

Response from the World Bank and ADB (dated 16 December 2016) to Mekong Watch's inquiries (dated 5 & 23 August 2016)

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RE: Request for your attention on the riverbank erosion in Lao PDR's Nam Theun 2 Dam

Dear Ms. Kiguchi,

Thank you for your inquiries dated August 23, 2016 on three topics: (a) extension of the Resettlement Implementation Period (RIP); (b) monitoring of transparency with respect to public financial management on NT2; and (c) expiration of Decree 192, issued by the Prime Minister's Office (PMO), on relocation and compensation as well as your inquiry dated August 5, 2016 on (d) riverbank erosion. On behalf of the World Bank and ADB, we provide our responses below for each of the four topics. We apologize for the delay.

(a) Extension of the Resettlement Implementation Period

QUESTION 1.1: Could you please indicate a concrete schedule for the formulation and implementation of the Action Plan?

RESPONSE: The Action Plan is currently being finalized; in parallel some activities are being implemented and NTPC's environmental and social programs continue.

QUESTION 1.2: The views of civil society should be reflected in the process of formulation of the Action Plan. Are any consultations planned?

RESPONSE: Extra time has been allocated to the formulation of the Action Plan in order to extend consultations with IFIs, the NT2 Environmental and Social Panel of Experts (PoE), the Ministry of Agriculture and Forests at the national level, and most significantly, the resettlers themselves. In addition, the Plan considers suggestions by the Lender's Technical Agent.

QUESTION 1.3: Is there a schedule for disclosure of the Action Plan?

RESPONSE: The Action Plan will be disclosed after final review by the PoE and endorsement by the IFIs, Government of Lao PDR, the Provincial Governor of Khammouane Province and NTPC.

QUESTION 1.4: What would be the two banks' thinking on the view that the RIP should be extended until the targets are fulfilled?

RESPONSE: The Action Plan consists of two parts. The first part is a “List of Actions” that identifies the specific actions to be implemented by GOL and NTPC in order to meet outstanding Resettlement Objectives and Resettlement Provisions and to close the RIP in a manner consistent with the Concession Agreement. The second part is a Medium Term Development Program intended to provide further support to sustain livelihoods on the plateau that will begin after the RIP is closed. Closure of the RIP will depend on completion of the List of Actions.

(b) Monitoring Transparency of the public finance management

Clarification Note for Questions 2.2/2.3: Thank you for these questions. We believe that when you say “finance management system” you are referring to the “revenue tracking system” used by the Government of Lao PDR (GoL) to track NT2 expenditures?

QUESTION 2.3: What improvements have occurred in the finance management system compared with that previously in place?

RESPONSE: A tracking system was established in 2014 that assigned specific codes for different types of revenues (e.g., royalties, dividends, profit taxes, dividend taxes) so that they could be more easily identified and tracked. This more detailed approach has strengthened transparency and ability to confirm revenues are fully transferred to Treasury.

QUESTION 2.2: Was the transition to the “new finance management system introduced in 2014” carried out with the support of the WB and/or ADB?

RESPONSE: The system was put in place after technical discussions and agreement between the World Bank and the GoL.

Clarification note for 2.1/2.4. Given the similarity of the questions regarding the transparency of the project’s revenue and expenditure management, those questions are answered jointly.

QUESTION 2.1: How do you assess the transparency of the NT2 project’s revenue and expenditures management from the time of the inception of the project in 2010 to the present date? Further, how do the WB and ADB verify that project revenue is being used for poverty eradication?

QUESTION 2.4: Do the WB and the ADB consider that transparency of the projects revenue and expenditure has been secured at present as a result of the introduction of the new system?

RESPONSE: All scheduled audits and financial statements are up to date and have been received by the World Bank. Building on the revenue tracking system, the Ministry of Finance (MoF) provides quarterly account statements for NT2 revenues. This provides confidence regarding the flow of NT2 funds to the Government of Lao PDR as well as budget allocations.

The State Audit Organization (SAO) audit reports have confirmed that the revenues have been received in the Treasury and a significant proportion of NT2 revenues have been disbursed to eligible programs and projects (poverty reduction and environmental conservation programs and projects) in the periods covered by the audit reports. The eligible projects and programs are identified by the Government based on the criteria set in the NT2 Development Grant Agreement and include poverty programs such as School Block Grants, Free Maternal and Child Health Scheme, and Health Equity Fund, as well as eligible public investment projects executed by a number of sector ministries, such as Education, Health, Energy and Mining.

However, obligations for public disclosure of NT2-related revenue management, expenditure and audit reports have not yet been met.

QUESTION 2.5 If so, as the responsibility of donors who have supported the project, could we ask you to indicate concrete data that show how the project's revenue is contributing to the eradication of poverty?

RESPONSE: NT2 revenues are allocated to eligible programs and projects, which have to comply with the criteria previously agreed upon with the World Bank. Those criteria include that the projects and programs need to be identified as Government priority for poverty eradication, and they must have a significant poverty reduction impact by providing public goods, services and infrastructure used by the poor in rural areas. Most of the NT2 revenues are allocated to eligible public investment projects and executed by the sector ministries. Examples of such projects are the building of a health center, school, a rural road, as well as improving availability of and access to health and education services. Data from audits and financial statements, as well as sample surveys are used to confirm revenues are allocated to eligible programs and projects.

The World Bank continues to work with the GoL to track allocations and disbursements, confirming consistency with the criteria for eligible programs. More comprehensive data will become available as the WB team continues its assessment of the impact of the project, drawing on national poverty indicators.

(c) Expiration of PMO Decree 192

QUESTION 3.1: The Decree No. 192, issued with the support of IFIs as preparation for NT2, has expired, and the policy on relocation and compensation has suffered a setback, but how do the World Bank and ADB, who have clearly stated that NT2 will contribute to the improvement of environmental and social consideration policies in Lao PDR, evaluate this fact?

QUESTION 3.2: What role of the World Bank and ADB consider they should perform in environmental and social consideration policies in Lao PDR from this time onward?

RESPONSE: The World Bank and ADB continue to provide the GoL with policy advice consistent with operational policies. For World Bank or ADB funded projects, the Banks' respective safeguards policies on Involuntary Resettlement will continue to apply.

(d) Erosion along the Xe Bang Fai River

QUESTION: Are the WB and the ADB aware of the [erosion] problem and claims from the villagers?

QUESTION: If not, we strongly request you to send an investigation team to solve the problem.

QUESTION: If yes, then how do the WB and the ADB perceive the situation where the Government of Lao PDR and the company are not taking appropriate measures? Is the WB or the ADB working on them so that they will face and solve the problem?

RESPONSE: Erosion along the Xebangfai (XBF) River was identified during the Nam Theun 2 Project (NT2) preparation as an anticipated potential impact from NT2 due to the increased water discharge from the power house to the river. Some riverbank erosion is also attributable to various natural factors such as the increasing frequency and severity of climate changes – including flooding from tropical storms observed in this region over the past years.

In accordance with the Concession Agreement (CA), the NT2 Power Company (NTPC) has carried out periodic riverbank monitoring since before commercial operations. This has included six channel geomorphology cross section surveys (1995-2013) to enable comparison of pre- and post-NT2 operation rates of erosion (one additional survey under consideration for 2018), and annual photographic survey (2010-2035). NTPC analysis of the data suggest that, after 5 years of operation, including an extraordinary flood event in 2011, the impact of riverbank erosion has not

been as significant as anticipated there is no significant difference in cross sectional area and erosion rates before and after the NT2 operation.

Some erosion was expected due to change in water velocity and some river bank gardens have been lost as a result of this. NTPC has paid compensation to all project-affected households. To help mitigate riverbank erosion at high water level due to project operations, NTPC stops power generation as soon as the water level in XBF reaches warning levels, which are monitored through hydro-methodological posts installed at all zones along XBF river. These practices comply with and fulfill NTPC's obligation under the CA.

A grievance system is in place whereby grievances are to be addressed to the Village Grievance Unit and, if recognized as a valid NT2 grievance, passed to the District Justice Officer. Subsequent steps include the Resettlement Management Unit and NTPC for joint investigations and possible action/compensation.

While recognizing the challenge of isolating impacts resulting from the NT2 project from natural phenomenon of a river, the International Financing Institutions (IFIs) for NT2 have regularly monitored -- and continue to monitor -- erosion in the XBF downstream areas relative to the requirements under the CA and Development Financing Agreement signed between GoL and IFIs for NT2 project. Based on a recent review by the World Bank, further monitoring of erosion rates and assessment of the current status of the grievance redress mechanism are suggested.

Once again, thank you for these questions and your interest in the NT2 Project.

Sincerely,

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