

**An Eyewitness Report on Involuntary Resettlement Associated with Nam Ou 2 (Hat Kip)  
Hydroelectric Project, Lao PDR (April 2012)**

In January 2012, Sinohydro adopted its Sustainable Development Policy Framework which if implemented would put it amongst the world leading dam building companies on social and environmental standards. Sinohydro is embarking on one of its biggest investments – seven dams on vital Nam Ou tributary of the Mekong River in Laos PDR.

The adoption of the policy framework and size of the Nam Ou hydropower cascade project represents the importance of Sinohydro's overseas business and its desire to grow Sinohydro's international reputation. However, a closer examination of Sinohydro's progress on the ground in Lao PDR reveals significant gaps between what the company aspires to be and the reality of its on ground implementation.

International Rivers visited the Nam Ou in March 2012 to better understand the impacts of the Nam Ou Hydropower Development Project on the communities of the river basin. We visited over 30 communities and conducted interviews with some 100 villagers. This report will draw upon the interviews conducted with communities around the Nam Ou 2 project at Hat Kip in Luang Prabang province.

International Rivers was alarmed by the poor state of community relations and the progress of involuntary resettlement associated with the dam projects. Our key findings regarding the involuntary resettlement associated with Nam Ou 2 project are:

- Communities were not informed or able to access information about the dam's impacts, resettlement plans or livelihood restoration programs;
- Within the communities facing imminent resettlement, there was significant confusion about the compensation measures;
- At the time of visiting, compensation remained outstanding even after Sinohydro had taken possession of land and assets required for road and bridge construction;
- Consultation with local people was non-existent, and in all cases communication between Sinohydro and local authority was limited to the village chief.

Broadly, Sinohydro's key policy commitments were not being upheld. This report will summarize our findings and make recommendations to address the emerging resettlement crisis around the Nam Ou 2 project, based on our 25 years of working with dams and affected communities. We recommend that if these projects are built, that Sinohydro ensure that all the Nam Ou dam projects comply with Sinohydro's policies (including the World Bank safeguard standards) and that no resettlement occurs until the project is brought into compliance.

**Background:**

The Nam Ou 2 Hydropower Project is part of the Nam Ou Hydropower Development Master Plan signed between Sinohydro and the Lao Government in April 2011. It is anticipated the construction will begin in late 2012.

International Rivers did not have access to the key project documents including the Hydropower Master plan and the Environment and Social Impact Assessments ahead of our fieldwork in March 2012. Lao national Environmental Impact Assessment law and the recently adopted Sinohydro Sustainable Development Policy Framework require the public disclosure of such documents. As such, we were not able to assess how Sinohydro's own program and policies relating to Nam Ou were compliant with its own standards and national laws. However, we were able to assess the situation in the villages and whether this was compliant with Sinohydro own standards and national laws.

## ***1. Information Disclosure and Consultation***

Communities had very little information about the impacts of the dam (e.g. proposed reservoir water levels, impact on local boat travel) and even in villages facing imminent relocation, villagers could only talk very broadly about the compensation package being offered. For example, when asked to describe the details of the benefits promised by Sinohydro villagers had little information about the details of the specific resettlement package aside from knowing that new houses, school, hospital and micro-finance facility would be in the new village.

Consultation with local communities beyond the village chief was non-existent. While some villages had hosted meetings between Sinohydro and local authorities in the Nam Ou 2 reservoir area, based on our research this was not a consistent practice. Officers collecting economic and social baseline information also did not share information with villagers about what they were doing or the purpose for which they were collecting information. In fact very little communication with villagers has occurred besides being told they would move and the rough timing of their move. Villagers also had no idea about the conditions of the new village.

Appropriate and successful resettlement can only be achieved if the local communities are engaged, informed and give their consent for resettlement. The disclosure of relevant information provides the foundation for community participation during the planning, monitoring and evaluation of compensation payments, and implementation of livelihood restoration programs is critical. Without the participation and approval of local communities, Sinohydro will fail in its commitment to improve local livelihoods.

## ***2. Compensation***

Aspects of Sinohydro's compensation package were not consistent with the World Bank's Involuntary Resettlement Policy, which Sinohydro is committed to apply, as its minimum standard.

- At the time of visiting, Sinohydro had yet to pay compensation for land and assets acquired for the construction of the Nam Ou 2 Bridge. Several farming families had lost access to their gardens due to road and bridge construction and had still yet to receive the promised funds. The International Finance Corporation (IFC) and World Bank Involuntary Resettlement standards all require that the company can only take possession of the land only after compensation has been made available (IFC, 2012 at paragraph 9, World Bank, 2001 at paragraph 10).
- Assistance with relocation (e.g. moving allowances), which was initially promised, was reported by some villagers to be no longer available. Vulnerable groups, such as elderly women were very concerned about how they were going move their possessions to the new village.
- Personal property in communal areas, such as vegetable gardens and mature fruit trees, was not consistently included in the compensation list compiled by Sinohydro for loss of assets to be compensated. In particular, villagers were upset by the company's failure to include fruit trees and gardens in the list of assets that would be compensated other than those that were located next to their homes.
- Local people perceived that compensation amounts were being arbitrarily changed, and in some cases were reduced by more than 50 %. It was unclear whether Sinohydro or local authorities were responsible for reducing compensation amounts.

### ***3. Livelihood Restoration***

Communities were not aware of any resettlement program to assist them in improving or restoring their livelihoods at the new village. Under the World Bank and IFC policy standards, Sinohydro is required to develop a Resettlement Action Plan that “mitigates the negative impacts of resettlement, identifies development opportunities and sets out the compensation entitlements of all affected persons” (World Bank 2001, para 25; IFC 2012, para 19). On the ground, there was no evidence that affected communities participated in its development or had access to it or that it was being implemented.

It was unclear how long Sinohydro would provide livelihood support for the resettled villagers. Villagers informed us that some programs such as the small loans facility would only be operational for three years. However, based on the World Bank and IFC policies, resettlement should only be deemed complete once the adverse impacts of resettlement have been addressed. In our experience, three years is not enough time. Livelihood restoration programs should occur for at least ten years, as per the minimum standard set by the Nam Theun 2 project located in central Laos.

### ***4. Grievance and Complaints Mechanism***

Sinohydro has committed to establishing a grievance mechanism in all its projects. Currently no such mechanism exists for the communities of the Nam Ou. On several occasions, villagers spoke about their frustration in communicating issues such as failure to pay compensation for land affected by road and bridge construction. Other villagers said they were eager to ask questions and seek clarification on details of the compensation package to enable them to make decisions about their future.

Without a grievance mechanism, Sinohydro has no means of addressing the anxieties, frustrations and complaints from communities. Establishing a grievance mechanism would enable Sinohydro to receive and address concerns about compensation and relocation in a timely and effective manner. The mechanism should also involve an appeals mechanism consistent with the World Bank and IFC policies for any complaints or concerns that Sinohydro cannot adequately address.

### ***5. Local employment***

Local communities were particularly aggrieved that there were no local laborers engaged in the preparatory works for Nam Ou 2. While there were reports that there maybe some employment of local labor in other villagers, we encourage Sinohydro to look for opportunities to train and employ many more locals in the project, as this is a key source of frustration.

## **Recommendations**

- **Bring the Nam Ou cascade projects into full compliance with Sinohydro's Policy Framework for Sustainable Development.**
- **No resettlement, including around the Nam Ou 2 project site at Hat Kip, occur until the project can be brought into compliance with Sinohydro's policy commitments.**

### **1. Information Disclosure and Consultation**

- a) Key project documents including the environmental and social impact assessments need to be disclosed to local villagers in their local language, so that communities have a complete understanding of the impacts of the Nam Ou 2 project. Laos' EIA Decree on Environmental Impact Assessment of 2010 also requires that the Environmental Impact Assessment is be accessible for the public.
- b) Sinohydro should ensure that any indigenous peoples affected by the Nam Ou 2 project, that their consent is obtained for the project. There are several indigenous people living within the communities and consent beyond the village head is critical if Sinohydro is to operate at World Bank and IFC standards.
- c) Each of the communities to be resettled should have access to the resettlement action plan in their local language. If no resettlement action plan exists, Sinohydro should develop one with full community participation a matter of urgency to ensure that Sinohydro's community relations policy commitments are being met. In summary, the Action Plan needs to set out how Sinohydro will mitigate the negative impacts of displacement, identify development opportunity, resettlement budget and schedule, and establish the entitlements of all categories of affected persons.
- d) Community meetings should be held with each of the three villages soon to be resettled to enable villagers to ask questions, discuss the key documents and voice their concerns with Sinohydro (as encouraged by article 26 of the Regulations for Implementing Decree 192/PM on Compensation and Resettlement of People Affected by Development Projects of Lao PDR).
- e) Soon to be resettled communities should be invited to visit the new resettlement site to enable them to prepare and provide feedback on the housing and community infrastructure being prepared for them.
- f) Sinohydro should also seek to improve and institutionalize a culture of information disclosure and consultation with local communities within the Nam Ou River Basin.

### **2. Compensation**

- a) All outstanding compensation for land and property impacted by the bridge and road construction must be settled immediately.
- b) Sinohydro should not take possession of acquired land and related assets until compensation has been made available.

- c) Sinohydro should ensure that “land-for-land” standard of compensation is used - defined as persons whose residential and/or agricultural land is affected receives land of equal productive capacity - as required by World Bank standards and the Decree on the Compensation and Resettlement of Development Projects 2005 of Lao PDR, article 6(2).
- d) All villagers should be offered a moving allowance as required by the Decree on the Compensation and Resettlement of Development Projects 2005, article 7. Special attention and assistance needs to be given to vulnerable groups including female-headed households and the elderly.
- e) All property, including those in communal areas should be compensated (e.g. fruit tree and market gardens). Sinohydro should conduct further investigations to ensure property initially overlooked in its surveys is included in the property to be compensated.
- f) Initial estimates for rates of compensation should be adhered to. If Sinohydro needs to reduce the amount of compensation to affected persons for affected property, it should do so clearly in writing and provide full reasons for the reduction, as well as provide full recourse for local communities to appeal the decision. The standard of compensation should be at full replacement cost.

### **3. Livelihood Restoration**

- a) As noted above at recommendation 1(b), if no resettlement action plan exists such an action plan must be developed as a matter of urgency and with local community participation as required by the Decree on the Compensation and Resettlement of Development Projects 2005, article 12. In accordance with the World Bank standards, this action plan with respect to livelihood restoration should:
  - Outline support after displacement for a transition period, based on a reasonable estimate of time likely to be needed to restore their livelihood and standards of living,
  - Outline development assistance in addition to compensation measures, and
  - Outline additional measures such as farm preparation, credit facilities, training and job opportunities.
- b) The transition period during which Sinohydro will support communities that have been displaced, should be until such time that individuals have restored their livelihoods and standards of living (e.g. subsistence allowance as required by article 9 of the Regulations for Implementing Decree 192/PM on Compensation and Resettlement of People Affected by Development Projects of Lao PDR). In our experience this is likely to take more than ten years and the livelihood restoration programs should continue for at least ten years or more.
- c) Sinohydro commit to livelihood restoration programs during the time it will operate the Nam Ou dams.
- d) Sinohydro should ensure that it has retained competent resettlement professional to provide independent advice on compliance with Sinohydro’s own policy comments and whether the World Bank and IFC Involuntary Resettlement policy standards are being adhered to.

#### **4. Grievance and Complaints Mechanism**

- a) A Grievance and Complaints Mechanism must be established as a matter of urgency and be made available to all communities impacted by the Nam Ou 2 project. This is also required by article 13 of the Decree on the Compensation and Resettlement of Development Projects 2005. Attached is a World Bank best practice guide on how to design a Grievance and Complaints Mechanism and an excerpt of the Grievance Redress Process required under Lao Law.
  - The mechanism must enable Sinohydro to receive and address specific concerns about compensation and relation raised by displaced and affected persons in a timely and transparent fashion.
  - The mechanism must include a recourse process designed to resolve disputes in an impartial manner.
  - The mechanism should enable individuals to file complaints in a confidential manner and complaints should be treated confidentially. Complainants should not be punished under any circumstances for submitting a complaint.
- b) We recommend that Sinohydro review the operation of the mechanism after the three months and revise accordingly. The refined Grievance and Complaints Mechanism should be rolled out across the Nam Ou river basin.

#### **5. Local Employment**

- a) Sinohydro should examine opportunities to employ labor from the local communities of the Nam Ou River Basin. Given that most of the local labor is likely to be relatively unskilled such opportunities need to be coupled with comprehensive training programs.