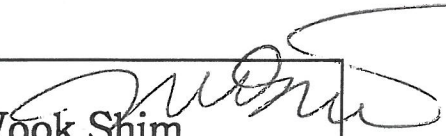




F A X

To: Jane Connors Chief Special Procedures Branch OHCHR	From: Tong-Wook Shim  General Manager of Corporate Audit Dept. Senior Vice President
Fax No. : (+ 41-22) 917 9008 Tel No. : (+ 41-22) 917 9359	Fax No. : (+ 82-02) 3457 1932 Tel No. : (+ 82-02) 3457 0052
Date: 25 July 2014	
Subject: Reply to a Joint Communication from Special Procedures	

Please find attached a reply composed of 6 Q&A s to a Joint Communication sent by the Special Rapporteur.

Response to United Nations

Q. 1 We wish to request clarification regarding your views on the accuracy of our original description of the human rights concerns that have emerged in the context of the POSCO project in Odisha. As stated previously we received multiple reports that allege that, on several occasions, Indian authorities have used excessive force, arrested and detained people who have protested the development of the POSCO-India project. We have further received documented accounts that police officials have filed baseless charges against residents of the project-affected area, occupied schools and failed to protect people from attacks by private actors as a result of their stated opposition to the project which have, in several instances, resulted in fatal injuries.

These reports have also raised concerns that restrictions on the freedom of movement of residents of affected villagers, due to a well-founded fear of arrest, has allegedly interfered with these people's access to adequate health services, food, education and a range of other human rights. We would welcome any documentation you have that further clarifies your assertions of the inaccuracy of these claims.

As far as we know, there was no forceful eviction or use of police to threaten villagers during the evacuation of government land. From the beginning, when the project was announced in the area, police has been very hesitant to use force for the limited purpose of maintenance of law and order. It should be noted that pre-existing rivalry between the villagers(i.e. esp. Nuagaon and Dthinkia) was leveraged by political parties to play in the area on the name of POSCO's project. The rivalry turned into bitter hostilities dividing them into pro and anti-project villagers.

Over the years, the number of pro-project villagers has increased drastically. And as opposition to Mr. Abhay Sahoo (PPSS leader and CPI member) grew in strength, it has been reported that he took recourse to strong arm methods to retain support (camped at Dhinkia, the stronghold of anti-POSCO agitators). Barricades were raised around the village to restrict the entry of outsiders, government officials, police and POSCO officials. It has been reported that the supporters of PPSS (Posco Pratirodh Sangram Samiti) periodically raided the nearby Govindpur village where both the groups have a support base and assorted to illegal activities such as assaulting the pro-project villagers, threatening them, damaging their property, etc.

Some of the villagers were even forced to leave their homes due to continuous harassment by anti-POSCO agitators. They approached the police and the district administration who failed to provide them with security inside the village. Total of 52 families (207 members) were sheltered in a camp raised by POSCO from February 2008, and POSCO bore the expenses for their upkeep.

The outcry over police's use of arms in Kalinga Nagar in 2005-06, over acquisition of land for the Tata project seems to have deterred the government from using force in such cases.

Indian Authorities have not yet provided a official response regarding the allegations (i.e. use of excessive force, arresting and detaining protesters, and interfering villagers' access to adquate health services, food, education etc). However, on 12~20th June 2014, the National Council of Churches in Korea (NCCCK) formed a Fact Finding Committee and made a visit to Odisha. NCCCK released an Interim Report on 24th July 2014 on their investigations and findings. Main points in the report are as follows :

“Dhinkia, which is the stronghold of anti-POSCO agitators and has the most number of anti-project villagers, were not barricaded by the Indian Authorities or the police. It was carried out by themselves in order to block the government officials and deter land acquisition. As of June 2014, people are allowed to enter the village except during the events like Panchayat Election”

Q. 2 We would also appreciate your assistance in better understanding how POSCO has complied with all applicable Indian laws. In particular, we understand that the Forest Rights Act requires that affected villages provide their consent through a gram sabha, or village resolution, before any utilization of forest resources or any action that would endanger their cultural or natural heritage. We have received multiple reports that the villages that would be directly affected by the POSCO-India project have rejected the diversion of forested lands for the POSCO-India project in several gram sabha resolutions, including in 2008, 2010, and 2012. In light of the fact that the consent of the affected villages has been withheld, we wish to understand further how POSCO has continued to promote the project while maintaining compliance with relevant Indian laws.

POSCO has utmost respect for the laws and regulations of Indian Government and the company has always abided by them. Over the years, POSCO's Odisha project has been scrutinized by many committees (Expert Appraisal Committee, Meena Gupta Committee, Roy Paul Committee, S.K. Pattnaik Committee and by many Govt. Depts.) for the matter of clearances and has successfully emerged in all these litmus tests. Regarding the Gram Sabha, we would like to provide you with a clear and detailed explanation.

In January 2008, Forest Right Acts (FRA) was published in the Official Gazette. Accordingly the Government of Odisha instructed all Collectors of each District to carry out the implementation of FRA throughout Odisha. In the month of March 2008, Forest Rights Committee (FRC) was formed in different villages in the site area.

Forest Right Committees were formed in Dhinkia Gram Panchayat (vill: Dhinkia,

Gobindpur, Trilochanpur) Nuagaon Gram Panchayat (vill: Nuagaon) and Gada Kujang Gram Panchayat (vill: Polang). But in Gadakujang Gram Panchayat three villages Bhuyanpal, Nolia Sahi and Gada Kujang resolved that Forest Rights Committee was not required as there were no eligible Other Traditional Forest Dwellers (OTFD) in the area. Please note the whole of the area comes under one forest block Dhinkia-Nuagaon (overlapping with NoliaSahi forest block). Further it was resolved that, villages where FRC was formed, within 3 months the claims has to be submitted to FRC who in turn will forward the claim to Sub-divisional level committee (SDLC) after due examination. Till date (May, 2012) no such claim has been submitted officially.

At that time, Forest Right Acts had nothing to do with Forest Clearance. POSCO-India got a Stage I clearance in September 2008. In July 2009, (after 11 months of the Stage-1 clearance), one important notification was published by Ministry of Environment and Forest (MoEF) which says that Gram Sabha resolution should be accompanied for the Forest Clearance. In December 2009, POSCO-India got a Stage II Clearance. Since Gram Sabha resolution was linked to Forest Clearance, some people from Dhinkia appealed to MoEF.

In March 2010, the Collector, Jagatsinghpur submitted clarification attaching March 2008 Gram Sabha Proceeding to the State Government and certified that there were no eligible OTFD. This was forwarded to MoEF.

In February 2010, SAXENA committee was formed by MoEF for the purpose of the examining effective implementation of FRA in the whole of the India. The committee visited our site in July 2010 when Betel vine demolition activity was going on and the Committee pointed out that the FRA has not been implemented. With this report, MoEF, at the same month of July, 2010, constituted Meena Gupta Committee. The Committee submitted a report in October 2010. Committee report was examined by MoEF and Government of Odisha was also asked to explain the scenario.

After that, MoEF, on 31st January 2011 while re-confirming the Environmental Clearance, instructed the State Government of Odisha to provide a categorical

assurance that the following three conditions are not applicable. These conditions were :

- They should have primarily resided in the forest for 75 years prior to the 13th day of December 2005 (Section 2(o))
- They should be, at present, dependent on the forest or forest land for bonafide livelihoodneeds (Section 2(o))
- They should have been in occupation of the forest land before the 13th day December 2005 (Section 4(3))

On 8th April 2011, the State Government submitted it's report on the above mentioned three points and further mentioned that the State Government had not received any claim from the villagers of our areas.

On 14th April 2011, MoEF asked the State Government for their views on two Gram Sabha Resolutions dated 21st February and 23rd February, 2011 submitted by PPSS directly to MoEF.

On 29th April 2011, the State Government submitted its report to MoEF based on an investigation carried out by sub-collector who pointed out that the whole resolution was a fraud. The resolution was not made as per the Odisha Gram Panchayat Act and out of a total of 3,445 voters of Dhinkia, only 69 persons have allegedly signed the resolution. The proceedings were not available in the Gram Sabha records. So it is a fake one.

On 2nd May 2011, MoEF gave the final clearance with an instruction to take an appropriate action against Dhinkia Sarpanch. The Stage II clearance was again reconfirmed by MoEF in May 2011.

After that, one case was filed in Odisha high court challenging the forest clearance granted despite the adverse Gram Sabha Resolution. The order came out in September 2011 where High Court declined to grant any stay order, even though it was alleged that the Gram Sabha Resolution was not taken into consideration while granting Forest

Diversion.

Thus the impugned Gram Sabha Resolution and its locus standi, its effectiveness, accuracy, authenticity and finally sanctity and legality has been examined by Government of Odisha at various level followed by cross-verification by MoEF and subsequently examined by Odisha High Court. At least respecting the system (decision of the implementing authority) the matter should be put into rest.

Regarding the Oct. 2012 resolution we may inform that in Sept. 2012 Odisha Government instructed that Gram Sabha resolution needs to be carried out regarding developmental activities in the villages. Accordingly the same was carried out in Dhinkia. POSCO's project was not in the agenda of the meeting. The meeting was attended by anti-project people who forcefully included POSCO's project into the resolution. Such a resolution has no legal sanctity and hence irrelevant.

Q. 3 We also welcome information regarding the particular ways in which POSCO has fulfilled its responsibilities to identify and assess any actual or potential adverse human rights impacts associated with the POSCO -India project. We are pleased to learn that POSCO has developed a Code of Conduct and that a process for conducting due diligence is forthcoming.

We would be grateful for information regarding the specific ways in which that Code of Conduct will be applied to the above-mentioned human rights allegations that have been raised in the context of the POSCO-India project.

As a company operating on a global scale, POSCO always strives to create a mutually beneficial environment for all of the stakeholders involved. Recently, POSCO has made an extensive revision to its Code of Conduct and announced it on June 2, 2014, in order to better comply with human rights, environment, and social responsibility.

POSCO will continue to do its utmost through monitoring, self-diagnosis, and regular reporting, in order to make sure that the revised Code of Conduct is put into action properly. Also, as mentioned in the Code of Conduct, POSCO will carry out due diligence when needed and will communicate with various stakeholders, especially when it concerns human rights related issues. As for POSCO's project in Odisha, India, specific steps and procedures are being prepared to carry out due diligence in near future.

Q. 4 With regards to the numerous meetings that you report conducting with affected people, we would be grateful for further details regarding the information that was shared with villagers in those meetings regarding the human rights impacts of the project, as well as the nature of the discussion about these impacts, including the opportunities that existed for local people – particularly marginalized people – to raise concerns, questions and suggested amendments to project plans. We would further appreciate information about the outcome of these conversations, specifically, how the feedback that was provided by affected people has informed the plans for the future stages of the project. Finally, we request clarification about how POSCO has used its influence to encourage Indian authorities to uphold their human rights obligations, particularly the operations of the state police.

POSCO has always emphasized upon dialogue and consultation with the local communities from the beginning by means of both formal and informal mechanisms. The Rehabilitation and Peripheral Development Advisory Committee (RPDAC, formal mechanism) meetings were held in 2006 and 2010 to finalize the R&R compensation package for the affected people. Besides, POSCO has so far held more than 190 mass meetings and 1,400 individual meetings (informal mechanism) to know and understand the aspirations and risks of the local people.

After signing of the MOU, an office was opened in Paradeep with the sole objective of facilitating interaction with the site area and adjacent localities. Intensive awareness campaign was initiated which includes distribution of leaflets as an insertion in the local newspapers. In the month of August 2006, another office was opened in Kujang having an exclusive interaction room depicting the project details and benefits as display panels. From Kujang office POSCO undertook daily interaction exercise with the villagers, including showing them the short movies explaining the different components of the project and benefits that will contribute to the local communities. As a result, POSCO could interact with almost of the populations excluding some portion of Govindpur and Dthinkia village, which preferred to close all doors of interaction by blocking the roads erecting artificial gates. They even restricted the entry of any kind and all government officials to the village.

Moreover, POSCO's MoU and Prospecting License (PL) recommendation documents are on Indian Government websites as a public document, which is a very unique case in India. For better communication with local stakeholders, POSCO further opened offices at Nuagaon in 2011. The Company has also organized Seminars on FINEX technology and on Odisha project status in 2012 for creating awareness on the project benefits. POSCO has also focused on strengthening its PR activity and always provided transparent updates to media on its project, opening the communication room for media persons at our Paradip office is an example of such efforts. Besides, frequently asked questions have also been answered in the POSCO-India website, being updated time-to-time apart from the significant press releases.

The process of dialogue and consultation is still going on and shall continue in the future as POSCO's policy is to grow with the local community.

Q. 5 In response to our original question about how POSCO has upheld the responsibility to draw on internal and/or independent external human rights expertise in order to gauge human rights risks, your letter mentioned the conduct of a corporate ethics audit. In this regard, we would appreciate clarification regarding who, within POSCO's staff, is involved in the corporate audits of ethical practices and the extent to which they may be considered to possess human rights expertise. We would also welcome information contained in the audit reports and any conclusions produced by with regards to the specific issues raised regarding the POSCO-India project.

Human rights issues that arise from POSCO's global business operations are handled by the employees in Corporate Audit Department who are in charge of global ethics compliance. Recently, they have also collaborated with PricewaterhouseCoopers (PWC) when revising POSCO's Code of Conduct, which now has reinforced articles on the human rights. Also, by providing educations and coaching to foreign subsidiaries, POSCO has been active in implementing measures to prevent any ethics-related risks that might arise from global business environment.

Q. 6 Furthermore, we wish to better understand how POSCO has sought to establish an effective system to process and respond to project-level grievance related to forced evictions and other allegations of human

rights abuse that may arise in the context of your company's projects. While we commend the establishment of a hotline to receive complaints related to the sexual harassment of workers, we are unsure of the relevance of this mechanism with regards to the concerns that have been reported in relation to POSCO's projec in India.

First of all, the Rehabilitation and Peripheral Development Advisory Committee (RPDAC), which has representatives of all stakeholders, constituted under the Odisha R&R Policy 2006, is the formal community consultation mechanism. As per the policy, an effective Grievance Redressal Mechanism (GRM) is to be set up at District and Directorate level to deal with the grievance of the project displaced people relating to land acquisition and R&R. Besides, every project proponent should set up an effective GRM relating to their project. In case of POSCO, the land has not been transferred yet. As per the policy, only after the land is given and the list of displaced people is finalized, the question of setting up GRM arises. For the moment, the issue of R&R is limited only to removing the encroachments (betel vine cultivation and prawn pond) from the government land. As of now, the mechanism is that if any small grievance arises, the same is resolved by the district administration on the spot.

Even though prevention and mitigation of the human rights violation are the statutory responsibilities of the government and administration, POSCO as a responsible company, has always appealed to the government to protect the human rights of the local people and maintain law and order in the area. Also, for better communication with local stakeholders, POSCO further opened offices at Kujang and Nuagaon in 2006 and 2011 respectively. Furthermore, considering the livelihood opportunities for the local residents, and although the project has not gained considerable momentum, POSCO has undertaken several activities so far. For example, POSCO was not required to carry out the trench cutting along the boundary wall but the same was executed to generate the scope of livelihood earning for the local villagers. POSCO is also trying to improve the standard of living of the people by doing various CSR and peripheral development activities (such as providing study material, desk, benches to

local schools, financial assistance during festivals, transportation services, scholarships, relief during natural calamities, road construction, etc.), upon adequate consultation and receiving the request from the local residents.

As mentioned previously, POSCO announced newly revised the Code of Conduct. Being a signatory to the various principles and guidelines, including the OECD Guidelines and UN Global Compact, POSCO is mindful of its obligations under these principles and guidelines towards the local community and is working within the framework of those principles and guidelines. POSCO-India will replicate the model of its parent company in all projects of India.

Also, POSCO operates sexual harassment counseling center which is available to all of POSCO employees whether they are in Korea or abroad. But since sexual harassment counseling center does not solely operate for POSCO's Odisha project, some might view it as ineffective when it comes to mitigating human rights issues. However, we believe that efforts to prevent sexual harassment can also contribute to solving various human rights issues, and for this reason counseling center is made available to all employees of POSCO.

Finally, POSCO as a responsible company, has always used its influence and appealed to the Indian government to protect the human rights of local people and maintain law and order in the area. In addition, POSCO's Odisha project has been put on hold completely for a year now, due to various issues and situations. Please bear this fact in mind and we sincerely hope that the issues related with Odisha project gets all settled down in a very near future.