

Public Statement – Lower Sesan 2 Dam: Call for release of information on project redesign and a new Environmental Impact Assessment

We are a group of civil society organizations working to protect communities and the environment in Cambodia and the Mekong region. We are extremely concerned about severe environmental impacts, including transboundary impacts in neighbouring countries, resulting from the Lower Sesan 2 (LS2) hydropower dam in Stung Treng Province, Cambodia.

Recent reports have alluded to significant alterations to the design of the LS2 dam, aimed at reducing the impacts of the project.¹ However, no information has been made available to affected communities and the public regarding the proposed design changes, mitigation measures, or the operation plans for these measures.

The existing Environmental Impact Assessment (EIA) for the project, completed in 2009, has been criticised as flawed and inadequate by independent scientific experts, communities and other stakeholders.² Scientific studies predict far more severe and extensive impacts than those examined in the EIA report. These concerns have not been properly addressed.

Despite the unresolved issues, pre-construction work is forging ahead on the project at a rapid pace. According to the developers' project schedule, substantive construction of the dam will commence in January 2015 and closure of the river is expected to be complete by the same month.³

While the authors of the EIA study acknowledged the likelihood of far more extensive impacts, the EIA only examined impacts in a limited area around the dam site. It did not properly study impacts on fish, sediment and water flows in the Sesan, Srepok and Sekong Rivers, the Mekong Basin and the Tonle Sap Lake and did not examine the significant impacts to upstream and downstream communities. Despite the likely transboundary impacts, no transboundary impact assessment was included. The EIA therefore failed to accurately assess the severe threats to food security, livelihoods, nutrition and health and to local and indigenous cultures and traditions, in Cambodia and the region, posed by this project.

A 2009 study commissioned by the Rivers Coalition of Cambodia (RCC) found that, as a result of the LS2 dam, approximately 80,000 people in the Sesan and Srepok basins will lose a large portion of their fish catch. Furthermore, changes in water quality and hydrology will devastate an additional 20,000 people along the Sesan and Sekong rivers. The loss of fisheries, a vital source of nutrition and livelihoods, will affect hundreds of thousands of people along the Mekong River and its tributaries and in the Tonle Sap.⁴

¹See for example: Baird, Ian, 'Cambodia's LS2 Dam is a disaster in the making', *East Asia Forum*, 9 August 2014. Informal reports suggest that these alterations may include a change of project type to a run-of-the-river dam, modifications to the dam height and areal extent of the reservoir and the introduction of radial sluice gates into the project design.

² Baird, Ian G., Rivers Coalition in Cambodia, *Best Practices in Compensation and Resettlement for Large Dams: The Case of the Planned Lower Sesan 2 Hydropower Project in Northeastern Cambodia* (2009).

³ Yunnan Lancang International Energy Limited, 'Se San 2 hydropower dam and powerhouse concrete riverbed construction tender prequalification notice', 2014-4-8, available at:

www.chinapower.com.cn/bussiness/viewbidinfo.asp?bidid=10146314&bidtype=%D4%A4C9F3CD%A8B8E6.

⁴*Ibid.*

Subsequent scientific analysis predicts a 9.3% decrease in fish biomass across entire Mekong River Basin,⁵ changes to water flows in the Sesan and Mekong Rivers and Tonle Sap Lake, and a 6-8% reduction in sediment flows.⁶ These impacts will deplete fisheries, agriculture and ecosystems, not only in Cambodia, but also in neighbouring countries of Laos, Thailand and Vietnam.

Communities from the reservoir area have recently issued statements refusing to relocate and calling for cancellation of the project. They state that the losses to their communities, including to natural resources, livelihoods, cultural heritage and identity, are incalculable and that their concerns have not been considered or addressed by the project developers in the project's impact assessment and resettlement plans.⁷

The studies for the EIA involved very limited information and no meaningful consultation with affected communities.⁸ Villagers from the project site invited to consultation meetings reported that little information was provided, and opportunities to express concerns were limited. Hundreds of thousands more people in communities upstream and downstream from the site have not been provided with any information about the project and its impacts, and have not had any opportunity to have their concerns considered and addressed.

Development partners to the Mekong River Commission called for the Royal Government of Cambodia to reconsider the project's design, provide information on the project's status, and submit the project for Prior Consultation under the 1995 Mekong Agreement's Procedures for Notification, Prior Consultation and Agreement (PNPCA) in June 2013, and again in June 2014,⁹ noting the likelihood of detrimental transboundary and regional impacts. There has been no response to these calls.

Failure to conduct an EIA which properly examines all project impacts, includes full and meaningful public participation, and addresses any significant changes to project design falls short of standards set out in Cambodian, Chinese and international law.

Cambodian law requires that all environmental impacts of proposed projects be assessed prior to decision-making, including in-process projects not yet properly assessed for environmental impact.¹⁰ Chinese standards require objective and comprehensive impact assessment, enabling a scientific basis for decision-making.¹¹ Under Chinese law, where a project undergoes major changes in the 'nature, scale, or measures for preventing... ecological damage', the EIA must be re-submitted for approval. Public hearings must be conducted to

⁵Ziv, Guy; Baran, Guy Eric; Nam, So; Ignacio Rodríguez-Iturbe; Ignacio and Levin; Simon A.; 'Trading-off fish biodiversity, food security, and hydropower in the Mekong River Basin' Proceedings of the National Academy of Sciences of the United States, 28 January 2012.

⁶Ketelson, T., International Center for Environmental Management, cited in Vrieze, P, &Chhorn C., "The Battle for the 3S Rivers." *The Cambodia Daily*, 10 September 2011; Piman, T., Cochrane, T., Arias, M., Green, A., and Dat, N. "Assessment of Flow Changes from Hydropower Development and Operations in Sekong, Sesan and Srepok Rivers of the Mekong Basin" (2013) *Journal of Water Resources Planning and Management*, 139(6), 723–732.

⁷ Press release and Community Statements: Phnong Ethnic Villagers in Kbal Romeas and Lao villager in Srekor 1 & 2 Village Publically Announce: "We Refuse to be Resettled by the Lower Sesan 2 Dam", 29 September 2014. See: Cuddy, A., & Seangly, P., 'Villagers Refuse Relocation,' *Phnom Penh Post*, 29 September 2014.

⁸*Supra*, note 1.

⁹Joint Development Partner Statement: MRC Informal Donor Meeting, Phnom Penh, Cambodia, 28 June 2013; Joint Development Partner Statement Twentieth Meeting of the MRC Council Joint Meeting with the Eighteenth Development Partner Consultative Group, Bangkok, Thailand, 26 June 2014.

¹⁰*Environmental Protection and Natural Resources Management Law* 1996, Articles 1, 6.

¹¹*Law of the People's Republic of China on Environmental Impact Assessment*, adopted at the 30th Meeting of the Standing Committee of the Ninth National People's Congress, October 28, 2002, promulgated by Order No. 77, in effect as of September 1, 2003; Article 4.

solicit input from the public and affected communities for projects likely to have serious environmental effects.¹²

International standards require significant changes to a project to also undergo procedures for impact assessment, access to information and public participation.¹³ International law obliges project developers to conduct a transboundary impact assessment before commencing any project that may cause damage to other states.¹⁴

We call on the project developers and the Cambodian Government to:

- Release comprehensive details of proposed changes to the project's design, mitigation measures, and their operation, to the public and affected communities.
- Halt all construction on the project and conduct a new EIA.
- Conduct an informed and participatory decision-making process over whether the project should proceed, including consultations with affected neighbouring countries, based on the new EIA.
- Any new EIA for the project must include:
 - Comprehensive and adequate assessment of all project impacts, including transboundary impacts.
 - Full and meaningful consultation with all affected communities and stakeholders, including upstream and downstream communities, in accordance with national and international standards.
 - Proper assessment of fair compensation and livelihood restoration needs for all affected people, including upstream and downstream communities, which considers and addresses community concerns.¹⁵

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Endorsed by:

3S Rivers Protection Network (3SPN) (Cambodia)

Center for Social Research and Development (CSRD) (Vietnam)

Community Economic Development (CED) (Cambodia)

Community Resources Centre (Thailand)

EarthRights International (United States and Thailand)

Finnish Asiatic Society

Fisheries Action Coalition Team (FACT) (Cambodia)

International Rivers (United States and Thailand)

Law and Policy of Sustainable Development Research Center (LPSD) (Vietnam)

Mekong Monitor Tasmania (Australia)

Mekong Watch (Japan and Thailand)

¹²*Ibid*; Articles, 21, 24.

¹³United Nations Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention), Aarhus, Denmark (1998), Annex 1, para. 22.

¹⁴*Stockholm Declaration*, UN General Assembly, United Nations Conference on the Human Environment, 15 December 1972, A/RES/2994; International Court of Justice, *Case Concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay)* paras. 204-205, Judgment, I.C.J. Reports 2010, p. 14 (2010).

¹⁵ These measures must also be updated in the RGC *Law on Authorization of Payment Warranty for the Lower Sesan 2 Hydropower Dam*, February 2013, which currently reflects the existing EIA.

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