

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

Royal Government of Cambodia

**Draft LAW
on
Authorization of Payment Warranty of the Royal Government of Cambodia
for the Hydro Power Lower Sesan 2 Company**

Article 1

To approve the payment warranty of the Royal Government of Cambodia to the Ministry of Industry, Mines, and Energy and Electricité du Cambodge for the Hydro Power Lower Sesan 2 Company in the framework of the Agreement on Project Implementation between the Royal Government of Cambodia and the Hydro Power Lower Sesan 2 Company and the Power Purchase Agreement between the Electricité du Cambodge and the Hydro Power Lower Sesan 2 Company signed in Phnom Penh on 26 November 2012. This warranty with its complete text was signed on 12 December 2012 by the Minister of Economy and Finance of the Royal Government of Cambodia and is attached herewith.

Article 2

The Royal Government of Cambodia must continue all procedure to implement this payment warranty letter.

Article 3

This Law must be promulgated as an urgent matter.

This Law was adopted by the National Assembly of the Kingdom of Cambodia on 2013 in the.....th session of the National Assembly of the Fourth Legislative Mandate

Phnom Penh, 2013

President of the National Assembly

Samdech Akka Moha Ponhea Chakrey Heng Samrin

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No. 01

EXPLANATORY NOTE

on

**The Draft Law on the Authorization of Payment Warranty of
the Royal Government of Cambodia for the Hydro Power Lower Sesan 2 Company**

1- National economic development and the increasingly improved people's livelihood greatly boost the demand for electricity beyond the supply capacity. To date, power development in the Kingdom of Cambodia has made significant progress. Hydropower development projects, coal-fired power plant development projects, and electric transmission development projects have been signed, of which some projects are under construction and others have been operational.

2- The results of the 2004 study of a master plan of hydropower development in the lower Sesan basin in Cambodia show that the Lower Sesan 2 hydropower project is one of high economic efficiency and is the first priority among five hydropower development projects. The other four projects include the Lower Sesan 1 Hydropower Project, the Lower Sesan 3 Hydropower Project, the Prek L'ang 1 Hydropower Project, and the Prek L'ang 2 Hydropower Project.

3- In 2007, the Royal Government approved, in principle, a Vietnamese power company, EVN International Joint Stock Company, to carry out a feasibility study of the Lower Sesan 2 Power Development project for a possible joint investment between Cambodia and Vietnam. This study was implemented by a consulting firm, Power Engineering Consulting Joint Stock Company 1 (PECC1) in collaboration and consultation with technical ministries/agencies of the Royal Government of Cambodia. Because the feasibility study showed that the project was an economically effective one and significantly benefited the country, the Royal Government approved, in principle, the investment and proceeded in accordance with legal procedure until signing the Agreement.

4- The plenary session of the Council of Ministers held on 02 November 2012 unanimously adopted the Lower Sesan 2 Hydropower Development project with an installed capacity of 400 MW in Stung Treng, which would be implemented by the Hydro Power Lower Sesan 2 Co., Ltd. This company was established by the local Royal Group company with a 90% share in collaboration with the Hydrolancang International Energy Co., Ltd. From China as an additional partner and the state-owned EVN International Joint Stock Company from the Socialist Republic of Vietnam with a 10% share. At the same time, the Royal Government granted power of attorney to the Ministry of Economy and Finance and the Ministry of Industry, Mines, and Energy to sign the Implementation Agreement (IA) on 26 November 2012.

In accordance with the Implementation Agreement, the Royal Government is required to give two kinds of warranty: 1) warranty of payment for the purchase of power in case that Electricité du Cambodge does not pay, and 2) warranty of payment for purchase of project means in case that the Company cannot implement the project due to political force majeure.

Unofficial Translate

So far, our legislative body used to authorize the Royal Government to provide payment warranty for many hydropower development project already, including hydropower construction, coal-fired power plant construction, and power transmission construction projects.

5- Contents of the terms of the Implementation Agreement are summarized as follows:

- Infrastructure to be built and large works that the Company has to carry out include: 1) construction of a hydropower station with an installed capacity of 400 MW; 2) construction of 36 kilometers of power transmission line with 230 kV; 3) settlement of impacts for people affected by the project, including compensation, resettlement, construction of necessary infrastructure, e.g., roads, schools, pagodas, health centers, water supply systems, commune offices, police posts, irrigation, etc.; 4) construction of 24 kilometers of tarmac roads from the construction site to Stung Treng town; 5) clearance of forest in the reservoir; 6) clearance of mines and unexploded ordnance; 7) Annual support of \$500,000 for Electricité du Cambodge (for a total period of 40 years totaling \$20 million) for training and human resource development; and 8) replacement of some necessary machinery, equipment, and tools with brand new ones with a cost totaling US\$140 million in the thirtieth operational year to ensure safety and economic efficiency.
- The project total cost is US\$781.52 million, of which main expenditure items include:
 - Building \$246.47
 - Machinery, equipment, tools \$232.63
 - Compensation for impacts \$41.94
 - Clearance of reservoir areas \$14.42
 - Mine clearance \$5.05
 - Environmental protection \$2.23
 - 36 kilometers of power transmission line \$14.67
 - Project management \$11.15
 - Project development \$16.72
 - Consultancy and monitoring \$44.59
 - Interest for 5-year construction period \$90.33
 - Insurance \$5.58
 - Contingency \$55.74
- Company's own capital is 30% equal to \$234,46 and bank loan is 70% equal to \$547.06 with an interest rate of 6.5% per annum, and the payback period is 15 years.
- The investment is in the form of Build-Operate-Transfer (BOT).
- The concession period is 45 years, including 5 years of construction and 40 years of business operation.
- The quantity of annual power production is 1.912 million kw hours.
- The base power cost is US\$0.0695 per kw hour (in Stung Treng town).

Unofficial Translate

- Purchase/sale is based on the principle of “take-or-pay basis”.
- The price of excess power purchase/sale is equal to 60% of the base power cost
- The internal rate of return (IRR) is 12.59%.
- Investment incentives that have been granted to hydropower development projects that have been signed to date include:
 - 9 years of exemption of tax on profit
 - 20% of tax on profit after the tax-exempt period
 - Import tax and VAT is responsible by the state for imports of machinery, equipment, tools, spare parts, raw materials during the construction period and the first year of operation
 - For imports of petroleum products, tax and excise must be paid in accordance with existing laws and regulations
 - VAT on the sale of power to Electricité du Cambodge shall comply with the policy of the Royal Government.

6- Benefits from the Project

- An unprecedented large power source that Cambodia has never experienced before, contributing to assurance of power independence and security.
- Reduction in power production using high-cost fuel and long-term fixed price of power, contributing to national economic development and international competition.
- Creation of thousands of jobs for workers to work directly under the project and increase in indirect income for people in the community in the region, contributing to alleviation of people’s poverty.
- More new technology for Cambodian workers/employees to learn, to train directly, and to draw experience from.
- Creation of beautiful eco-tourist destinations, which will attract tourists thanks to the beautiful scenery of the nature surrounding the hydropower station when roads and bridges in the area have been built by the project.
- People affected by the project have decent, orderly housing, sufficient infrastructure, and modern irrigation.
- The company supports Electricité du Cambodge with US\$500,000 (five hundred thousand) per annum or \$20 million in total for the 40 years of concession for training and human resource development.
- An average State revenue of \$29.589 million per annum or \$1,183.55 (one thousand one hundred and eighty-three point fifty-five) million from the project for the 40 years of concession, excluding revenue from VAT, income tax, and income from other taxes that Electricité du Cambodge and other retailers (whole sellers) will have to pay to the State when they receive the power to re-distribute to users.

Unofficial Translate

- In the future, in case that VAT is levied on the price of power sold to users, the State will receive additional revenue of about \$13.5 million per annum from this VAT.

7- Impacts and Solutions

Impacts and an impact solution plan of this project were investigated and developed by the respective company implementing the project together with two consulting firms, i.e., PECC1 (from Vietnam) and KCC (local company) in collaboration with relevant ministries, agencies, local authorities, and the Resettlement Department of the Ministry of Economy and Finance. The contents of the impact solution plan are summarized as follows:

- The whole project is located in Sesan district, Stung Treng.
- The size of the reservoir is 330 km².
- Impacts include:
 - Land areas of three communes, i.e., Kbal Romeas commune – three villages, i.e., Kbal Romeas, Sre Sronok, and Jrob; Sre Kor commune – two villages, i.e., Sre Kor 1 and Sre Kor 2; and Pluk commune – one village, i.e., Pluk.
 - 515 households are affected in 2010, this number can increase to 797 households in 2014
 - Forest areas, agricultural land, houses, pagodas, and sacred places, schools, health centers, other public works, and some parts of economic land concession of five companies.
- Solutions include:
 - Compensation based on the sizes of farm land, plantations, houses, various structures, and crops affected by the project
 - Construction of 797 houses: one 80 m² house is for one household of eight people, built on a land area of 1,000 m² - 400 m² is for the house and 600 m² for gardens
 - Provision of 5 ha of farm / plantation land per household (already cleared)
 - Construction of public works for each commune, including roads, one commune office, one police station, one pagoda, one health center, one kindergarten, one primary school, one lower secondary school, one well per 5 households, public gardens, sport complex, and irrigation
 - Provision of allowance and rice for the 12 months
 - Provision of some basic vocational training to enable adaptation to the new livelihood
- Construction of 24 kilometers of road (bitumen) from the construction site to Stung Treng town
- The budget reserved for settlement of impacts includes:
 - \$38.71 million for compensation, building new houses, and basic infrastructure in resettlement areas, including
 - ✓ Compensation \$10.02 million
 - ✓ Building new houses \$19.34 million

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- ✓ Those voluntarily move out without accepting a new house \$1.49 million
- ✓ Study fee \$0.57 million
- ✓ Administration \$2.67 million
- ✓ Income restoration program \$1.98 million
- ✓ Contingency \$2.64 million
- \$3.23 million for irrigation in the relocation areas
- \$2.23 million for environmental protection measures
- \$5.05 million for clearance of mines and unexploded ordnance
- \$3.70 million for clearing farm / plantation land for affected people – 5 ha per household or 3,985 ha in total
- Some budget (not included in the budget) for construction of 24 kilometers of road (bitumen) from the construction site to Stung Treng
- These impact solutions shall be implemented by the respective implementing company according to the master plan reviewed and adopted by the Inter-ministerial Commission. In case there is budget left after settlements, a foundation shall be created to continue to use the budget until it is used up completely for the common interest of the communities affected by the project.
- The aforementioned impact solutions have been disseminated many times in meetings with participation from the Inter-ministerial Commission, relevant provincial, district, and commune authorities, and representatives of affected communities.
- In addition, environmental impacts were studied by the company and a report was submitted to and adopted by inter-ministerial/agency meeting organized and chaired by the Ministry of Environment.

In summary, environmental, social, and cultural impacts are at a level that can be restored and solved. At the same time, the benefits obtained from the project is tremendous, which can contribute to the implementation of the Royal Government's policies in national economic development and alleviation of people's poverty.

In order for the National Assembly to understand better the contents of the payment warranty of the Royal Government, I would like to enclose herewith the payment warranty letter of the Royal Government so that the National Assembly can seek to understand.

Based on the elaboration above, please, the National Assembly, review and adopt, as an urgent matter, the draft Law on Authorization of Payment Warranty of the Royal Government of Cambodia for the Hydro Power Lower Sesan 2 Company.

Phnom Penh, 10 January 2013

[Signature & Stamp]

Samdech Akka Moha Sena Padei Techo Hun Sen