

Oct. 24, 2012

Anthony Jude, Director
Energy Division, Southeast Asia Department
Asian Development Bank
6 ADB Avenue, Mandaluyong City 1550, Philippines

Re: Lao PDR-Vietnam Power Interconnection (Project 41450) and Associated Hydropower Projects

Dear Mr. Jude,

I am writing to follow up on previous correspondence with your office about the application of ADB Safeguards to the eight dams associated with the proposed Lao PDR-Vietnam Power Interconnection (Hatxan-Pleiku) in the Greater Mekong Subregion (Project 41450).¹ International Rivers has noted that a recent fact-finding mission was conducted (21 August-3 Sept. 2012) and that the updated PDS for 41450 affirms that “a GAP analysis will be undertaken to ensure that environmental and social safeguards in developing eight associated hydropower plants are up to ADB Safeguard standards and where not, remedial measures will be proposed to the Government of Laos to address them with the project developer.” With regards to this GAP analysis, can you please clarify:

- Will compliance with Lao law be analyzed during the GAP analysis process?
- What is the timeline for completion of the GAP analysis?
- Who will be conducting the GAP analysis (ADB staff or consultants)? If consultants will do the analysis, have they been selected?
- Will the process include consultation meetings with project affected people in each of the sites?
- Will the results of the GAP analysis be made public?
- Will the ADB insist that remedial measures be completed in all proposed inter-connected dams before it approves the transmission line project?

Given that the long-term transboundary impacts of dam developments on fisheries, hydrology and sediment flows in the Xe Kong River basin (as one of the “3S” Rivers) have been articulated by regional institutions, academics, experts, and non-governmental organizations alike, will there be a cumulative impact assessment along with an assessment of the transboundary impacts of the eight dams proposed to be associated with this project in the GAP analysis?

¹ In an email communication received by International Rivers on May 16, 2012, the eight dams associated with the Lao PDR-Viet Nam Power Interconnection Project mentioned include Xe Kaman 1 (including Xanxay), Xe Kaman 2 and 2A, Xe Kaman 4 and 4A, Dak E Meule, and Xe Kong 3A and 3B.

Dams as Associated Facilities to the Lao PDR-Vietnam Power Interconnection

In an email exchange with International Rivers on May 16 2012, Mr. Jong-Inn Kim explained that the ADB “requested the consultants to complete the safeguard due diligence audit on potential associated hydropower projects which would use the proposed substations and transmission lines under the above project [Project 41450],” but that “compliance with the ADB safeguards policy for associated facilities is not required.” However, it is the external financing of the transmission lines to facilitate the export of the electricity from Lao PDR to Vietnam that makes these eight dams profitable and feasible for the project developer. The successful operation of the transmission lines undoubtedly relies on the provision of electricity from the hydroelectric projects, and thus is wholly dependent on the smooth functioning of the associated planned dams along the Xe Kong and Xe Kaman Rivers. Can you please provide more detailed information regarding the evidence used to make the decision that “compliance with the ADB safeguards policy for associated facilities is not required”?

Concerns Surrounding Associated Dams: Xe Kong 3A and 3B and Xe Kaman 1

Site visits by International Rivers to the planned locations of Xe Kong 3A/ 3B as well as the construction zone of Xe Kaman 1 in May 2012 revealed that in all cases, project development is advancing without the prior public release of social impact assessments and resettlement plans as required by the Lao PDR Decree 192 on Compensation and Resettlement of People Affected by Development Projects and the accompanying regulations for implementation. Furthermore, without a cumulative or transboundary impact assessment of the planned dams along these two rivers, the effects on hydrological flows, fisheries, food security and riparian ecology remain unevaluated variables. Based on the preliminary data collected by International Rivers, the dams proposed to be associated with the Lao PDR-Viet Nam Power Interconnection (Hatxan-Pleiku) to date fail to meet the standards set out in the ADB Safeguard Requirements on Indigenous Peoples, Involuntary Resettlement and the Environment, as illustrated below. As a result, the ADB’s support for transmission lines that will spur the development of these dams is of significant concern.

(a) Xe Kong 3A and B Hydropower Projects

Near the planned sites of the Xe Kong 3A and 3B, which will have capacities of 100MW and 105MW respectively, the headmen and other community leaders were interviewed in Ban Nam Hieng and Ban Sapoun. Both villages would likely be displaced due to their geographic proximity to the proposed sites of the dam walls. As Alak and Brao people, villagers assert their identities as ethnic minorities belonging to the Lao Theung group², and are correspondingly entitled to meaningful consultation ‘to ensure informed participation’ as per ADB Safeguard Requirements pertaining to Indigenous Peoples. Villagers explain that surveyors from the Vietnamese company, Song Da Corporation, were seen blasting and taking core samples along the riverbank in past years, but that their villages had not been provided with information about what the dam entails and had no certainty as to if - or when - dam construction would begin. They were told by district authorities earlier this year that a dam would be built at an undefined time in the future less than 1km from Ban Nam Hieng. Yet, they were neither consulted nor

² Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Laos: Lao Theung*, 2008, available at: <http://www.unhcr.org/refworld/docid/49749cf32d.html> [accessed 3 September 2012].

informed about further crucial details related to the inevitable changes to their livelihoods. In fact, they expressed doubts about the construction even beginning soon, and did not think their villages would ever be called upon by authorities to resettle to a new site. Furthermore, no awareness about whether transmission lines would affect them was apparent in these villages or other nearby villages visited (including Ban Mixay, Ban Don Chan, and Ban Haphon). As of May 2012, no information about possible compensation for the losses and food as well as livelihood insecurity resulting from these dams had been provided by Song Da or government authorities.

On August 29 2012, the *Vientiane Times* announced that work was beginning on these dams yet no EIA studies, Social Impact Assessments or Resettlement Plans have been disclosed to affected communities or the general public. We are not clear whether this “work” involves construction or not, but if it does, this would constitute a violation of Decree 112 on Environmental Impact Assessments (Articles 7; 31) and Decree 192 on Compensation and Resettlement of People Affected by Development Project (Article 15.2), as well as the ADB’s Safeguard Requirements on Indigenous Peoples (including Requirement 1 on consultation and participation, Requirement 3 on Indigenous Peoples planning, and Requirement 4 on information disclosure). The only public information available on the projects includes planned capacity and completion dates, but no details regarding the location of project lands and plans for resettlement, as would be required by standards outlined in the Safeguard Requirements on Involuntary Resettlement.

Furthermore, according to the recent study by Ziv et al., *Trading-off fish biodiversity, food security, and hydropower in the Mekong River Basin*, published in the January 2012 edition of the *Proceedings of the National Academy of Sciences*, out of the 27 dams planned to be built on Mekong tributaries between 2015-2030, Xe Kong 3A and 3B rank second only to the Lower Sesan 2 Dam in terms of causing the most significant loss of fish biomass and biodiversity. The Xe Kong 4 Dam is similarly evaluated as one of the most damaging tributary dams. Ziv et al. conclude that the “benefits of the Sekong dam cascade are questionable” based on an analysis of costs to food security and biodiversity in comparison to benefits from electricity generation.

It is difficult to see how projects with this level of magnitude of impact could meet the requirements set out in the ADB Safeguard Policy Statement, particularly given the systematic secrecy surrounding their development. Can you please inform us of whether and how these issues will be taken into consideration in the GAP analysis?

(b) Xe Kaman 1 Hydropower Project

As the 290 MW Xe Kaman 1 Dam proceeds towards completion, the local Alak families of Ban Hindam and Ban Donekhen continue to live in limbo beside the site, having been informed earlier this year by visiting authorities (as well as in each of the previous nine years) that they will be called upon to resettle to an undetermined place due to rising water levels and dam wall construction. Both villages have been living in temporary housing within the vicinity of project construction since being moved from their original homes in upland Xanxay in anticipation of the dam in 2003. They will no longer be able to eke out a living at the current site when the dam comes online and the levels of water in the reservoir rise. Compensation was not provided at the original time of resettlement. Now, compensation for the upcoming resettlement and any offer

of additional livelihood support have not been forthcoming by the project developers or the Government of Lao PDR. Consequently, headmen interviewed are not certain whether support will be provided to help villagers cope with this second instance of displacement, as required by ADB safeguards. We interviewed 6-8 families in each of the two villages, who universally emphasized they are now coping with perpetual food and water insecurity. In these cases, violations of the Government of Lao PDR Decree 192 on Compensation and Resettlement (articles 4, 5, 6, 7, 8 and 11) are evident. Similar to the concerns noted above with regards to Xe Kong 3A and 3B, this situation reveals breaches of the ADB Safeguard Policies on Indigenous Peoples, Involuntary Resettlement and the Environment. Furthermore, no Environmental Impact Assessment and Resettlement Plan appear to have been made public, constituting a violation of ADB Safeguard Requirements on the Environment and on Involuntary Resettlement.

Conclusion

We trust the above concerns will be duly considered and further probed in the GAP analysis, and that the transmission line project will only be approved if it can be proven that all dams planned to be connected to the line comply with all requirements outlined in the ADB Safeguard Policy Statement.

Finally, International Rivers is also monitoring the development of the **Xe Pian-Xe Namnoy Dam** in Southern Laos. We have noticed that this project is listed as a proposed ADB private sector loan (Project 46918-014). Can you please provide information regarding the timelines for the consideration of this project loan? According to an article published in the *Vientiane Times* on October 22, 2012, entitled “Southern Hydro Plant Gets Green Light”, the environmental and social impact assessments for Xe Pian-Xe Namnoy have been completed, public hearings have been initiated, and ‘preconstruction’ is underway. Can you please provide copies of these assessments (which should be public documents as required by the Lao PDR Decree 112 on Environmental Impact Assessment), and information about the public hearings?

We look forward to your forthcoming response and continued communication on these issues.

Sincerely,



Tania Lee
Lao Program Coordinator
International Rivers

Cc: Mr. Jong-Inn Kim, Lead Energy Specialist, Energy Division, Southeast Asia Department
Mr. Chong Chi Nai, Country Director, Lao PDR Resident Mission
Mr. A. Barend Frielink, Deputy Country Director, Lao PDR Resident Mission
Mr. Nessim J. Ahmad, Director, Environment and Safeguards Division
Mr. Christopher Morris, Head, Nongovernment Organization and Civil Society Center