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A Community Guide on China's Guidelines for Environmental Protection in Foreign Investment and Cooperation¹

Dear community members;

You may be affected by a China-initiated development project and feel frustrated because:

- 1) You have asked the Chinese company for more information on the project, but they have not responded;
- 2) You do not have any information about the project, but you are afraid it will harm the environment and your communities' livelihoods;
- 3) The Chinese company has damaged a spirit house or sacred area that your community worships;
- 4) Chinese workers came to conduct surveys in your community with no advance notice, and even the local authorities had not been informed about it;
- 5) The river water gets dirty because of the Chinese company's construction or development activities;
- 6) There is unexpected flooding or changes to the water quality that you think may be caused by the project;
- 7) The Chinese company has not come to the community to conduct research on the negative impacts of the project;
- 8) You have heard that you will have to move because of the project but do not know when or where, and you have not been consulted or given a chance to express your concerns; or
- 9) Chinese workers do not listen to your concerns or cannot understand or answer your questions about protecting the environment.

In February 2013, pressured by complaints from around the world regarding Chinese companies' lack of respect for local environments and communities, the Chinese Ministry of Commerce and Ministry of Environment publicized *the Guidelines for Environmental*

¹ EarthRights International (ERI) and International Rivers (IR) helped us make this guide. Representatives from local communities in the 3S area also gave comments to an earlier draft. We thank them all very much. We are responsible for remaining errors.

*Protection in Foreign Investment and Cooperation ("the Guidelines").*² The purpose of doing so was "in order to direct enterprises in China to further regularize their environmental protection behaviors in foreign investment and cooperation, guide them to actively perform their social responsibilities of environmental protection, and promote the sustainable development of foreign investment and cooperation".³

Unfortunately, *the Guidelines* are still weak. For example, compliance is voluntary. Even if Chinese companies do not follow these guidelines, they will not face legal actions. It is also not clear where you can send a complaint when you think the Chinese company is not following *the Guidelines*. So, *the Guidelines* need to be strengthened much more. But to improve them, we should use them first and apply them to projects being developed by Chinese companies. We can then show Chinese authorities where and how they should be strengthened.

Also, these guidelines are not very long and community members can easily refer to them as a set of standards to request or demand Chinese companies to follow them and/or change their behavior. Like any rules, just having them is not enough. Though there is no enforcement mechanism for the Guidelines, they might be useful to indicate that Chinese government standards support your complaints.

These are the reasons we have translated *the Guidelines* into Khmer and made this sheet to help community members like you use *the Guidelines*.

Here are some ideas as to how you might want to use *the Guidelines*:

- 1) When the Chinese company does not provide you with information, you can point out to them: **(Article 20)** "*[E]nterprises...establish a way of communication and dialogue mechanism for enterprises' environmental social responsibilities, take the initiative to strengthen their contacts and communications with their communities and relevant social groups.*"
Or **(Article 11)** "*Enterprises are encouraged to, prior to construction of the project,*

² Ministry of Commerce of the People's Republic of China and Ministry of Environmental Protection of the People's Republic of China Shang He Han [2013] No. 74 February 18, 2013 *Guidelines for Environmental Protection in Foreign Investment and Cooperation* <http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml>

³ All quotations of the Guidelines in this document are taken from the English translation of the original Chinese Guidelines posted on the website cited in footnote 2.

conduct environmental monitoring and evaluation for the proposed construction site, obtain understanding of the environmental background situation of the place where the project is located and its surrounding areas, and put the environmental monitoring and evaluation results on record."

- 2) When Chinese workers damage a spirit house or important site in your community, you can point out to them: **(Article 3)** "*[E]nterprises should respect the religious belief, cultural traditions and national customs of community residents of the host country."*

Or **(Article 9)** "*Enterprises are encouraged to take fully into account the impacts of their development and construction...on the social environment such as historical and cultural heritages, scenic spots and folk customs, and to take reasonable measures to reduce possible adverse impacts."*

- 3) When Chinese workers come to work in your community with no advance notice, you can point out to them: **(Article 1)** "*[E]nterprises...actively perform their social responsibilities of environmental protection, set up good international images for Chinese enterprises."*

Or **(Article 21)** "*Enterprises are encouraged to actively participate in and support local public benefit activities for environmental protection, publicize the concept of environmental protection, and build a good enterprise image in respect of environmental protection."*

And if even local authorities had not been informed about it, refer to: **(Article 5)** "*For projects invested in the construction and operation by enterprises, application shall be filed to local government for permits with respect to environmental protection in accordance with laws and regulations of the host country."*

- 4) When the Chinese company has not conducted research on negative impacts of the project, you can complain with **Article 8** and/or **Article 11**.
- 5) If you feel the Chinese company is not following Cambodian Law, regulations, or standards to prevent environmental and social damage, point out **Article 10** to them.
- 6) If the Chinese company started their construction before they conducted any research on the environmental background of the site or they have not provided any information about monitoring of environmental impacts, point **Article 11** out to them.
- 7) If the Chinese company disposes of poisoned water into the river and it affects fish, plants, soil, or even people, point out **Article 13** to them.
- 8) If any flood caused by accident or by released water from a hydropower dam

constructed by a Chinese company damaged your house, property, or livelihood, you can complain with **Article 14**.

- 9) If there is water pollution, or changes to water quality, that is harming fish, animals, plants, or causing skin problems or other diseases, and you think it is caused by a hydropower dam built by a Chinese company, you can complain with **Article 14**.
- 10) Chinese companies have to consider the animal and plant resources in and around the river. If fish species decrease or plants are destroyed because of construction, or the project itself, you can complain with **Article 15**.
- 11) When river water gets dirty because of construction by a Chinese company, point out **Article 16** to them.
- 12) Chinese companies have to give any information about environmental impacts and their plans to control the impacts to affected communities and also to the public. This information should be in local languages so that communities can understand. If they do not do this, you can complain using **Article 18**.
- 13) Chinese companies should follow local laws and regulations that give affected communities and the public the right to be given information and to be consulted in environmental decision-making. If they do not provide information or participate in meetings to listen to community concerns, you can complain using **Article 20** and **Article 10**.
- 14) If Chinese workers cannot understand your questions or why you complain about protecting the environment, you can complain to the Chinese company and/or government that they have not trained their workers. Refer to: (**Article 7**)
"Enterprises shall establish a sound environmental protection training system to provide employees with proper education and training with respect to the environment, health and production safety..."
The company should also have staff who keep active communications with communities on environmental issues (**Article 20**).

These are only some examples. Study *the Guidelines* carefully for yourself. We can also help you understand them better. Please let us know if you need our help.

Please remember, though, the purpose of this guide is not to create conflicts between your community and the Chinese company. We would like Chinese companies to follow rules so that they can "*promote the sustainable development of foreign investment and cooperation*" as *the Guidelines* state at the beginning.

When you use *the Guidelines*, please let us know if they are useful. If we hear good ideas from you, we can share them with other communities. And when we collect a lot of experiences, we can put them together in a report and submit it to Chinese authorities with recommendations for improvements.

We have tried to translate *the Guidelines* into Khmer as accurately as possible, but there might be errors or unclear parts. You may also have questions about this guide. If you notice anything, please let us know. We can also improve the translation and the guide to make it easier for you to use them.

We hope we can continue to work together.

Respectfully,

Mekong Watch
3S Rivers Protection Network (3SPN)

Your local contact:

Attachments: *the China's Guidelines for Environmental Protection in Foreign Investment and Cooperation* (in Khmer and Chinese).