the request of Government, the World Bank, and the UNDP — the basin-wide study prepared by the King Mahendra Trust for Nature Conservation examined how changes induced by the project would impact various social and ethnic groups<sup>50</sup> in the Valley and designed the RAP accordingly. The study's summary report<sup>51</sup> and Action

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<sup>47/</sup> See Document #1: Annex 3.3, para 18.

<sup>48/</sup> NEA, *Arun III Hydroelectric Project — Due Process Manual*, November 1993. See also Document #1: Annex 3.3, para 18.

<sup>49/</sup> See November 11, 1994 communication from J.L. Karmacharya, Director-in-Chief, NEA to Donal O'Leary.

<sup>50/</sup> The basin is culturally and ethnically diverse. Rai, Limbu, Gurung and Magar taken together make up 53 percent of the total population in the Sankhuwasabha District. This is followed by 27 percent Brahmans/Chhetris, 7 percent for occupational caste groups and Tamang, Sherpa and Tibetan, 5 percent for Newar and 1 percent for others. However, the sample population from the potential growth centers close to the proposed road alignment and dam site give a different picture to that of the district in general. They are dominated by Brahmans/Chhetris and Newars, the trading castes, while Rai, Limbu and other castes of Mongol origin account for about one-third of the total. Occupational caste groups and Kumhals, both regarded as underprivileged, are estimated at about 10 percent.

<sup>51/</sup> King Mahendra Trust for Nature Conservation, *Environmental Management and Sustainable Development in the Arun Basin, Volume 1*, October 1991.

Programs<sup>52</sup> form the basis for the RAP. The RAP fulfills the objectives of OD 4.20 by including a range of actions to address the diverse development needs of all groups in the Valley, including both the very poor and those who have strong ethnic or cultural affiliations, as well as other Valley residents. Actions proposed under the RAP are designed to be sensitive to the cultural diversity in the Arun Valley and to take full account of the different groups' relationship to land, natural resources, and their cultural heritage.

33. The RAP includes actions in six broad areas, as follows: conservation; income generation; institutional strengthening; extension and training; infrastructure and energy; research, monitoring and information. In terms of scheduling, five sectoral programs are regarded as priorities for implementation. These relate to: strengthening local forest management; helping local communities service construction-related demands; strengthening government institutions to cope with impacts; training and education for local human resource development; and environmental monitoring. The tentative cost of the RAP is estimated at \$14.6 million (excluding contingencies).<sup>53</sup>

B. *The recommendations of OD 4.20 with respect to the sequencing of (first) establishing legal recognition of indigenous peoples' land rights — through cadastral surveys and other means — and (then) acquiring the land have been followed.*

34. A key objective of OD 4.20 is that indigenous peoples not become worse off through a loss of land rights as a result of project-related activities. As noted earlier, during project preparation a cadastral survey of all land in the area of influence of the access road — including the road right-of-way itself and land within one day's walk of the planned right-of-way — and other components of the project was completed prior to land acquisition; this provided for legal recognition of use rights in the surveyed area.

35. A substantial portion of land required by the project is owned by the Government, particularly forest land. By tradition, local communities use these areas for grazing, collection of fodder, firewood, and so on. Arrangements have been made in the ACRP to compensate any community or users group who is looking after the forest and dependent on it for timber and fodder for the loss of these commodities.<sup>54</sup> In addition, to mitigate deforestation pressures, the RAP will support the continuation of the ongoing process of forming pasture and forest-user groups; to date, 34 forest user groups have already been formed along the road right-of-way; 27 additional groups are to be formed.

36. Meanwhile, the national cadastral survey that is underway has been completed in Bhojpur and is nearing completion in Sankhuwasabha.<sup>55</sup> Actions taken under the project to regularize land tenure, to recognize use rights on public lands, and to set up pasture and forest-users groups to manage community resources are all efforts to protect the land-use

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<sup>52/</sup> King Mahendra Trust for Nature Conservation, *Action Program, Volume 2*, October 1991.

<sup>53/</sup> See Document #1: Annex 3.13, para 7.

<sup>54/</sup> Ibid: Section 3.6.1.

<sup>55/</sup> See November 21, 1994 facsimile from Joe Manickavasagam, World Bank Resident Representative in Nepal, to Donal O'Leary.

rights of the people of the Arun Valley. These precautions notwithstanding, a close watch will be necessary throughout project implementation to ensure that the objectives of OD 4.20 are met. To this end, the project supervision plan involves careful monitoring and evaluation of the impact of project-related activities on vulnerable groups in the Valley.

- C. *Project preparation has met the requirements of OD 4.20, in terms of the informed participation of the affected indigenous peoples in the design of the RAP.*

37. The preparation of the RAP was highly participatory. The King Mahendra Trust study team was made up largely of Nepalese experts. There was close and continuous interaction among study team members and the people of the Arun Basin. A wide-ranging household survey was undertaken to learn from local residents their expectations as well as to tap their knowledge and experience. Over 70 man-months were devoted to studies in the Arun Basin itself. The study began and ended with two major workshops in the basin at which representatives from local HMG/N offices, local NGOs, village leaders and the public gave their opinions and ideas on how the study should best proceed and, later, feedback on the RAP's proposals for action programs.<sup>56</sup>

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<sup>56/</sup> See King Mahendra Trust for Nature Conservation, *Volumes 1 and 2*.

## **CHAPTER 4: CONCLUSION**

1. We believe that Chapter 3 appropriately addresses the questions raised in the Request for Inspection and clearly demonstrates that the Bank has followed its operational policies and procedures with respect to the design and appraisal of the proposed project. Of critical importance for quality at entry, we have assessed the various technical, economic, financial, environmental, and sociological risks carefully, devoting considerable attention to alternative scenarios. With a view towards managing project risks, we have provided for remedial actions where appropriate. In addition, we have built into our supervision plan mechanisms for periodic monitoring and evaluation — the results of which can be addressed during implementation — in order to safeguard the project's development impact in the face of unanticipated developments.

## ANNEX A

## SELECTED BANK OPERATIONAL POLICIES AND PROCEDURES

Policy Guideline	Date of Policy	Point in Project Cycle to Which Policy Applies	Date of Policy Applicability for Arun III	Comments
OD 4.00, Annex A: Environmental Assessment	Oct. 31, 1989	* applicable to projects with IEPS issued after October 15, 1989		* for projects not in advanced stage of preparation, the Task Manager & Regional Environment Division should review status & recommend how to achieve objectives within existing time and resource constraints
OD 4.00, Annex B: Environmental Policy for Dam and Reservoir Projects	April 28, 1989	* not said to be retroactive		
OD 4.01: Environmental Assessment	Oct. 3, 1991	* IEPS issued after October 1, 1991	* not applicable since IEPS was issued on February 5, 1987	* OD 4.01 applicable "where appropriate and feasible" to projects with IEPS before October 1, 1991 and are subject to OD 4.00, Annex A.
OD 4.20: Indigenous Peoples	Sept. 17, 1991	* at IEPS stage * at preparation and appraisal stages	* not applicable at IEPS stage * applicable at appraisal stage	* at IEPS stage, the applicable policy was OMS 2.34: <i>Tribal People in Bank-Financed Projects</i> issued February 1982, which was superseded by OD 4.20
OD 4.30: Involuntary Resettlement	June 29, 1990	* at IEPS stage * during appraisal and negotiation	* not applicable at IEPS stage * applicable at appraisal and negotiation stages	* at the IEPS stage, the applicable policy was OD 2.33: <i>Social Issues Associated with Involuntary Resettlement in Bank-Financed Projects</i> issued in February 1980, which was superseded by OD 4.30
3P 17.50: Disclosure of Operational Information	Sept. 1993	* at IEPS stage for PID * PID to be updated before appraisal * PID to be updated after appraisal if major changes to project made by previous project preparation for Factual Technical Document (FTD)	* not applicable at IEPS stage * applicable on January 1, 1994 (i.e., after appraisal for both PID and FTD)	* pursuant to (para. 15) and (Annex D, para. 1 (a) of BP 17.50, for projects that were past the IEPS stage but not yet presented to the Board, a PID was to be produced by January 1994. * disclosure of FTD on request but only at Country Director's discretion (para. 12 of the Policy on Disclosure of Information)

Policy Guideline	Date of Policy	Point in Project Cycle to Which Policy Applies	Date of Policy Applicability for Arun III	Comments
BP 10.00, Annex A: Outline for an Investment Project Information Document	June 1994	<ul style="list-style-type: none"> <li>* at identification stage: draft initial PID when project enters 5-year lending program</li> <li>* at preparation and pre-appraisal: discuss PID with borrower/stakeholders. Update PID</li> </ul>	* not applicable	* Arun III PID was prepared in January 1994 and made available at the PIC in March 1994
OP 10.04: Economic Evaluation of Investment Operations BP 10.04 (Supplement to OP 10.04)	<ul style="list-style-type: none"> <li>* OP: April 1994 and Sept. 1994</li> <li>* BP: April 1994</li> </ul>	<ul style="list-style-type: none"> <li>* at identification stage</li> <li>* at appraisal stage</li> </ul>	* not applicable given advanced stage of preparation except where identical to previously applicable instructions	* at IEPS and appraisal stages, the applicable policies were: OMS 2.21 <i>Economic Analysis of Projects</i> issued May 1980, and Central Projects Note (CPN) 2.01 <i>Investment Criteria in Economic Analysis of Projects</i> issued in June 1977, both of which were superseded by OP 10.04

Note: Arun III - IEPS: February 5, 1987  
 - Appraisal: May and September 1993

**DOCUMENTS REQUESTED IN MR. BRÖDER'S  
NOVEMBER 4, 1994 MEMORANDUM TO MR. WOOD**

- (1) The Memorandum and Recommendation of the President (MOP), the Staff Appraisal Report (SAR) and the legal documents for the proposed project;
- (2) Environmental Management Plan;
- (3) Regional Action Plan;
- (4) The Least Cost Generation and Expansion Plan (LCGEP) of 1987 and 1990;
- (5) 1993/94 Argonne National Laboratories (ANL) Study: Analyses of Options for the Nepal Electrical Generating System, May 1994;
- (6) Feasibility Studies of alternative project designs;
- (7) Available documents on a proposed Changsuo Basin Irrigation Project in China;
- (8) Arun III HEP: Environmental Impact Assessment for Arun Access Road – Valley Route Report, September 1992; and
- (9) Nepal's Land Acquisition Act, 1979.

### PREVIOUS REQUESTS TO THE BANK

Attachment VIII of the Request for Inspection lists ten previous complaints to the World Bank.

- Four of the items refer to correspondence with the Executive Directors and are not the responsibility of Bank Management.
- One letter from the Requester dated July 7, 1994 requested documentation. The response, dated July 18, 1994, referred the Requester to the Project Information Center in Kathmandu, which houses all the requested documentation. We also enclosed a list of the documentation available at the World Bank's Public Information Center (PIC) in Washington.
- A second letter from the Requester dated October 7, 1994 requested a list of documents relating to the Arun III project. The World Bank Resident Mission in Nepal responded on October 7, 1994, providing a list of documents available at the Resident Mission and a list of documents available at the Project Information Center in Kathmandu. In addition, the Requester was referred to the PIC in Washington.
- We have checked our correspondence files in relation to the other dates cited. All such correspondence came from the Alliance for Energy and was fully responded to by the World Bank. Supporting documentation is available.

International Development Association  
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IDA/SecM94-378/1

FROM: Vice President and Secretary

January 20, 1995

Request for Inspection - Nepal: Arun III Hydroelectric Project

Attached is a memorandum from the Executive Secretary of the Inspection Panel dated January 20, 1995, transmitting the Memorandum to the Executive Directors by the Chairman of the Inspection Panel on "Request for Inspection - Nepal: Arun III Hydroelectric Project".

Distribution:

Executive Directors and Alternates  
Office of the President  
Senior Management, Bank, IFC and MIGA

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THE INSPECTION PANEL

# OFFICE MEMORANDUM

DATE: January 20, 1995

TO: Mr. Timothy T. Thahane, SECVP

FROM: Eduardo Abbott, INP 

EXTENSION: 82617

SUBJECT: **Request for Inspection**  
**Nepal: Arun III Hydroelectric Project**

Attached for distribution to the Executive Directors of IDA please find a Memorandum from the Chairman and members of The Inspection Panel entitled "Request for Inspection - Nepal: Arun III Hydroelectric Project" dated January 20, 1995.

# THE INSPECTION PANEL

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

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Ernst-Günther Bröder, Chairman  
Richard E. Bissell  
Alvaro Umaña

January 20, 1995

## MEMORANDUM TO THE EXECUTIVE DIRECTORS

**SUBJECT:** Request for Inspection  
Nepal: Arun III Hydroelectric Project

1. The Inspection Panel, on December 16, 1994, submitted to the Executive Directors its recommendations on a Request for Inspection of alleged violations of IDA policies in the design and appraisal of the above referenced project; and further to this, on January 9, 1995, provided an informal note summarizing the recommendations.
2. On January 9, 1995, the Panel met informally with the Executive Directors to discuss the recommendations. At this meeting the Panel was advised that Management had offered to provide details not included in its November 22, 1994 Response. It was agreed that Management would furnish the Panel with more information on IDA's actions with regard to the alleged violations of IDA policies claimed in the Request, and following a review by the Panel, that the Board would act on the Panel's recommendation by the end of January.
3. The Panel had meetings with Regional and ENV staff and received a number of documents deemed by Management to be further evidence of compliance with IDA policies or of its current efforts to take remedial action in order to comply fully with such policies.
4. After thorough consideration of the documents received, and in light of the discussions with Management, the Panel has decided to reiterate its original recommendation for an investigation on possible violations of IDA policies relating to Environmental Assessment, Involuntary Resettlement and Indigenous Peoples, as set forth in its Report (paras 45, 51, 52, 84, 85, 89, 90) and the informal note referred to above (para 6).
5. With regard to Economic Analysis, the application of relevant policies by IDA to Arun III generates continued concern on the part of the Panel, particularly in the light of additional information provided by Management. The Panel nevertheless confirms the scope of the investigation as originally recommended. It also believes that an investigation of Environmental Risks--Environmental Assessment, Involuntary Resettlement and Indigenous Peoples issues--would shed useful light on the overall Economic Analysis, as called for in operational policies on the latter.
6. It is estimated that an investigation as proposed by the Panel would require approximately three months. The exact length would be subject to inter alia the extent of cooperation the Panel receives from Management and the proposed borrower. Other factors include actual progress in the current efforts being made by the Government and IDA to update the Regional Action and Indigenous Peoples Plans, and the time required to reach an agreement on the now abandoned Hill Route land tenure situation. The Panel feels that such efforts by the Government and IDA should be pursued concurrently with the proposed investigation.