



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
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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 (The United Nations Human Rights Special Procedures), and with reference to the Joint Communication from the Special Procedures No. AL LAO 1/2022, dated 15 July 2021, has the honour to transmit a reply of the Lao PDR's Government concerning the false allegations entitled "the alleged negative human rights impacts caused by the collapse of a saddle dam D of the Xe Pian-Xe Nam Noy Hydroelectric project in Attapeu Province of the Lao PDR", as follows:

1. After the failure incident of the saddle dam D of the Xe Pian-Xe Nam Noy HydroPower Project in 2018, the Government of the Lao PDR has issued an instruction to suspend all the construction of new hydropower projects and undertaken an emergency inspection of the existing hydropower plants in the country by establishing the Adhoc Committee which consisted of national and international experts to review the safety on the structure of powerhouses, the maintenance of powerhouses and the standards of powerhouses in counter with unexpected emergency incident. This National Emergency Dam Safety Inspection (NEDSI) was carried out in 2 Phases, the first Phase started from 2018 to 2020 where the main task was to inspect the safety of 54 country's large hydropower dams and the result of the inspection found that the conditions of the said dams were still in good operation, strong and able for longterm use. However, there were only minor technical matters in some dams that needed to be adjusted and improved to comply with the international safety standards, these include the saddle dam D and F of the Xe Pian-Xe Nam Noy Power Project, such as: hydrology and flood evacuation, the seismic design, the geology/foundation/geotechnical issues, the floating debris management, the maintenance of monitoring system and the sediment management. However, all mentioned issues have been resolved. The second Phase has been carried out in early 2020 up to present, while the main task for this Phase is to focus on further strengthening the institution and legislations related to the inspection and monitoring of all hydropower dam projects. Following the result of Phase II, the Department of Dam Safety has been established under

the Ministry of Energy and Mines to carry out the dam monitoring, inspection and conduct a technical and safety assessment of the construction and operation of dams throughout the country. In addition, the 3rd Ordinary Session of the National Assembly which was held in July 2022, also adopted the Law on Dam Safety and this law has already come into force in September 2022 as it now becomes an important legal reference in the dam safety management in the future.

2. The Lao Government has been trying its utmost efforts to provide every possible assistance to the affected people from the incident of the saddle dam D of the Xe Pian-Xe Nam Noy Hydropower Project to restore their livelihoods to normal as soon as possible. In addition, the Government has also encouraged multiple sectors, including entities, private sectors, civil society organizations and international organizations to contribute in various forms that they could help the affected people. Furthermore, the developer company (PNPC/SKEC) itself has also made a great contribution and co-operation with high responsibility as required by the Government in compensation and rehabilitation of the livelihoods of those affected people to normal and better living conditions. In the future, the Government will continue to cooperate with all parties involved to support and provide rapid resolutions factors to address unsolved problems as soon as possible.

3. Immediately, after the incident of the saddle dam D of the Xe Pian-Xe Nam Noy HydroPower Project in 2018, the Government has built 05 temporary shelter centers equipped with electricity, sanitation and services for affected people, namely Tamongot, Dong Bak, Pin Dong, Don Bok and Hadyao centers and there were a total of 913 affected families (4,873 persons) who have lived there. However, up until the present there are only 79 affected families who still remain in the said temporary shelter centers (50 families Tamognot center, 1 family in Dongbak, 23 families in Pindong and 5 families in Donbok due to the delay in construction of permanent houses caused by the impact of the Covid-19 pandemic and other difficulties, while who live in the Hadyao center have moved to the permanent residence provided by the Government). The Government has placed priority in helping and rehabilitating the livelihoods of affected people. Currently the construction of 689 out of a total of 812 new permanent houses has completed and transferred to the affected people while the remaining 123 new permanent houses are being built and expected to be completed by the end of this year 2022. In addition, the Government has also provided water supply for the new permanent housing sites which includes 39 points of water handpump (10 water handpump provided for the new allocation of agricultural land, 05 electric water pumps for schools and health service centers, provided electricity to all new permanent houses, and for public building such as schools and health service centers, and improved 21.4 kilometers length of the new road to facilitate transportation at the new permanent housing sites.

4. For the long-term assistance measures for the affected people, the Government has been operating a number of development projects to restore the infrastructure for the affected people:
 - **Irrigation and water system projects:** covered 03 new allocated land sites with a total cost of 22 billion kip. The Project has already completed 02 main tasks, and still has 03

tasks in progress such as 1) Building the water system from Tamangot to the industrial area with 72% completion; 2) from Don Mouang to Tha Seng Chan with 93% completion; and 3) from Tamangot to Pin Dong with 90% completion.

- **Vocational training programme:** there are 02 training centers built in Hinlath and Tamangot as vocational support centers for technical agriculture, fish and frog artificial insemination, and tree nursery for affected people.
- **Forestry restoration projects:** there are totally 7 projects, and out of which 3 projects have been completed. The remaining 04 projects are in progress, namely the seed gardening in 4 villages and the seed center project, the water system project for the agriculture group, the forestry restoration projects, and the biological protection project.
- **School rebuilding projects:** there are totally 9 projects, out of which 5 projects have been completed. The remaining 04 projects are progressing such as the building of the fence, gate and land leveling project for schools, i.e., for Dong Bak high school with 95% completion, Don Bok primary school with 95% completion, Tamangot primary school with 80% completion; and also provided school supplies and stationary equipment for 7 schools in Sanamxay District that has been affected by the incident.
- **Public health center projects:** already completed the construction of 02 health service centers. Currently, there are 02 projects being constructed, one is the health service center in Dong Bak and the other in Pin Dong.
- **Social welfare projects:** since June 2021, the Government has stopped providing the Special Recovery Measures for the affected people (i.e., providing monthly living allowances for 250.000 Kip/person and 20 kg of rice person/month), but still continuing to support them according to the Decree No. 169 on social welfare, which stipulates the standard rate for social welfare, especially the rice/food is 12 kg/person/month, since the concerned authority has conducted an evaluation and found that most of the affected people are able to live by themselves.

In addition, in early 2021, the Attapeu Provincial Authorities also adopted the Development of People Well-Being Strategy Plan for Sanamxay District, which is a long-term plan that aims to improve and restore the basic infrastructure and people living conditions in Sanamxay District, especially the affected areas from the incident. Furthermore, the Committee incharge for implementing the said Plan has also been established which is chaired by the Governor of Attapeu Province.

5. The Lao Government attaches a great importance to protecting the legitimate rights and interests of the Lao multi-ethnic people as outlined in the Lao Constitution and Laws, especially the Law on Resettlement and Vocation guarantees that the Lao multi-ethnic people in the resettlement zones shall receive stable housing, the place to make a living and stable occupation, uplift the livelihoods of the Lao multi-ethnics people, aimed at alleviating poverty, ensure the balance of density for the resettlement zones; Article 19 provides the requirement for the resettlement zone to be suitable for building habitation, earning for a living, be able to support long-term population growth, infrastructure development, adequate consumption of water resources, production and it shall not be a high-risk area for living and harm to environment. In addition, Article 26 of the said law also provides that the project developer must rehabilitate for the affected people during the transition period, and ensure to provide assistance for the affected people during the

transition period for instance: providing food, consumable supplies and other necessities for their productions, the Provision also stipulates that the project developer shall pay special attention towards the vulnerable groups.

6. In ensuring the compensation for the people who are affected by the development project, Article 17 of the constitution clearly stipulates that the State protects land rights, which includes the right to own, right to use, right to usufruct, right to disposition, and right to inherit by individuals, legal entities, and organizations in accordance with the law. The Law on Land, Article 3 also stipulates that the land of the Lao PDR is the ownership of the national community where the State represents the ownership holder and manages lands in a centralized and unified manner across the country with land allocation plans, land use planning and land development. The State guarantees the permanent land rights to Lao citizens, including legal entities, groups and organizations that are Lao nationals for long term use. In addition, the Law on Land also stipulates that when it is necessary to use the land, which is under possession of any individual, legal entity or organization, for the purpose of collective interest of the public, such as for investment, rent or concession in accordance with the National Socio-Economic Development Plan, the State can then reclaim or repossess land rights, but it must also provide compensation to the said individuals or organizations, appropriately in accordance with the law; the Law on Investment Promotion, Article 73 (provision 4) stipulates that investors are obligated to provide compensation to those who were affected by the operations of their businesses; Decree No. 84 on Compensation and Resettlement Management in Development Projects also provides the principles, regulations and measures on the management, monitoring of compensation of losses and the management of resettlement activities in order to properly and effectively implement the development projects with the aims to ensure that the affected people are fully compensated, resettled and assisted with permanent livelihoods, better improving of living conditions, ensure equality, correctness, transparency, open and fairness of compensations and resettlements. Besides the mechanism on coordination, consultation and participation between the project developer, affected people, state agencies and other relevant stakeholders has also been established. Furthermore, the said Decree also provides some of notable provisions, including Article 2 on compensation; Article 3 on relocation of the people; Article 7 on compensation planning; Article 8 on implementation of the compensation plan; Article 9 on assessment and evaluation of the replacement land; Article 10 on relocation planning; Article 11 on implementation of the relocation plan; Article 12 on development of the relocation land; Article 13 on reparation planning for the livelihoods of the people; Article 16 on assistance during the transition period: the project owners shall provide additional assistances to the affected people who were relocated throughout the transition period of at least 03 years or more, among others, including food supplies, consumables and other necessities for the affected people; and compensation for lossing of income during the relocation period for those who were present on the relocation days; Article 17 on rights and obligations of the project owner in providing compensation and relocation such as create the compensation plan, relocation plan and reparation plan for the people's livelihoods; and Article 18 on the rights and obligations of the affected people to receive information on project, benefits and impacts they shall be received by the development project, progress of implementation of the

compensation plan, relocation and restoration. Besides, they also have the right to participate in consultations and submit their views in written to the committee responsible for compensation and relocation in the relevant local authority to consider and address the matter of compensation, relocation and rehabilitation living condition from the development project and etc.

7. In terms of compensation to those affected people from the incident of the saddle dam D of the Xe Pian-Xe Nam Noy HydroPower Project, the compensations have made to all the families of 71 dead or missing people with a total compensations of 6 billion LAK or 710.000 USD. The 28 orphaned children have also received the allowances and have been arranged an alternative care with a total compensations of 2.5 billion LAK. All business sectors that were damaged from the incident have been compensated with a total of 94.9 billion LAK. The damage of infrastructure, forestry, agriculture land, rivers, which a total cost of 158 billion LAK have also been compensated and restored through the above-mentioned projects in paragraph 4, as well as the construction of new permanent houses, amounting to 280.7 billion LAK also made a progress with more than 80% completion. Presently, the Government is in the process of resurveying or rechecking whether some compensation cases might be absent or lost, as to ensure that all cases are equally and appropriately compensated.
8. There are complaint procedures in the Lao PDR for those people who received unfair compensation to file the complaint or petition to the concern authorities according to the constitution and law. Article 41 of the Lao Constitution clearly stipulates that the Lao citizens have the right to file complaints and petitions and to propose ideas to the relevant state organizations in connection with issues pertaining to the public interest or their rights and legitimate interests, and the complaints, petitions, and comments of citizens must be examined and resolved as provided by the relevant laws. Based on these provisions, the National Assembly has adopted a number of relevant laws. For instance, the Law on Petition that provided the rights to complaints and petitions for citizens, legal persons and organizations to file a case to the Investigation-Interrogation Organization, the Office of People's Prosecutors and the People's Court to examine, upon any act or decision made by individuals or organizations that might have been a violation of the law, and damaging to their rights and interests or those of the State. Furthermore, in order to ensure the right to access to justice, the Government has issued the Decree on Village Mediation and Decree on Legal Aid. Presently, there are 8.649 of village mediation units established across the country and there are 43 legal aid offices across 17 provinces, out of which 8 offices belong to the Lao Bar Association, which has increased access to justice for the people. In addition, Article 24 of the Decree No.84 has clearly stipulated the procedures of settlement in the case which viewed that the project developer does not comply with the plan for compensation, resettlement and rehabilitation of their livelihoods and interests, the affected are entitled to request to concerned authorities to solve the request accordingly the following procedures:
 - **Step 1:** The affected people submits a request to an operation unit of the compensation and resettlement and the management unit of compensation and resettlement

respectively, in which these two-units will co-ordinate with the project owner and other related parties in considering ways of settlement;

- **Step 2:** in case the affected people do not agree with the solution mentioned above or if the management unit for compensation and resettlement views that it cannot settle the request, the affected people or the requested unit is entitled to file a request to the Provincial, City Committee¹ for Compensation and Resettlement to coordinate with the project developer in order to resolve and settle the request. At this point, the Committee is considered the final stage of settlement. However, in case the conflict does not defined in the plan for compensation, resettlement and rehabilitation of people's livelihoods, but the affected people or the project developer does not agree with the settlement by those mentioned 2 steps, the disagreeing party is entitled to make a request to the government through the Ministry of Natural Resources and Environment for the final consideration. Lastly, if the cases are still disagreeable with the settlement decided by the government, the disagreeing party is entitled to make a request for justice to the National Assembly or to a court according to the judicial process.
9. The national legal system of the Lao PDR does not provide any definition regarding "human rights defenders" as its term is very broad and vague, the "Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedom" (as known as the Declaration on human rights defenders) itself is very opened and all-encompassing. The enjoyment of the rights to freedom of expression of the Lao multi-ethnic people have been guaranteed in the Article 44 of the Lao Constitution "the lao citizens have the right and freedom of speech, press and assembly, and set up association and to stage demonstration which are not contrary to the law. In realization of the said context, the Lao PDR has adopted many relevant laws. Particularly media law (2016) which defines the rights to freedom of expression in criticizing persons through the media in a constructive manner, legal persons and organizations and the rights to express opinions towards the domestic and international affairs, and the rights and freedom to access information as stipulated in article 10, 11 and 12 of this law, in addition the right to freedom of expression has also defined in other laws². However, exercising the rights and freedom of expression must take into account the obligations and accountability to the reputation and dignity of others, national security, social orders, social harmony and other values as provisioned in the ICCPR's Article 19 (3). In line with the said provision, the Law on Media, Article 66 prohibits the press organization to promote violence and any advertisement for the purpose of war, distorted information or disinformation, slandering against the reputation and dignity of individuals, legal entities and organizations. More importantly, the Citizen Engagement for Good Governance, Accountability and Rule of Law "CEGGA" has hired an international expert to analyze the gaps between the Media Law and the provisions of

¹ The Committee has been appointed by the Government according to the proposal of the Minister of Natural Resources and Environment, the Committee is chaired by the provincial governor

² The rights and freedom of expression has also been provisioned in the Law on Combating and Preventing Cyber Crimes 2015, the Law on Information and Communications Technology 2016, the Law on Protection of Electronic Information 2017, the Law on Internet of Things 2018.

international convention on human rights to which the Lao PDR is party to. As a result, it is found that the provisions of this law are consistent with those of the international human rights treaties. Additionally, Article 11 of the Law on Combating and Preventing Cyber Crime defines that “Unauthorized editing of pictures, animations, audios and videos without permission”; and Article 13 defines the offence of causing damages via online social media, especially paragraph (3) of the said Article stipulates that “the action of bringing the computer’s data and information destroying national security, peace, public order, national culture and tradition to apply into a computer system are an offence”. Furthermore, Article 117 of the Penal Code of the Lao PDR also defines the necessary to protect the rights and reputations of the state, particularly the public order, morals and State authority, all of which are considered as national security matters.

10. The Lao PDR took note of recommendation No. 56³ received from the 3rd Cycle of the Universal Periodic Review. However, in order to protect the people's legitimate rights and interests related to businesses, the Lao PDR upholds the principles set forth in the Lao 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 Lao PDR has adopted legislations that define the principles of corporate responsibilities towards society and the economic and social rights of the people such as these following laws⁴, among others. The Lao Government has issued and improved its policies and measures to promote business sectors to be aware of the social responsibility and respect for human rights in business operation. In terms of developing the national action plan for the implementation of the UN Guiding Principle on Business and Human Rights, the Lao PDR needs more time to pursue further studies on the possibility of developing the said Plan. However, the Lao PDR will continue to improve its existing measures to comply with the Principle as well as to disseminate and raise awareness among all relevant public and private sectors for more understanding and awareness of the respective issue. Recently, the Government has adopted the National Plan of Action on the implementation of the 3rd cycle of the Universal Periodic Review recommendations accepted by the Lao PDR. This Plan was formulated and developed through the process of dialogue with all stakeholders including international organizations, non-governmental organizations and civil society organizations. At present, the Government is on track to disseminate and implement the Plan.
11. The Lao Government reiterates that the information provided above are the official and accurate information data and statistic, that are gathered and collected by the relevant authorities which demonstrated the factual circumstances in Sanamxay District of Attapeu Province, which are different from the information that Special Rapporteurs received from unofficial sources of information that are distorted, misrepresented or intentionally nitpicked without any constructive motives at all.

³ Recommendation No. 56 “Develop a national action plan for full implementation of the UN Guiding Principles on Business and Human Rights”

⁴ Law on land, Law on Water Resources, Law on Forestry, Law on Resettlement and Vocation, Law on Investment Promotion, Law on Environment Protection, Decree on Compensation

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 (The United Nations Human Rights Special Procedures) in Geneva the assurances of its highest consideration.

Geneva, 7 November 2022



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