



Date: 22 July, 2009

Notice of Registration

Re: Request for Compliance Review and Mediation

Request No.: RQ2009/1b

Country: Ethiopia

Gibe III Hydroelectric Power Project

The Compliance Review and Mediation Unit (CRMU) received on 28 of April 2009 a second Request in relation to Gibe III Hydroelectric Power Project in Ethiopia which is under consideration for financing by the African Development Bank (AfDB). The Request - dated 22nd of April 2009 - was submitted by Anuak Justice Council; the Bank Information Center; Campagna per la Riforma della Banca Mondiale; and the International Rivers. The requestors allege that they are concerned about the potential negative impact of Gilgel Gibe III, particularly on the environment and the peoples of southwestern Ethiopia and North Western Kenya, and they demand CRMU to handle their request through a Compliance Review. CRMU requested additional clarifications from the Requestors on 19 May, 2009 and informed them that the registration of the request would be on hold until the requested information had been provided. Annex 5¹ of the request was received on 5 May, 2009, while the other requested additional information was received on 20 July, 2009.

The Request fulfills the preliminary requirements for registration specified in paragraphs 13, 19, 20 of Operating Rules and Procedures of the Independent Review Mechanism (IRM). Pursuant to IRM Rules, I am notifying you that the Request has been registered for compliance review in the IRM Register of Requests on 22 July, 2009. The Register of Request is accessible at the AfDB website at www.afdb.org/irm.

Gibe III Hydroelectric Power Project, which is being developed by the Ethiopian Electricity Power Corporation (EEPCCO), is located within the Gibe – Omo River Basin, in the middle reach of the Omo River, around 450 km by road south of the capital Addis Ababa. It is a 1,870 MW power plant which is intended to produce 6,400 Gwh of firm energy per year. The Gibe III Hydropower scheme comprises a 240 meter high dam which will create a huge reservoir with a surface area of some 200 km² and a live storage of some 11,750 million m³ and a surface powerhouse equipped with ten power generating units and switchyards.² The scheme, from the root of its reservoir to its tailrace outfall, extends over a corridor some 155 km long. Administratively, the reservoir stretches over five zones and twelve weredas. The downstream area extends from the dam site up to Lake Turkana. Omo River below the Gibe III dam traverses through the four weredas of South Omo Zone.³

¹ Critique of Gibe III ESIA: Project Impact and Mitigation, Benefits, and Additional Concerns

² From the Environmental and Social Impact Assessment (ESIA) Summary March 2009, Section 2

³ ESIA Summary March 2009, Section 2

The power produced by the 1,870 MW Gibe III project will be delivered to Interconnected System (ICS) through a 65 km long four double circuit 400kV overhead transmission line that connects the Gibe III to a new substation at Sodo.⁴

According to the screening criteria of the AfDB, the Gibe III project is a “category 1” project, for which a full scale environment and social impact assessment (ESIA) is required. According to the AfDB Summary ESIA of the Gibe III Hydroelectric Power Project, an ESIA report was prepared to fulfill the requirements and to justify the AfDB’s involvement in financing the project.⁵

The ESIA Summary⁶ *inter alia* states that the following AfDB policies dealing with environmental and social issues related to the project were taken into consideration for the preparation of the ESIA and ESMP⁷ reports and the Gibe III project is in compliance with the AfDB policies:

- Environment and Social Assessment Procedures
- Policy on Involuntary Resettlement

Furthermore, the ESIA Summary states that the ESIA study for the Gibe III project has been carried out within the framework of local, national and international regulations.⁸ Furthermore, that the Summary provides that the World Bank policies and guidelines dealing with environmental and social issues related to the project were taken into consideration in the preparation of the ESIA.⁹

In addition, the ESIA Summary states that the Federal Democratic Republic of Ethiopia has ratified several international conventions and protocols, some of which have relevance to Gibe III Hydroelectric Power Project and include:

- Convention on Biodiversity (Rio convention)
- Frameone convention of UN on climate change
- African convention on the conservation of Nature and natural Resources
- Convention on Wetlands of International importance Especially as waterfowl Habitat (Ramsar)
- Convention concerning the protection of world cultural and Natural Heritage.¹⁰

The requestors say: *‘We believe that this project, which the African Development Bank (AFDB) is considering funding, will have irreversible and highly negative effects on up to a half million people living downstream from the dam site, most of them members of indigenous communities, and who rely on the Omo River for their livelihoods and economic well-being.’* The natural flood cycle of the Omo River is central to the downstream region’s economy and food security; and according to the requestors *“the planned project would fundamentally disrupt the river’s flow and community systems which now support hundreds of thousands of Ethiopians and Kenyans from several distinct indigenous peoples, increasing the likelihood of regional destabilization and resources conflict”*.

⁴ ESIA Summary March 2009, Section 2

⁵ ESIA Summary March 2009, Paragraph 2.2.2

⁶ ESIA Summary March 2009, Paragraph 2.2.2

⁷ Environment and Social Management Plan

⁸ ESIA Summary, Paragraph 2.2

⁹ ESIA Summary March 2009, Paragraph 2.2.3

¹⁰ ESIA Summary, Paragraph 3.4

The requestors have documented - by attaching copies of several emails exchanged during September 22, 2008 - 16 April 2009 with the AfDB Gibe III Task Manager, on their attempts to hold a phone conference with AfDB to discuss issues of concern - which had not materialized. The Requestors provide that they have informed the Bank staff of their disappointment in the cancellation of the teleconference and their written response to questions prepared for the teleconference proclaiming that *“at no time during this communication did the Bank staff inform them that a revised ESIA, released in early March 2009, was forthcoming”*. They believe that this experience has given rise to serious concerns on their part that *“the AfDB has no intention of seriously engaging with anyone expressing concerns about the Gibe III project”*.

The requestors mention that during their engagement with the AfDB staff and the preparation of the request letter, they have continued to share information with confidential intermediaries who are in touch with the downstream communities. They say due to the region’s physical and linguistic isolation and the extremely poor consultation, affected people have virtually no awareness of this project or anticipated impacts. This limitation has impaired the process of engaging local, affected peoples to understand project risks and to protect their rights. The Requestors say that they have also attempted during this time to gather documentation of support for their request by affected peoples. However, they have ceased all attempts to gather documented support due to fears of *“government retaliation, including physical harm, for any affected persons coming forward”*. They believe that *“retaliation could target families and entire indigenous peoples”*.

The Requestors raise five concerns with Gilgel Gibe III Dam - in their opinion in violation with policies and procedures of the African Development Bank - and are summarized below.

1. Lack of consultation with project affected peoples and civil society in Ethiopia

The requestors say that the political atmosphere in Ethiopia has prevented affected peoples and civil society from raising concerns about the Gibe III Dam, due to the following factors:

- Most affected people do not understand how the project may affect them because the project consultation process has been untimely and grossly inadequate;
- Most downstream affected communities are part of indigenous groups which are physically and linguistically isolated, and politically and economically marginalized;
- Project developers have made virtually no project information publicly available in Ethiopia to day, including via media coverage, leaving Ethiopian civil society uninformed about the project’s potential risks and impacts; and
- The Ethiopian Government has taken actions in recent years to restrain public debate over controversial government priorities, such as hydropower development, and civil society activities on human rights advocacy.

The requestors add that only few members of these communities speak Amharic and even fewer can speak English, the language in which the ESIA project documents have been produced. In addition, they say the project documents state that only 93 community members from four of the eight or more downstream indigenous peoples were consulted: Mursi,

Nyangatom, Dassanech and Karo. Other affected indigenous peoples in Ethiopia, namely the Hamar, Bodi, Kwagu, Muguji, and Bashada, have never been consulted. They provide that all downstream consultations occurred in 2007, after construction commenced, so those few who were invited to share their perspectives would likely *“have seen the project as a fait accompli in which their views were unlikely to affect outcomes”*. They state that the process outlined by the project’s ESIA suggests that *“these people were selected by the Ethiopian government rather than the communities they were ostensibly representing”*. According to one of their confidential sources close to one of the communities, the requestors say that, *“consultative surveys that were designed to be completed by members of indigenous peoples in the Lower Omo Valley were reportedly filled out by local officials without the knowledge or input of the communities”*. The requestors elaborate that the impact of these or any future consultations are undermined by the fact that the project is already well underway. The requestors - by referring to the conditions provided in both the 2001 Environmental and Social Assessment Procedures for the African Development Bank’s Public Sector Operations, and the Bank’s Policy on Information of Disclosure - believe that *“the project consultation process has been grossly inadequate and violates Bank consultation requirements”*.

2. Unaddressed violations of domestic law in project preparation

The requestors say that the construction began on Gibe III dam in 2006, nearly two years before approval of an ESIA - a gross violation of international best practice, the Ethiopia’s Environmental Impact Assessment Proclamation - which states that *“projects will be subject to ESIA and execution is subject to an environmental clearance from the EPA... all other licensing agencies shall, prior to issuing of a license, ensure that either EPA or the regional Environmental Agency has authorized implementation of the project.”* The requestors provide that the Bank’s Environmental and Social Assessment Procedure Policy states in paragraph 2.5: *the project’s financed by the Bank shall comply with the RMC’s environmental and social legislation, policies and guidelines, with local and national requirements on public consultations and disclosure, as well as with international agreements ratified by the borrowing country*. They also refer to paragraph 3.16 of the same Policy that Operations shall undertake a Pre-approval Audit with SDPRU assistance if the scoping exercise indicated *a need for evaluating past and present environmental and social liabilities* associated with the project. According to the requestors, the project preparation did not adhere to multiple domestic laws and international agreements ratified by the government of Ethiopia. They say that *“there is no indication that the Bank has addressed this violation of both its own policy and those of Ethiopian law”*... *“Nor is it clear that the Bank has undertaken a pre-approval audit to address the two year legacy of project impacts prior to an ESIA”*.

3. Belated and inadequate environmental and social impact assessment and related documents

The requestors say that the Ethiopian Environmental Protection Authority approved a package of documents related to Gibe III in July 2008. According to them, the final versions of the documents dated January 2009 were received by Bank staff on February 23, 2009 and made available on EEPKO’s website in March 2009. They claim that as of April 6, 2009, several of these documents remained inaccessible due to a technical problem which EEPKO has yet to fix. The documents are:

- Gibe III Dam Environmental and Social Impact Assessment;
- Additional Study of Downstream Impacts;

- Environmental and Social Management Plan;
- Public Consultation and Disclosure Plan; and
- Dam and Reservoir Site Resettlement Action Plan (vols. 1 and 2)

The requestors say that there is no public information available regarding any process to receive and incorporate public comments on the July 2008 version prior to the publication of the January 2009 final documents. In addition, they express concerns based on the inadequacy of the ESIA as *“lacking analysis and scientific study especially given the physical and financial size of this project, its risks and impacts”*. They also say that the ESIA’s positive assessment of the project’s effects relies on *“a simplistic analysis based almost entirely on assertions unsupported by facts. The document’s objectivity was overwhelming compromised by the need to provide a positive assessment for a project far along in its construction phase.”* The requestors provide several examples of sub-standard analysis and relate them to the misrepresentation of project benefits; poor and inaccurate baseline information; inadequate consideration of project alternatives; many of projects impacts which are poorly analyzed and/or quickly dismissed; and unsuitable mitigation measures which leave hundred of thousands at risk of diminished quality of life and livelihoods. In their view, *“the Project ESIA violates multiple Bank safeguard policies and demonstrates gross neglect of the Bank’s staff due diligence in project preparation.”*

4. Grave risks for indigenous communities in southwestern Ethiopia

The Requestors say that since the early 1970s, a large body of detailed information about the people of the Lower Omo has been provided by scholars from various countries. It is clear to them that from this work, unless mitigating measures are taken, the regulation of the Omo River flow and elimination of the annual flood caused by the Gibe III dam will destroy the livelihoods of at least 200,000 people, belonging to six different ethnic groups - Bodi, Mursi, Kwegu/Muguji, Nyangatom, Kara and Dassenaech. This could further devastate the economic well-being of nearby indigenous and non-indigenous communities alike. They claim that the project documents show only a *“superficial understanding of the role of the annual flood in the area’s local economy and food security, and virtually no acknowledgement of customary land and resources rights of the affected communities”*. According to the requestors, without adequate mitigation project impacts will be devastating for the quality of life of local people. In addition, they say *“it could also result in resource conflicts and a general unraveling of the region’s social stability and economy”*. The requestors state that *“The extent of these risks is severely underestimated in the ESIA, and we fear, by the AfDB”*. By referring to the UN Convention on Civil and Political Rights (ratified by Ethiopia) and the United Nations Committee on the Elimination of All Forms of Racial Discrimination, the requestors contend that *“GIB III dam’s risks to livelihoods and the violation of communities’ rights are exacerbated by the government’s future regional plans”*. They say that *“the AfDB must ensure the utmost due diligence in its project engagement and take every possible step to safeguard the interests of these indigenous peoples. At this time, the Bank has failed to conduct due diligence, putting the survival and well-being of these people at grave risk”*.

5. Fiscal risks for Ethiopia

The requestors say that Gilgel Gibe III Dam represents the single largest infrastructure investment in Ethiopia to date. The project is supposed to provide supply for domestic and regional electricity demands, in part to generate export revenue. However, they say, the *“risks of project underperformance and risks to the country’s debt sustainability have not been*

adequately assessed". They mention that an independent, desk study report entitled Gilgel Gibe III Economic, Technical and Engineering Feasibility was submitted to Bank Staff on April 15, 2009, which "*identifies several critical concerns previously unknown to us*". They claim that "*the concerns regarding the project's engineering design, limited technical oversight, and affordability of electricity suggest strong potential for physical and economic failure of the Gibe III Dam*".

The requestors say that these risks are exacerbated by the project's contract procurement which violates both Ethiopia's and the Bank's procurement policies. They add that the Ethiopian government directly awarded the primary contract for Gibe III (worth \$1.7 billion) to Salini Construttori without a bidding process. They state "*we must ask why procurement guidelines exist if the Bank is only going to find ways to evade them*".

In conclusion, the requestors ask CRMU to undertake an urgent investigation into the Gilgel Gibe III Dam project. They commit to make efforts to provide further reliable data and, where possible, connections to community members and informed experts, on a confidential basis, who can assist with investigation. They also hope that their request will complement that of Friends of Lake Turkana (FoLT) which is presently handled by CRMU through a problem-solving exercise to resolve issues of concerns which relates to the downstream impact of Gibe III. Finally, the requestors hope that CRMU will be able to undertake an effort that can respond to the issues raised by both requests.

In handling this request, CRMU has undertaken the following:

- 1) CRMU has registered the request for compliance review.
- 2) The Request has been assigned the following Request number: RQ2009/1b. The Requestors and the Bank's Management and other interested parties shall refer to this number in future correspondences with CRMU.
- 3) In accordance with paragraph 31 of the IRM Operating Rules and Procedures, the Bank's Management must provide the CRMU by no later than 20 August, 2009 with written evidence that it has, or intends to comply with the Bank Group's relevant policies and procedures.
- 4) All decisions and correspondences with the Requestors relating to this request, will, until further notice, be communicated through the following contact persons:

Mr. Obang Metho
Anuak Justice Council
obang@solidaritymovement.org

Mr. Joshua Klemm
Bank Information Center
jklemm@bicusa.org

Ms. Caterina Amicucci
Campagna per la Riforma della Banca Mondiale
camicucci@crbm.org

Ms. Terri Hathaway
International Rivers
terri@internationalrivers.org

- 5) CRMU has noted that the requestors hope that their request will compliment the complaint of Friends of Lake Turkana (FoLT) as both relate to the same project. However, CRMU has decided to handle the present request through compliance review due to the magnitude of issues raised by the requestors and the need for determination of the eligibility of the request.
- 6) Upon receipt of the Management's response, the Director of CRMU will, in accordance with paragraph 44 of the IRM Operating Rules and Procedures, conduct a review to determine if the Request is eligible for a Compliance Review. In order to complete this review, the Director of CRMU may require additional information from the Requesters and the Bank's Management.
- 7) It may be necessary, pursuant to paragraph 30 of the IRM Operating Rules and Procedures, to extend the schedule for this eligibility review pending upon the availability of information and any concurrent actions resulting from the FoLT problem solving exercise which may implicate the present request.
- 8) Upon conducting the above-mentioned review, the Director will determine whether the Request is eligible. In case it is determined eligible, he will submit a report recommending a Compliance Review to the President/or the Boards of Directors, depending on the approval status of the project. If the Request is determined ineligible by the Director, the procedures described in paragraph 48 of the IRM Operating Rules and Procedures will apply.

Yours sincerely



Per Eldar Sovik
Director

Compliance Review and Mediation Unit

TO: Mr. Obang Metho
Anuak Justice Council

Mr. Joshusa Klemm
Bank Information Center

Ms. Caterina Amicucci
Campagna per la Riforma della Banca Mondiale

Ms. Terri Hathaway
International Rivers

TO: Dr. Donald Kaberuka
President of the African Development Bank Group

CC: Boards of Directors
African Development Bank Group