

September 12, 2022

Ms. Frederica Donati
Officer-in-charge
Special Procedures Branch
OHCHR

Via e-mail: ohchr-registry@un.org

Ref: AL OTH 54/2022

Dear Ms. Donati,

Thank you for your joint communication dated July 18, 2022 concerning the Xe Pian Xe Namnoy (XPXN) Hydropower Project in Lao People's Democratic Republic (Lao PDR). We greatly appreciate your continued attention to the human rights impacts on the communities impacted by the collapse of one of the three auxiliary dams within the XPXN project in 2018 and its tragic consequences, and we empathize with the plight of those who continue to be affected by this tragedy.

You note that you have received information concerning the involvement of IFC in the collapse of this dam. However, we wish to clarify that IFC has had no involvement in the financing of the XPXN project, the collapse of this auxiliary dam or its aftermath.

IFC Financing of RHIS

IFC does have a relationship with one of the sponsors of the XPXN project, RATCH Group Public Company Limited (RATCH). On June 30, 2021, IFC entered into an agreement with RH International (Singapore) Corporation Pte. Ltd. (RHIS) which is a wholly-owned subsidiary of RATCH, to provide a sustainable loan to RHIS. RHIS is not a shareholder in the XPXN project. Not only did IFC not finance the entity, but our loan to RHIS was entered into approximately three years after the auxiliary dam collapse in 2018.

IFC's investment in RHIS is intended to support RHIS in the realization of its sustainability strategy. The ability to provide universal access to affordable, reliable, and sustainable power is central to Sustainable Development Goal (SDG) 7 and at the core of IFC's energy strategy in emerging markets. In line with this strategy of increasing access to sustainable power, we entered into the sustainable loan with RHIS to provide it with guidance to help RHIS articulate and refine its sustainability strategy and develop a sustainability finance framework as it expands its sustainable reach into renewable and other infrastructure sectors in Thailand and overseas.

As set out above, RHIS has no ownership stake in XPXN. In addition, our loan agreement with RHIS has a clearly defined use of proceeds provision that explicitly excludes projects with high environmental and social (E&S) risks such as XPXN.

IFC Relationship to the XPXN Hydropower Project

Because our proceeds for the RHIS transaction are not being used for the XPXN project, we do not have leverage in relation to the XPXN project. For example, we have neither the contractual grounds nor

any financial leverage to compel the XPXN project to comply with IFC's Environmental and Social Performance Standards (the Performance Standards, PS), including, for example, provisions on infrastructure safety for dams with structural elements situated in high-risk locations, the failure or malfunction of which may threaten community safety.

Nonetheless, we have sought more information about the XPXN situation through our client and have advocated for the client to have its parent engage with civil society organizations representing the interests of the affected communities regarding their concerns about dam safety. We are also aware of concerns for structural integrity of two other XPXN dams. We communicated with our client and client's parent company about the safety of these dams, and they reported to us that they have made efforts to strengthen them.

IFC and Human Rights

IFC takes respect for human rights very seriously in its operations. IFC's Policy on Environmental and Social Sustainability recognizes businesses' responsibility to respect human rights independently of the state's duties to respect, protect and fulfill human rights. In this respect, IFC is guided by the International Bill of Human Rights and the International Labor Organization's eight core conventions and support this responsibility of the private sector. The Performance Standards integrate human rights aspects that businesses may face in the course of their operations and effective implementation of IFC's [Performance Standards](#) enables IFC clients to address these dimensions.

For all direct investments, IFC undertakes a pre-investment due diligence analysis of its Performance Standards and monitors the clients' compliance. IFC's Performance Standards, as well as corresponding E&S action plans, are made contractually binding through their inclusion in the relevant legal agreements.

Our Performance Standards require clients to establish project-level grievance mechanisms for affected communities and workers and to disclose these as part of their stakeholder engagement process. This grievance mechanism applies only to projects with IFC financing, and therefore is not applicable for the XPXN project. IFC's role is to monitor the client's implementation of Performance Standard requirements, including the effectiveness of stakeholder engagement and grievance mechanisms. In addition, the [Compliance Advisor Ombudsman \(CAO\)](#), IFC/MIGA's independent accountability mechanism, provides those affected by IFC/MIGA projects an opportunity to lodge complaints.

IFC is currently delivering on a series of E&S accountability reforms, including in response to the External Review on IFC's E&S accountability. In late June 2021, the Boards of IFC and MIGA approved a new Policy for the CAO, with an increased focus on outcomes for communities, IFC/MIGA clients, and other stakeholders. Additionally, efforts are underway to strengthen IFC's overall approach to E&S risk management, including improving systems and procedures for E&S due diligence and supervision; strengthening grievance responsiveness both at the institutional and project levels; and developing a potential approach to enabling remedial actions for stakeholders negatively impacted by projects. More information regarding the process for the development by IFC of a remedial action framework is available [on our website](#). The process will include stakeholder consultations, and we would welcome your input into this process.

Respect for human rights includes the ability of stakeholders to engage freely with IFC and its clients. IFC does not tolerate any action by an IFC client that amounts to retaliation. That includes threats, intimidation, harassment, or violence against anyone who voices an opinion regarding the activities of IFC

or our clients. We take seriously any credible allegations of reprisals, and our [position statement](#) emphasizing zero tolerance for retaliation is posted online.

IFC is committed to being responsive to stakeholders' inquiries and concerns, and to supporting our clients in identifying and then avoiding, mitigating, and managing risks and impacts. These commitments to doing business in a sustainable way are integral to our mission. We remain available should you wish to discuss further.

Sincerely,



Isabel Chatterton
Regional Industry Director
Infrastructure and Natural Resources, Asia Pacific