



Krungthai
กรุงไทย

Ref. CBT 8 1058 / 2020

16 June 2020

Ms. Beatriz Balbin
Chief,
Special Procedures Branch
Office of the High Commissioner for Human Rights

Subject : Joint Communication From Special Procedures

Dear Madam,

We, Krung Thai Bank Public Company Limited, are grateful to receive your informative inquiry regards the issue of human rights, transnational corporation obligations and other business enterprises; the issue of rights obligations relating to enjoyment of a safe, clean, healthy, sustainable environment; the issue of housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context; the issue on the right of indigenous peoples; the human right of internally displaced persons; the extreme poverty and human rights; the human rights to safe drinking water and sanitation.

We are honored to send you the bank's comments and related documents on the above regards and would like to reassure you that Krung Thai Bank acknowledges this disastrous event and the bank works to alleviate the difficulty of the indigenous people. The bank ensures that we rigorously uphold the principles regarding human rights protection and has policies to assess the impact of human rights and the community.

Best regards,

For and on behalf of Account Owner,
Krung Thai Bank Public Company Limited



...
(Kontee Ruenklin)

Senior Vice President, Team Leader
Corporate Banking Team 8

KTB' Response on the UNHR Report

Ref. AL OTH 14/2020 dated 17 April 2020

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.

Krungthai bank acknowledged claims regard this disastrous event from both the UN and the company though we found that many of these claims from both parties are inconsistent with one another. Base on this ambiguous information, the bank concerns about the ongoing of this regard and frequently inquires further clarification from the company. As for the allegations, the bank believes that they are not in the bank's expertise to comment on those regards, but the bank duly passes on the questions and concerns to the company (PNPC) which provides comments on the allegations in their "corrections and clarifications on misconceptions report" per attachment 1 and "Environment & Social Progress in Sanamxay, Overall summary report" per attachment 2.

2. Please provide information about the human rights due diligence policies and processes put in place by your bank to identify, prevent, mitigate and remedy adverse human rights impacts of your activities, in line with the UN Guiding Principles on Business and Human Rights.

The bank rigorously upholds the principles regard the human rights protection and has policies to assess the impact of human rights and community by setting the guidelines in the bank's code of conduct. For every project that the bank involves both in Thailand and oversea, the bank strictly ensures that the independent third-party due diligence from subject matter expert which including the human right impact was carried out before and over the period that we engage in any business activities with our clients.

Besides, the bank also conducts business according to domestic laws and international law, including the Universal Declaration of Human Rights (UDHR). The bank supports the principles of human rights in all our business units and in all areas in which the bank operates. The bank also respects the Universal Declaration of Human Rights (UDHR) principle regard the non-involvement of human rights violations businesses and activities.

3. Please provide information on the environmental and social impact studies carried out before the construction of the dam, and whether they were prepared with a human rights approach. In particular, please indicate whether any steps were taken to avoid negative social and cultural impacts on the indigenous communities located in the area of the project, including by seeking their free and informed consent prior the approval of the project on their traditional lands.

Normally, before the involvement of project business activities that might have an environmental and social impact, the bank ensures that an Environmental Impact Assessment (EIA) and Resettlement & Ethnic Development Plan (REDP) were prepared.

In this case, the bank pursued the full compliance with the laws of Lao PDR and engaged the independent third-party consulting companies who are the subject matter experts to conduct Technical and Environmental & Social due diligence (TESDD) and REDP that were duly reviewed and approved by the environment and social experts of the Government of Laos (GOL).

Regarding the environmental impact, the TESDD report and series of actions were conducted to identify, prevent, mitigate the negative environmental effect of the project before the construction of the project. Regarding the human rights impact, the REDP contains an Ethnic People Plan which studied the ethnic in the project area and includes measures to identify, prevent, mitigate the negative social and cultural impacts that the project may have. According to REDP, the prevention and mitigation actions were done to reduce the project-affected-people (PAP) such as the relocation of PAP to a safe resettlement site before the construction of the project. In addition, ethnic groups' free and informed consent prior to the approval of the project on their traditional lands must be respected and upheld through appropriate consultations.

4. Please provide information about specific due diligence measures taken by your bank before deciding to finance the Xe-Pian Xe-Namnoy dam. In particular, please highlight how your bank conducted meaningful consultation with affected stakeholders before and after the dam collapse

Before the construction of the dam, the bank engaged a Lenders' Technical Advisors (LTA) that consists of experts in the field of construction, electrical and mechanical, health and safety, environmental and social. On behalf of the bank, the LTA conducted due diligence prior to the commencement of construction through detailed review and approval of the project's key documentation and plans.

To clarify that the consultation with affected particular stakeholders, in this case the indigenous people, the LTA together with PNPC and GOL hold several consultations to inform and seek comment from the indigenous people where their rights and traditional beliefs were respected and upheld through consultations, such as the conduct of and support for traditional ceremonies.

After the dam collapse, the bank made several contact with GOL include the meetings and made several attempts to ease the difficulty of the people affected by the collapse that including the bank donation, site visit, raising donation from the public sector, etc. The bank also promptly inquires for on-site recovery and alleviate measure from the company, and we have been reassured by the PNPC that all individual household claimants were interviewed and consulted on their claims for losses and damages. The compensation amounts and calculations were explained to each household.

5. Please describe how your bank is collaborating with the Government of Lao PDR and all other relevant stakeholders in conducting any investigations concerning the dam collapse. In particular, please indicate if an independent external investigation on the collapse of Xe-Pian Xe- Namnoy dam has been carried out, and if so, provide information regarding the findings and any actions taken to redress adverse human rights impacts.

Since the Incident, the bank, syndicate lenders and PNPC Shareholders held direct meetings with the Government of Laos to resolve the conflict on multiple occasions, including the Ministry of Planning and Investment (MPI) which is responsible for executing the Concession Agreement.

The PNPC and its Shareholders have established a Technical Working Group and Environmental & Social Working Group, with the Lenders' Technical Advisor as members. Through these working groups and LTA's due diligence, the Bank have been closely following the incident investigation and the implementation of compensation and rehabilitation measures.

6. Please provide comments, if any, on the investigation conducted and the findings released by the National Investigation Committee about the Xe- Pian Xe-Namnoy dam collapse.

National Investigation Committee's findings comprise of issues from technical perspective, the bank believe that we are not in the position to comment about this regard.

7. Please describe the measures that your bank has taken, or plans to take, to prevent recurrence of such disasters in the future.

The bank comply with the government of Lao PDR regulation as well as business professional standard in engaging independent third-party consulting experts in the fields of finance, construction, electrical and mechanical, health and safety, environmental and social to conducting due diligence before involving in business activities with our counter parties. The bank believes that these current mechanisms which conform with international standard and Lao PDR regulation are prudent thus prevent and minimize any risk that can occur from the bank scope.

The bank are not in the position to comment on the technical perspective but we were reassured from the PNPC that before the GOL has issued certifications for the Commercial Operation Date and the Owner's Engineer and Lenders' Technical Advisor have agreed to issue the Provisional Acceptance Certificate to the EPC Contractor. It means that GOL, GOL Engineer, Owner's Engineer and Lenders' Technical Advisor have confirmed the stability of the dams and other structures/facilities of the project. PNPC conducted a full and detailed dam safety review. The results were approved by the Owner's Engineer and Lenders' Technical Advisor, the GOL, and the GOL Engineer. Likewise, the PNPC has revised its Emergency Action Plan for Dams (EAP). It was reviewed and approved by the GOL, GOL Engineer, Owner's Engineer and Lenders' Technical Advisor.

8. Please provide information on steps taken by your bank to establish operational-level grievance mechanisms to address adverse human rights impacts caused by your bank throughout your operations globally.

The bank has compliant center to incorporate operational-level grievance mechanisms which are accessible directly to individuals and communities who may be adversely impacted by a business enterprise. They support the identification of adverse human rights impacts as a part of an enterprise's ongoing human rights due diligence. The compliant center provides a channel for those directly impacted by the enterprise's operations to raise concerns when they believe they are being or will be adversely impacted. In addition to our standard operational-level grievance mechanisms, the bank also took the additional actions to ease the difficulty of the indigenous people, such as, the bank's donation to GOL, the bank's action that raise public donation to GOL.

The bank also provides the following aids to environmental and social impact as follow:

- Donation to help the Pabuk Tropical Storm victims in the name of the Ministry of Finance and the Thai Bankers Association (on 7 January 2019).
- Donation to help flood victims in the southern region in a special program including Thai generosity to help the South Hurricane (on January 15, 2017).
- "Krung Thai Green Heart" Project Cultivate knowledge about the environment and energy conservation for youth
- Loans for the Environment Project
- Krung Thai Saving Energy Loan Project Including various environmental management Within the organization for efficient and effective use of resources Reduce environmental impact from operations

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