



20 October 2010
Ref. No.: CRMU/LT/PES/2010/010/003

Dr. D. Kaberuka
President
African Development Bank
15 Avenue du Ghana
P.O.Box 323-1002
Tunis-Belvédère,
Tunisia

RE: GIBE III Hydroelectric Power Project, Ethiopia (GIBE III)—Request No. RQ2009/1 received from Friends of Lake Turkana (FoLT) and Request No. RQ2009/1b received from Anuak Justice Council, the Bank Information Center, Campagna per la Riforma della Banca Mondiale and the International Rivers (Anuak Justice Council et al.)

On 5 October, 2010, I received a letter from Mr. Per Eldar Sovik, Director of the CRMU, informing me that he had determined that neither the Request from FoLT nor the Request from the Anuak Justice Council et al. was eligible for a compliance review.

Since these two Requests were filed in 2009, they are governed by the IRM Operating Rules and Procedures in force in 2009. Pursuant to paragraph 48 of these IRM Rules, any Request that the Director of CRMU finds to be ineligible for a compliance review must be referred to the Chairperson of the Roster of Experts to determine “the eligibility or otherwise” of the Request. Pursuant to paragraph 49 of the IRM Rules, in cases like GIBE III, where the Board has not yet approved the project, the chairperson of the Roster of Experts is required to inform the President of his decision on the eligibility of the project for a compliance review. The purpose of this letter is to inform you of my decision on the “eligibility or otherwise” of the Requests.

In making my determination on this matter, I have reviewed the following documents:

- 1) FoLT Request (Request RQ2009/1)
 - a. The Request for Compliance Review and Mediation, dated February 4, 2008 (sic)
 - b. Notice of Registration, dated 26th March 2009
 - c. Management Response to the Request, dated April 2009
 - d. Problem Solving Report, dated September 28, 2010, and its annexes
 - e. Assessment of Hydrological Impacts of Ethiopia’s Omo Basin on Kenya’s Lake Turkana Water Levels, Draft Report by Dr. Sean Avery, draft completed November 2009 and updates April 2010

- f. Final Draft Report on Socio-Economic Analysis and Public Consultation of Lake Turkana Communities in Northern Kenya prepared by A.S. Kaijage and N.M. Nyagah, dated December 2009
 - g. Memorandum from Ms. H. Cheikhrouhou, Director ONEC to Mr. Per Eldar Sovik, Director CRMU, dated 2 August 2010 entitled “Ethiopia GIBE III Hydroelectric Power Project: Discontinuation and Conclusion of Problem Solving Exercise Between FOLT and the Bank”
- 2) Anuak Justice Council et al. Request (Request RQ2009/1b)
- a. Request for Compliance Review, dated April 22, 2009 and its numerous attachments
 - b. Notice of Registration, dated 22 July 2009
 - c. Management Response to Request, date 27 August 2009
 - d. Report of the Director of CRMU on Eligibility of Compliance Review: Request RQ 2009/1b, dated October 1, 2010

Based on these documents, I determine that neither the FoLT Request (Request 2009/1) nor the Anuak Justice Council et al. Request (Request 2009/1b) is eligible for a compliance review. The reasons that I find these Requests to be ineligible for compliance reviews are:

- The Government of Ethiopia has decided not to seek ADB financing for GIBE III. Consequently, the Bank is not in a position to take corrective action in connection with any findings of non-compliance relating to GIBE III that may result from a compliance review.
- The only purpose that could be served by a compliance review would be to contribute to the lessons learned by the Bank from this project. However, the Bank has already had the opportunity to learn important lessons from the problem solving exercise conducted in connection with the FoLT Request and the two studies – on the impact of the project on the hydrology of Lake Turkana and on the public consultations with the Turkana communities-- that resulted from that exercise.

My determination of ineligibility is predicated on the knowledge that the Requesters will be able to resubmit their Requests if the situation change so that the Bank again becomes involved in the GIBE III project.

Sincerely,



Daniel D. Bradlow
Chair, Roster of Experts
Independent Review Mechanism