

## **Letter from 40 NGOs from 21 Countries to James Wolfensohn Regarding Transparency in Nam Theun 2 Project in Lao PDR**

---

**A SEED Europe (The Netherlands) — ACT Mekong Group (Australia) — ActionAid (U.S.) — ActionAid Nepal (Nepal) — ActionAid Pakistan (Pakistan) — AID/WATCH (Australia) — Asociacion Ambientalista EcoLaPaz (Argentina) — Asociacion Civil Labor (Peru) — Australia Mekong Resource Centre (Australia) — Bank Information Center (U.S.) — Both ENDS (The Netherlands) — Bretton Woods Project (U.K.) — Campagna per la Riforma della Banca Mondiale (Italy) — CENSAT AGUA VIVA (Colombia) — Center for Environmental Law and Community Rights Inc. (Papua New Guinea) — COECO-Ceiba (Costa Rica) — Community "Atgaja" (Lithuania) — Environmental Defense (U.S.) — Finnish Asiatic Society (Finland) — FIVAS (Association for International Water and Forest Studies) (Norway) — Focus on the Global South (Thailand) — Forest Peoples Programme (U.K.) — Friends of the Earth (Finland) — Friends of the Earth (France) — Friends of the Earth (U.S.) — Friends of the Earth International (The Netherlands) — Globalization Monitor (Hong Kong, China) — International Rivers Network (U.S.) — Lithuanian Green Movement (Lithuania) — Mekong Watch Japan (Japan) — Milieudefensie (The Netherlands) — Pacific Environment (U.S.) — PROBE International (Canada) — Project Underground (U.S.) — Southeast Asia Rivers Network, Thailand Chapter (Thailand) — SUNGI Development Foundation (Pakistan) — Tasmanian Mekong Group (Australia) — The Corner House (U.K.) — Urgewald (Germany) — 50 Years is Enough: U.S. Network for Global Economic Justice (U.S.)**

VIA FAX

June 24, 2003

Mr. James Wolfensohn  
President  
The World Bank Group  
1818 H Street NW  
Washington, DC 20433

Dear Mr. Wolfensohn,

We are writing to express our concerns regarding the World Bank's potential support for the Nam Theun 2 (NT2) Hydroelectric Project in Lao PDR and to call for maximum transparency during the World Bank's consideration of the project. Without public disclosure of the underlying financial agreements for the NT2 project, such as the Concession Agreement and the Power Purchase Agreement (PPA), there is no way for the people of Lao PDR or Thailand – where virtually all of the dam's output is to be sold – to know whether or not this project is, as proponents claim, in their best interest.

The World Bank proclaims its role in “empowering [poor people] to participate in their development” and asserts a commitment to transparency, good governance, and public consultation in the projects and programs it supports. The September 2002 World Bank Aide Memoire regarding NT2 acknowledged that “informed debate [on the project] is in the best interest of the Government of Lao PDR and the Bank.” The Memoire correctly states: “People tend to assume that a lack of information, lack of access (even if it is just perceived as such)

indicates a lack of confidence, or something to hide.” To ensure that the desired “improved understanding and knowledge of the project” is achieved, access to critical project information is necessary and cannot be substituted by an international public relations firm or a communications strategy.

To enable informed debate regarding the implications of the controversial NT2 project, the World Bank must demonstrate its commitment to transparency and participatory development and ensure the public release of the vital financial agreements governing the project. The fact that the World Bank’s disclosure policy is silent on the issue of these financial agreements should not be used as a blanket justification for confidentiality, particularly when the public interest is at stake.

### **1. Disclosure of PPA and Financial Analyses**

Before the PPA is finalized, the World Bank should make it clear to the Nam Theun 2 Electricity Consortium (NTEC) and the Governments of Lao PDR and Thailand that the Bank will not consider support for NT2 unless there is a commitment to publicly release the PPA well in advance of project approval. In addition, all World Bank studies investigating the economic and financial viability of the project should be disclosed.

The World Bank-supported Bujagali Hydropower Project in Uganda provides important lessons that are relevant to the NT2 case. In its investigation of Bujagali, the Inspection Panel recognized the importance of disclosing the PPA: “It seems evident that full disclosure of the PPA is vital if the intent is to place the public in a position to analyze, understand, and participate in informed discussions about the viability of the project and its impact on the economy and well-being of Ugandans.”

Actual experience with Bujagali confirms the benefits of PPA disclosure. After an independent review of the leaked PPA for Bujagali revealed that Ugandans would pay excessively for power if the project proceeds according to plan, the Ugandan government is seeking a renegotiation of the agreement with the private sector investors.

### **2. Concession Agreement**

The Concession Agreement defines the rights and obligations of both the Government of Lao PDR and NTEC and should also be disclosed to the public. Given the weakness of the legal system in Lao PDR – which makes it difficult to hold the government and developers accountable – the rights of communities to compensation or mitigation cannot be guaranteed. While it is unclear how the World Bank can justify support for such a high-risk project in this environment, it indicates the critical importance of disclosing the Concession Agreement. This agreement provides the legal basis for the project, outlining key obligations and methods of dispute resolution and NTEC’s environmental and social obligations. All parties, including affected communities, should be aware of their legal rights to compensation and mitigation measures enshrined in the agreement, and the responsibilities of the government and the company in this respect.

### 3. Private Sector Involvement Should Not Preclude Disclosure

The fact that the PPA and Concession Agreements are contracts involving a private-sector sponsor should not preclude release of these documents. Nam Theun 2 will be underwritten by public finance and as such, the long-term risks to the citizens of Lao PDR and Thailand must be debated publicly. As Transparency International noted in its 2003 Global Corruption Report: "...as a matter of principle, citizens assuredly have the democratic right to know about the details of commercial arrangements entered into between their government and its suppliers...Whereas confidentiality may characterise lawful transactions within the private sector, it may be utterly indefensible when public money is at stake."

Although only a small group of government agencies in Lao PDR are party to these agreements, the PPA and the Concession Agreement have implications across a broad range of government agencies and as such, must be made public in both English and in Lao. We believe the NT2 developers should not expect access to public funds via the World Bank without respecting the rights of citizens to know the project's proposed allocations of benefits, risks and costs to the people of Lao PDR and Thailand. We therefore urge the World Bank to ensure that the PPA and Concession Agreement are disclosed to the public before any decisions are taken by the Bank on whether or not to provide financial support to this project.

We look forward to hearing from you soon.

Sincerely,

Shannon Lawrence  
Policy Analyst, International Program  
**Environmental Defense**, U.S.

1875 Connecticut Avenue NW, Suite 600  
Washington, DC 20009  
Tel : 202-387-3500  
Fax: 202-234-6049

*On behalf of:*

Anna Petra Roge de Marzolini  
**Asociacion Ambientalista EcoLaPaz–Amigos de la Tierra**, Argentina

Margie Law  
**Tasmanian Mekong Group**, Australia

Charlie Pahlman  
**ACT Mekong Group**, Australia

Phil Hirsch  
**Australia Mekong Resource Centre**, Australia

Kate Walsh  
**AID/WATCH**, Australia

Grainne Ryder  
**PROBE International**, Canada

Hildebrando Vélez G.  
**CENSAT AGUA VIVA - Amigos de La Tierra**, Colombia

Isaac Rojas  
**COECO-Ceiba-Amigos de La Tierra**, Costa Rica

Kevin Li  
**Globalization Monitor**, Hong Kong, China

Tove Selin  
**Finnish Asiatic Society**, Finland

Leo Stranius  
**Friends of the Earth**, Finland

Sébastien Godinot  
**Friends of the Earth**, France

Knud Vocking  
**Urgewald**, Germany

Antonio Tricarico  
**Campagna per la Riforma della Banca Mondiale**, Italy

Satoru Matsumoto  
**Mekong Watch Japan**, Japan

Rimantas Braziulis,  
**Lithuanian Green Movement-Friends of the Earth**, Lithuania

Saulius Piksrys  
**Community "Atgaja,"** Lithuania

Shizu Upadhya  
**ActionAid Nepal**, Nepal

Willemijn Nagel  
**Milieudefensie-Friends of the Earth**, The Netherlands

Filka Sekulova  
**A SEED Europe**, The Netherlands

Henneke Brink  
**Both ENDS**, The Netherlands

Janneke Bruil  
**Friends of the Earth International**, The Netherlands

Tonje Folkestad  
**FIVAS (Association for International Water and Forest Studies)**, Norway

Naeem Iqbal  
**SUNGI Development Foundation**, Pakistan

Khadim Hussain  
**ActionAid Pakistan**, Pakistan

Damien Ase  
**Center for Environmental Law and Community Rights Inc.-Friends of the Earth**, Papua  
New Guinea

Carlos Abanto  
**Asociacion Civil Labor-Amigos de la Tierra**, Peru

David J.H. Blake  
Thailand

Shalmali Guttal  
**Focus on the Global South**, Thailand

Chainarong Sretthachau  
**Southeast Asia Rivers Network-Thailand Chapter**, Thailand

Nicholas Hildyard  
**The Corner House**, U.K.

Alex Wilks  
**Bretton Woods Project**, U.K.

Tom Griffiths  
**Forest Peoples Programme**, U.K.

Aviva Imhoff,  
**International Rivers Network, U.S.**

Carol Welch  
**Friends of the Earth, U.S.**

Mishka Zaman  
**Bank Information Center, U.S.**

Soren Ambrose  
**50 Years is Enough: U.S. Network for Global Economic Justice, U.S.**

Diana Ruiz  
**Project Underground, U.S.**

Doug Norlen  
**Pacific Environment, U.S.**

Rick Rowden  
**ActionAid, U.S.**

Cc: Executive Directors of the World Bank  
Mr. Tadao Chino, President, Asian Development Bank  
Executive Directors of the Asian Development Bank