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Desde 1969 ayudamos a los pueblos indígenas a defender sus vidas, proteger sus tierras y decidir su propio futuro.

Sr. Bruce Montador
Executive Director
b.montador@afdb.org

PROJECT: GIBE III HYDROELECTRIC PROJECT - AfDB

Madrid, August 18th 2009

Dear Mr Bruce Montador:

We understand the Board of Directors of the AfDB will shortly decide whether to provide funds for the Gibe III Hydroelectric Power Project (Gilgel Gibe III Hydroelectric Power Project P-ET-FAB-005). Survival International is extremely concerned about the impact the dam will have on the 200,000 tribal who live downstream along the Omo River. These concerns have already been outlined to the Board in our letter of 7 April 2009. You will also no doubt be aware that the AfDB's CRMU is examining two complaints about concerning the dam.

It is not clear that the Directors have been made aware that in their haste to complete the project with the greatest possible speed, the Ethiopian authorities have engaged in a systematic course of conduct which is unlawful, unconstitutional and often criminal. We believe that the Directors should be properly informed of these matters before they make their decision and attach some questions which we urge you and other directors to consider before the forthcoming meeting

Yours sincerely,

Paloma Varela P.
Coordinadora
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GIBE III HYDROELECTRIC PROJECT - AfDB TO AfDB DIRECTORS & THEIR CONSULTANTS

1. Why did EEPCo refuse to put Gibe III out to tender

The EEPCo Board includes three Government ministers. It must have known that its failure to submit the contract to competitive tender would not only expose directors to the risk of a 10 year prison sentence under the Procurement Proclamation but make it far more difficult to raise funds for the project, from AfDB or anyone else. The Board nevertheless decided to dispense with competitive bids.

Why? Has AfDB satisfied itself that the decision could not have resulted from some collateral arrangement between EEPCo and Salini - an arrangement of precisely the sort that anti-corruption measures like the Procurement Proclamation were intended to prevent?

It cannot be enough for EEPCo to say that it wanted to make a prompt start on the works. That cannot excuse a breach of the criminal law. Moreover by 2006 Gibe III had been in prospect for several years. With a minimum of foresight, there would have been ample time to invite tenders from appropriate contractors.

2. Why did work start two years before EPA authorisation?

EEPCo directors must also have known that both they and Salini risked prosecution under the EIA Proclamation if they allowed work to commence before it had been authorised. They went ahead anyway. Why?

EEPCo has apparently told AfDB that it was because an EISA report could not be submitted “until the final level design was ready”. But this is no defence in law either.

In any event, the design must have been sufficiently advanced by July 2006 to enable EEPCo and Salini to agree a contract price. Has AfDB identified the further design that was supposedly required? Does it know when was it completed? Has it satisfied itself that it would not have been possible in the meantime to assess the impact of the project on downstream communities?

3. Can AfDB now approve these infringements of its Procedures?

The Environment and Social Assessment Procedures of the AfDB state that projects financed by AfDB “shall comply” with the RMC's “environmental and social legislation”. The Directors of the Bank do not appear to have any power to waive this mandatory requirement.

The project does not comply with either the Procurement Proclamation or the EIA Proclamation, both of which are pieces of “environmental or social legislation.” The problem was not cured by the authorisation that the EPA purportedly issued in July 2008, because the EPA had no power to grant retrospective authorisations.

4. Will EEPCo procedures ensure that the project will be carried out diligently and efficiently?

Since it has been asked to fund only a part of the project, under the Rules and Procedures for Procurement of Services and Works AfDB must be satisfied that the procedures by which EEPCo has procured the other works will cause those works “to be carried out diligently and efficiently [at a price that will not] affect adversely the economic viability of the project.”

This is, of course, the purpose of competitive bidding. In the absence of any bidding, has AfDB analysed the Salini contract in detail to ensure that the contract works have been properly specified and priced, that their execution will be properly supervised, and that EEPCo could not have got a better deal elsewhere?

5. Have downstream communities been properly consulted?

The Policy on Information Disclosure requires the opinions of local populations to be solicited: see para 4.24 (and also paras 1.7, 3.1 and 4.14). Given the express assurance it has been given that the project will abide by the IFC Performance Standards, has AfDB satisfied itself that the consultative exercise conducted in 2007 met the requirements of IFC Performance Standard 7 (which deals specifically with the consultation of indigenous communities)?

PS 7 requires, amongst other things, that experts should survey current land uses in collaboration with the indigenous communities. The reason for this is obvious: until land use is thoroughly understood it is impossible to assess how communities are likely to be affected by the project, or to design mitigation measures. It is equally impossible for the communities themselves to know how to react to any proposals put to them.

PS 7 requires that indigenous peoples are informed of their legal rights. It is equally obvious that they also need to know about these rights before they can decide their response to any project that affects their land.

What evidence has been presented to AfDB that any surveys have been carried out, or that indigenous communities have been informed of their rights, or even that the vast majority of the people downstream of the dam have been told about the project?

The Additional Study indicates that fewer than 200 “representatives” of some 200,000 people have been consulted, at a series of short meetings. What evidence has AfDB seen that these people “represent” anyone other than themselves? Has the Bank contacted the USAID officials who visited the lower Omo in January 2009? In March 2009 these officials reported that the indigenous groups to whom they spoke knew either nothing or virtually nothing about the project.

What steps will AfDB now take to ensure that these serious failings are put right?

6. What protection will be offered to downstream communities?

EEPCo says that it will introduce artificial floods and field irrigation to mitigate the effects of the project on downstream communities. Has AfDB been shown credible scientific evidence that either of these measures will ensure food security?

Even if these measures might in theory achieve the desired result, has AfDB satisfied itself that they will do so in practice? What guarantee has it been offered that indigenous communities will be able to participate in the regulation of artificial floods and field irrigation? How can it be confident that communities will have access to an effective complaints procedure when problems arise? How will AfDB monitor progress on these issues?