

11 September 2020

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

CC: The Thai Bankers' Association

Subject: Joint Communication from Special Procedures

Dear Madam,

We, Bank of Ayudhya Public Company Limited ("the Bank"), refer to the letter from the United Nations Human Rights regarding a joint communication sent by the Working Group on the issue of human rights and transnational corporations and other business enterprises to seek clarification on the impacts caused by the collapse of an auxiliary dam in Attapeu province, Lao PDR.

We are pleased to provide our response and relevant documents as enclosed herewith on such issues in order to ensure that the Bank has been well aware of all mentioned issues and has monitored the incident closely to aid the affected people. The Bank always put human rights protection in place and follows our Disclosure Statements to ensure all actions are taken to prevent, mitigate and remedy abuses of the human rights.

Yours Sincerely,

For and on behalf of
Bank of Ayudhya Public Company Limited



and
Acting Head of Investment Banking Division

Enclosed: 1. Bank of Ayudhya's Response on the UNHR report
2. PNPC's Corrections and Clarifications on Misconceptions Report
3. PNPC's Environmental & Social (E&S) Progress Report

Response to the UNHR's Letter

(17 April 2020 – AL OTH 15/2020)

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

Bank of Ayudhya acknowledged UN's allegations on this matter. The Bank has been seriously concerned about this situation and allegations, and therefore have regularly inquired PNPC for clarification and information regarding these allegations.

PNPC provided their clarification through their "Corrections and Clarifications on Misconceptions Report" (attachment 1), and "Environmental & Social (E&S) Progress Report" (attachment 2) every month in order to update what PNPC has done or achieved in terms of emergency relief actions, compensation and rehabilitation. Please see attachment 1 and 2, respectively.

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 recognizes respect for human rights as an important issue to be addressed in the management of our business for the realization of our Corporate Mission as a member of the world's most trusted financial group in serving society through sustainable growth. We aim to fulfill our responsibility to respect human rights across all of our operations.

In addition, the Board of Directors of the Bank announces Disclosure Statements covering the Human Rights Disclosure Statement, which require the following actions to be taken to prevent, mitigate and remedy abuses of the human rights, as well as the Environment Disclosure Statement which require the following actions to be taken to address global environmental issues:

- Striving to protect the environment and responding to climate change is the responsibility of all human beings.
- Aiming to contribute to the realization of a sustainable society by protecting the global environment in alignment with the Sustainable Development Goals.
- Complying with applicable legislation and international agreements and responding appropriately when our operations result in environmental risks or negative impacts.
- Striving to reduce the environmental impacts of our operations, as well as actively working towards finding solutions to global environmental issues through our business 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.**

The Bank and other syndicated lenders required PNPC to comply with applicable laws including the environmental and social impact matters as required by the Government of Lao PDR ("GOL"). Before the construction of the dam, PNPC prepared the Environmental Impact Assessment ("EIA") and Social Impact Assessment ("SIA") in compliance with Lao PDR's applicable laws. Their EIA and SIA were approved by the Ministry of Natural Resources and Environment ("MoNRE") of GOL.

Regarding the human right issue, the EIA and SIA were prepared with the main objectives to cover social issues and impacts on Project Affected People ("PAP") in the existing communities. The EIA and SIA also recommended social services that are to be provided in order to improve PAP's quality of life and reduce the impacts on the communities. The Bank reviewed the EIA and SIA and noticed that, during the EIA and SIA preparation, PNPC also conducted the public consultation that emphasized on the public's perception and comments, as well as insights and suggestions provided by affected communities. The assessments also covered the ethnic group in the project area and proposed the mitigation measures for the impacts on culture and traditions of each ethnic group.

- 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.**

The Bank conducted the due diligence process as part of the decision to finance PNPC construction. In the areas which required expertise to conduct due diligence such as construction, electrical and mechanical equipment, environmental, health and safety, the Bank engaged the Lenders' Technical Advisor ("LTA") to provide an independent assessment of the technical aspect of those areas mentioned above. The Bank's decision for financing the project would be based upon our own due diligence together with the due diligence report prepared by the LTA.

In addition, during the construction period, several site visits were conducted for the LTA and sometimes with the Lenders. The site visits with a focus on environmental and social aspects also included consultations with district officials, PAPs and the doctor at the local health center.

After the incident occurred, the Bank worked closely with PNPC to help affected people. In addition, the Bank's management together with PNPC and PNPC's shareholders held meetings with GOL to aid the affected people including making donations on behalf of the Bank and raising funds via public donations. Several meetings with the affected people, held by PNPC and GOL, in accordance with compensation and rehabilitation plans were arranged to ensure that all affected people will not be neglected.

- 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.**

After the incident occurred, the bank, syndicated lenders, together with PNPC and PNPC's shareholders held several meetings with GOL including the Ministry of Planning and Investment ("MPI") who is responsible for the Concession Agreement in order to resolve problems caused by the incident and to aid the affected people.

PNPC and its shareholders have set up Working Groups comprising the Technical Working Group and the Environmental & Social Working Group with the objectives to follow up on the incident investigation and update the progress of re-construction work. , The LTA was a member of both Working Groups as a representative of Lenders. In addition to the investigation and re-construction progress updates, the Environmental & Social Working Group has monitored progress of compensation and rehabilitation plans. These working groups enable the Bank to monitor actions taken by the project closely.

- 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.**

The National Investigation Committee ("NIC"), set up by Government of Lao PDR, engaged professionals and fully independent experts with globally recognized reputations in order to ensure transparency of the investigation and the accurate determination of the causes of the collapse. The Bank believe it is not in the position to comment on such findings.

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 conduct due diligence in a professional manner and in compliance with applicable laws and regulations, and engage independent professional third-parties (including LTA, etc), before making decision to involve in the project. The bank believe that such measures with proactive preparation can minimize any risks to be caused by the Bank's lending.

Regarding PNPC, to prevent recurrence of such disasters in the future, the Bank has been reassured as the LTA has agreed to issue the Provisional Acceptance Certificate ("PAC") to the EPC contractor which means the EPC contractor has completed the design, supply, delivery, installation, erection and construction of the works in accordance with the requirements of the contract (except for minor defects).

Furthermore, the Bank understands that PNPC obtained the Completion of Certificate issued by the Department of Energy Management on 30 March 2020 and the Confirmation of Commercial Operation Date issued by the Department of Energy Business on 10 April 2020. These two departments are under supervision of the GOL. The Lenders' Legal Advisor confirmed to the Lenders that, on such approvals, PNPC has achieved compliance with:

- (i) the safety regulations for the operation and maintenance of the project facilities;
- (ii) Article 36 of Law on Construction for all project construction activities contemplated under the concession agreement; and
- (iii) the details designed, the construction plan and operation in respect of all applicable project facilities and the transmission network defined in the Concession Agreement.

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 set up communication channels to incorporate operational-level grievance mechanisms. The Bank ensures that all stakeholders can ask for information, file complaints in case their rights are violated through the call center, all branches or by sending emails via our website.

The Bank provides a clear procedure and system for receiving complaints. Complaints will be treated as confidential and cannot be accessed by unrelated persons and, if necessary, shall be disclosed only to responsible person(s) having the duty to seek a solution.

In case of complaints received, the responsible officer will record and solve them under appropriate procedures without delay. The findings will also be reported to the management or the Board of Directors, as the case may be.