



LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

Permanent Mission of the Lao PDR
to the United Nations Office and
other International Organizations
Geneva

No 102 /Lao.PM.GE.20

The Permanent Mission of the Lao People's Democratic Republic (Lao PDR) to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights of the United Nations (Special Procedures Branch) in Geneva, and has the honour to present to the latter with the following factual information, clarifications and explanations in reference to the letter number AL LAO 1/2020, concerning the falsely entitled "the alleged negative human rights impact caused by the collapse of a saddle dam in Attapeu Province, in the south-eastern state of Lao PDR", as follows:

The Xe Pian Xe Nam Noy dam is part of the implementation of our National Socio-Economic Development Plans, aiming at providing sufficient energy for the people and industries and helping to reduce poverty in the Southern part of the Lao PDR. As a country with abundant resource of fresh water, with most of its terrain being mountainous, it is logical to harness the potential use of our renewable and clean energy. The hydropower industry in the Lao PDR has been developing well over four decades without any major incident. The said potential must be explored and developed sustainably for the purpose of Socio-Economic development and bringing electricity to all of our people throughout the country. Revenues from power exports shall also make a significant contribution to economic growth and poverty alleviation in the country.

On businesses and human rights, the Lao PDR upholds the principles set forth in the Constitution, particularly Article 34 which stipulates that "The State acknowledges, respects, protects, and guarantees the human rights including fundamental rights of the citizen in accordance to the law". Therefore, the State has adopted legislations that stipulate on the principles of corporate responsibilities towards society and the economic and social rights of the people such as: the Law on Land, Law on Water and Water Resources, Law on Forestry, Law on Resettlement and Employment, Law on Investment Promotion, Law on Environmental Protection, Decree on Compensation, among others.

Prior to the construction of the Xe Pian – Xe Nam Noy Hydropower dam, PNPC/SKEC is considered as Independent Power Producers (IPP) which is a BOT type of project scheme (Build Operate Transfer), which has to abide by the laws and regulations such as the Law on Investment Promotion, Law on Water and Water Resources, Decree on Environmental Impact Assessment, Decree on Compensation and Resettlement of the People Affected by Development Projects, among others. These legislations are comprehensive in terms of both constructional and environmental standards. Everything from the Feasibility Study, Basic Design (AF-Consult

Switzerland Ltd), Engineering and Construction Plans, Environmental and Social Impact Assessment, and many more, have all been monitored and inspected by the Government through an international consulting firm (AECOM New Zealand), as well as by the private contractors' advisors and the Lender's Technical Advisor firms, Owner's Engineer which in this case being TRACTEBEL, all the criteria had to be checked before the approvals at various stages and levels of the numerous inspections.

The Xe-Pian Xe-Namnoy Hydroelectric Power Project has put in place, since the very beginning, a Dam Emergency Evacuation Plan which includes Emergency Action Plan, Consultation and Training sessions, Classification of Emergency, Risk Identification, Identifying Danger Zone, Warning Signage, Medical Emergency Transportation, Warning and Evacuation and so on. Despite having such a plan in place, it is most dreadful that more than 6 thousand people were affected and 71 were found dead or missing. If no such plan was in place, those numbers would have been much higher. After the incident, the Plan was revised and Consultation and Training sessions were organized on the revised plan, a total of 38 sessions completed in across 3 provinces (Champasak, Attapeu, and Xekong), during May to July 2019.

Since the disastrous incident, the Government of the Lao PDR has been trying its utmost to provide the affected people with every possible assistance. In the early stages, there are multiple sectors, including the mass organizations (Lao Women Union, Lao Youth Union), private sectors, ordinary citizens, and friendly countries and international organizations all came together in the time of need and provide immediate humanitarian assistance. Right after the incident took place, the Government dispatched immediately the emergency rescue teams, including all personnel, vehicles and equipment that were available. Damage assessment teams were also deployed, to begin collecting information from the very beginning.

Realizing the pressing importance and crucial tasks ahead, the Government of the Lao PDR established the Disaster Management Taskforce (in addition to the existing National Disaster Management Committee and the Provincial Disaster Management Committee) on 26 July 2018, just three days after the incident, with a Deputy Prime Minister leading the said Task Force, in order to provide streamlined oversight and coordination in addressing and mitigating the incident. Shortly afterwards, the National Investigation Committee was also established on 08 August 2018, and later the Compensation and Rehabilitation Negotiation Committee and the Grievance Committees were also established at each level. All efforts by the Government always have had the interests of the affected people at its core, with the negotiation team and grievance committees consulting and receiving concerns and complaints directly from the people. The ultimate goal has always been to restore the livelihoods to the people as quickly as possible.

The Lao Government assures that no other entity is more concerned and hard-press than the Disaster Management Taskforce whose responsibilities and purpose are directly linked to the wellbeing of the affected people. Since the incident took place on 23 July 2018, the Taskforce together with the responsible Project Development Company have been working together under a Government issued Plan, with 3 phases of implementation: 1) the Emergency Phase (rescue efforts to bring the people to safety); 2) the Temporary Relief Phase which is to provide temporary shelters, food, water and other subsistence factors for the affected people; and 3) the Rehabilitation and Restoration Phase which involves rebuilding of houses as their new and better permanent homes and other permanent basic infrastructures including public services, clearing new land for their farming activities and other vocational supports.

On 8 August 2018, the Government of the Lao PDR formed a National Investigation Committee (NIC) under the leadership of the Deputy Prime Minister and President of the State Inspection Authority to thoroughly investigate, verify and report back to the Government, the general public, the international community and other stakeholders with regard to the underlying causes of the collapse of Saddle Dam D of the Xe-Pian Xe-Namnoy hydropower project (Saddle Dam D), to ensure the integrity, reliability, impartiality and transparency of the investigation and accurate determination of the underlying causes of the failure of the Saddle Dam D, in parallel with its own inquiry, the NIC engaged and gave full authority to a panel of professional and independent experts, formally called the International Expert Panel (IEP) to help with the investigation, with globally recognized and highly reputable experts from the International Commission on Large Dams (ICOLD).

The said panel (IEP) has conducted its investigation transparently and set forth its findings on the failure of Saddle Dam D in the final report to the NIC on March 2019 and subsequently announced to the public as follows: “the failure of the Saddle D occurred on 23 July, 2018 during the filling of the reservoir. Even if the rainfall was quite heavy during the days before the failure, the reservoir level was still below the maximum operation level and well below the crest level when the failure started. Thus the failure incident cannot be considered as force majeure”. The IEP findings and the Final Report are available on the ICOLD Website for public access.

On the reconstruction of the Saddle Dam D, the Government employed its consulting firm (AECOM New Zealand) for its own monitoring and inspections, while also highly considered the comments of the IEP. Initially, Dasan Engineering Co Ltd was employed as a consulting firm to conduct a study on permeability of the natural saddle dams. Afterwards, the project company also employed the Mott Macdonald Singapore as its consulting firm for the re-construction of the Saddle Dam D. Other originally employed consulting firms such as TRACTEBEL and Thai Rasburi monitoring and quality assurance firm also continue to perform their monitoring tasks.

There are 5 temporary shelter centers that have been built since the early stages of the incident, the centers are currently housing a total of 3,191 persons, out of which 1,803 are female, and these figures are different from the ones the Special Rapporteurs have been provided by their sources. In addition, we also organized vocational trainings, provided in 7 line of professions, at all the temporary shelter centers. These trainings are ongoing and there are plans for more trainings. The Lao Women’s Union also provided post-traumatic counselling at the shelter centers.

Although the 5 centers were originally meant for temporary usage, as it becomes apparent that the rebuilding and rehabilitation process is taking more time than originally planned, the Government, through line agencies and local authorities, including the grievance committees, have been trying its utmost to accommodate all the needs of the people living in the centers, with regular consultations and addressed the problems at hand while also seeking more permanent solutions. The afore mentioned needs includes those concerning health, food, water, sanitation, adequate housing and properties, education, means of production and all spheres of adequate living, while awaiting transfer to their new permanent homes. Most recently, the main concerns from the people at the centers are regarding the water and sanitation systems, which are currently being repaired and improved at Ban Don Bok, Dong Bak and Pin Dong. There are 8 community based hygiene groups responsible for the cleaning maintenance of the public toilets and the waste

management throughout the temporary shelter centers.

The negotiations for damages and compensations are ongoing among the Compensation and Rehabilitation Negotiation Committee, the affected people and the PNPC/SKEC companies. There are two major restoration tasks, the first is compensation to the families that were directly affected by the incident (there are 6 types: vehicles, household properties, family businesses, livestock and food harvests, production tools, as for the sixth type which includes buildings, cash-valuables are still in the process of negotiations and finalizing an agreeable value). Compensations to the families of those who lost their lives in the incident have been completed. We have also completed compensations for 32 small businesses and enterprises that have suffered damages from the incident. This type of compensation is completed much faster than others, as evidence of property and their value have been pre-recorded and registered, and thus easily approved.

The 6 heavily affected villages have reached an agreement on the 5 types of properties mentioned earlier which amounts to 79.69 billion LAK, out of which more than 38.72 billion LAK have been paid. The 13 villages moderately affected villages have also reached an agreement on the 5 types of properties, amounting to 28.61 billion LAK, currently the companies are in the process of making the payments.

The 6th Type of properties (mentioned above) has faced many complications and difficulties in its negotiations on the claim value, resulting in further delays on its conclusion. Given that in order to reach a conclusion with each household, proof of property and its value is needed and in this case very difficult to precisely identify, both sides are trying to find proof of assets and reach settlement. As such, PNPC will pay or commence actual compensation and rebuilding work on the 6th type properties once the disputed claims can come to an agreeable and reasonable amount. Due to the delays in data collection, the compensation is still pending for Ban Mai Village and 6 additional business owners. The Provincial authorities, as the mediator, is trying to finalize and settle the issue as soon as possible, in order to move on to other steps of the process while also ensuring that the affected people is not at disadvantage, and fair for all.

In general, the emergency relief or immediate humanitarian assistance to the affected people in Attapeu has gradually shifted towards disaster recovery and rehabilitation since early 2019. The local authorities have been coordinating and working closely with each other, under a Recovery Master Plan 2019-2021 developed by the Department of Planning, Ministry of Planning and Investment, to rebuild Sanamxay as a resilient district. The Master Plan aims to strengthen coordination and oversight of the sectional recovery activities in Sanamxay District, in relation to the relocation site development and community rehabilitation.

The other major task is restoration of basic infrastructure which includes building of new houses, roads, irrigation system, agriculture and forestry, education, public health centers, and environmental and land-fertility restoration which have all begun since 2018. These include the 18A national road with 5 projects with 99% completion rate, local road number 9004 completed 88.6%, local road number 9041 with 100% completion rate, 4 new roads at the new permanent houses now at 50% completion, road to the new farm land at 61.11%, water canals and water treatment points at the temporary shelters have reached 100% completion, and 4 out of 5 bridges have been completed.

Regarding the allocation of agriculture land, the Government of Lao PDR has designated new farm land with a total area of 2,140 ha, out of which, so far 1,989 ha or 92.94% have been cleared, of which 1,104 ha have been allocated and handed over to 541 families thus far. At the same time, 4 irrigation restoration projects have been approved and making progress towards completion. In order to meet the need of some household who prefer their original farm land, there are 2,267.87 ha of original rice paddy fields that have been damaged by the flood, which is under the restoration plan of the Government for the affected people who want to return to these land for rice plantation. There are 958 pieces of the newly allocated land that have been measured, out of which 538 land titles have been issued.

Regarding the restoration of the environment and natural water sources and streams that have been covered by the mud, companies have been approached and estimated completion by the rainy season of this year, while compensation value on the mud-covered natural water sources have been agreed between the Government and the Project Development Company. Private specialized companies have also been recruited to reconstruct and install the electrical power network system in 3 villages, namely: Ban Don Bok, Tamayod and Dong Bak Mai Hin Kham.

The Sanamxay District Hospital facilities have been improved and also extended its services to 4 new Health Service Points (located inside each of the 5 temporary shelter centers with one exception for the center that is proximate to the hospital which would have direct access to the hospital's services. The construction of a health center at Tamayod village has reached 60.25% completion rate. New additional staffs have been recruited for both the hospital and health center. A "Psychological support" training course have also been organized for medical staffs at the District Hospital and Health Center and Health Service Points, and 35 volunteers at the temporary shelter centers.

In terms of schools, 6 new schools have been newly built and completed in Dongbak, while 2 more are being constructed in Thasengchan with completion rate at 90%, another school in Pindong have been completed, 3 schools in Tamayod has reached 98% completion rate, all of which are funded by the compensation budget. In addition, the Provincial budgets has been allocated to the construction of new schools and repairs (as normal practice regardless of the incident) with a completion rate of 85% thus far.

In terms of construction of the new permanent houses, the Attapeu Provincial Authorities have identified 4 new relocation sites for the new permanent houses, considering the old villages were prone to yearly floods, the relocation scheme was necessary to avoid future floods. The plan was to build a total of 807 new permanent houses (it is a traditionally normal for the locals to sometimes prefer to have multiple families living together in one house as one big family, the number of new houses were a result of consultation with the affected people); out of the plan, 36 houses have been nearly completed (supported by the Government of Thailand); 66 houses under the support of UN-Habitat is in the process of preparing for contracts, service orders and allocating the sites; 700 remaining houses were designed by the Government and are to be covered by the Project Development Company, the negotiation for the value of the project were very technical and extensive and hence taken much longer time than expected. The negotiation eventually came to a conclusion and agreed upon by the both the Government and the Project Development Company and officially signed on 10 April 2020, in order to move on and

commence the construction and avoid any further delays to the affected people. The Provincial Authorities are looking to employ multiple sub-contractors under one primary contract to help accelerate the construction time. The 700 houses are planned to be completed by the end of 2021. The Government of the Lao PDR will support the remaining 22% of the construction costs and construction shall commence in July 2020. In addition, 5 more houses under support from a neighboring country are being built with 44.32% completed as of April 2020.

Each sector and sub-sector have assigned officials to closely monitor the situation on the ground, collecting information on the good progresses made as well as the difficulties and proposals from all parties involved, as a basis for coordinating and periodically reporting to the central authorities and proposing possible solutions.

After the incident, the Government of the Lao PDR urgently adopted new measures which are divided as those specifically designed for the Xe Pian – Xe Nam Noy Dam, and those for all Hydropower Dams in general. Furthermore, the Government issued an Order to temporarily seize all dam construction projects for an Emergency Safety Inspection of all dams in the country (including all sizes, those operating, under construction, and those in their studying phase).

In terms of legislations in the Energy sector, there are plans to amend, improve and update the existing regulations including the new drafts of the Lao Electric Power Technical Standard (2018) and its Guidelines, the Basic Design TOR of 2018. Also, a new Dam Safety Guideline 2018 which includes guidelines on Training, Surveillance, Reservoir Impoundment, Quality Management Programme, Instrumentation, Geological, Emergency Action Plan, Documentation, and Auditing. Particularly, on the Emergency Action Plan, many sectors have been consulted in the drafting process, including local authorities.

Moving forward, the Government will continue to implement its welfare policy for the affected people; negotiate and push for the completion of the compensation process with the interest of the people as top priority; continue and speed up the construction process of the restoration projects such as the rice paddy fields, irrigation and water systems; provide seeds and seedlings to the people in time for the coming growing season; push for timely completion of the new permanent homes and other public buildings such as schools and health centers.

Priorities of the Provincial Authorities for the rest of 2020 include: Continued support of rice and cash assistance for the displaced households; Improve housing arrangements including in terms of safety and mental health of the affected people; Accelerate the public works and infrastructure restoration and improvement; Accelerate the facilitation for farming; Continue vocational and farming skill development trainings; and Accelerate construction of irrigation systems.

On the International Labour Organization's Indigenous and Tribal People Convention 169, the Lao PDR, through the Ministry of Labour and Social Welfare, has commenced a study on the said convention. At the moment, while studying the convention, the Lao PDR does engage in the Decent Work Country Program with the ILO.

The information that the Special Rapporteurs have been considering are not entirely

accurate, while some factual information are present, many of which the allegations were based upon are inaccurate, distorted, misrepresented or intentionally nitpicking without any constructive motives. The information that the Lao PDR has provided above are summarized from a substantial collection of data, across multiple sectors, which were hugely neglected by the Special Rapporteur on extreme poverty and human rights.

While the current progress may have been slowed down, it has never been the Government's intention or plan for the compensation, rehabilitation and restoration process to be lengthen at all. The Government will continue to cooperate with all parties involved and push for more rapid resolutions at the earliest possible future. It is understandable that some of these technical difficulties have hampered our best efforts to provide the affected people with the remedy and compensation, and return to even better living condition than before the incident. The Government of the Lao PDR has been trying and will continue to push in all areas for the affected people to enjoy these promised services as soon as possible.

The Lao Government values the Special Rapporteurs' cooperation and attention on the matter.

In this connection, the Permanent Mission of the Lao PDR would highly appreciate if the above-mentioned information could be kindly transmitted to parties concerned in due course.

The Permanent Mission of the Lao PDR to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights of the United Nations (Special Procedures Branch) the assurances of its highest consideration.

Geneva, 16 July 2020



The Office of the High Commissioner for Human Rights
(Special Procedures Branch)
Geneva