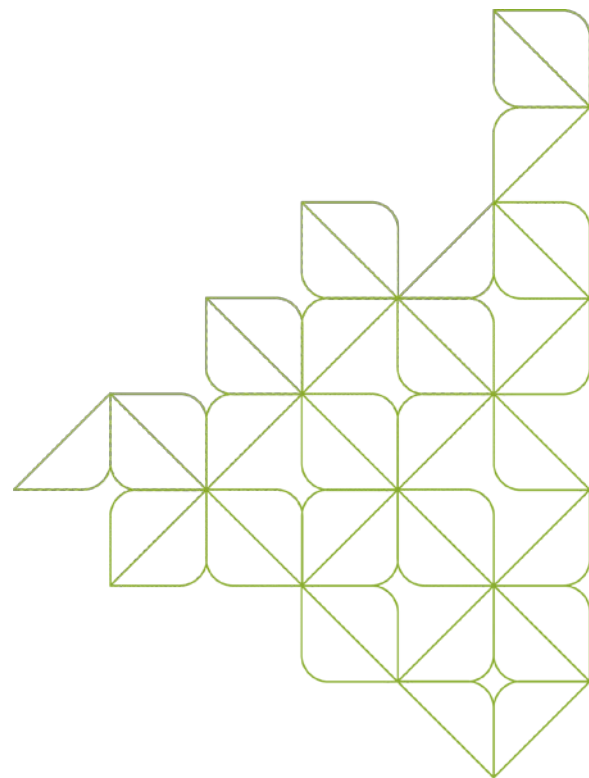
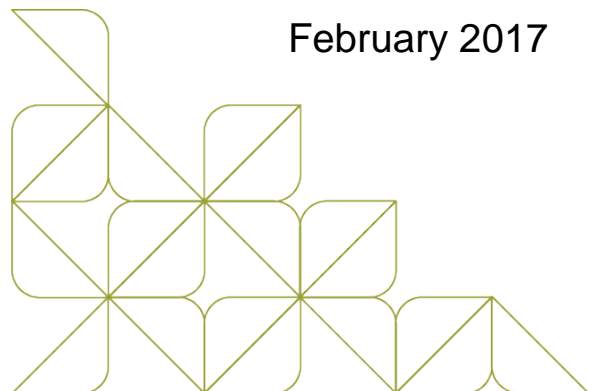


*Mekong Partnership for the Environment*

**Making the Case:  
Effective Public Participation is  
Good for Business in the  
Mekong Region**

February 2017





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**Mekong Partnership  
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# Acronyms

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ADB	Asian Development Bank
AFOLU	Agriculture Forestry and Other Land Use
ANRPC	Association of Natural Rubber Producing Countries
BSR	Business for Social Responsibility
CBO	Community Based Organizations
CDF	Community Development Funds, Laos
CLO	Community Liaison Officer
CSR	Corporate Social Responsibility
EIA	Environment Impact Assessment
ECC	Environmental Compliance Certificate
EGAT	Electricity Generating Authority of Thailand
EHIA	Environment and Health Impact Assessment
EMP	Environmental Management Plan
EP&L	Environment Profit and Loss models
ELCs	Economic Land Concessions
ESG	Environment and Social Governance
ESIA	Environment and Social Impact Assessment
FFI	Fauna Flora International
FPIC	Free Prior and Informed Consent
FSC	Forest Stewardship Council
GRI	Global Reporting Initiative
IAP2	International Alliance for Public Participation
IEIA	Initial Environment Impact Assessment
IFC	International Finance Corporation
ICMM	International Council for Mining and Metals
IPIECA	International Petroleum Industry Environmental Conservation Association
IRMA	International Responsible Mining Association
ISRG	International Sustainable Rubber Group
LSLAs	Large-Scale Land Acquisitions
MAFF	Ministry of Agriculture-Fishery-Forestry, Cambodia
MDB	Multilateral development banks
MIE	Map Ta Phut Industrial Estate
MOGE	Myanmar Oil and Gas Enterprise
MPE	Mekong Partnership for the Environment
MoE	Ministry of Environment
M&E	Monitoring and Evaluation
MME	Ministry of Mines and Energy, Cambodia
MPE	Mekong Partnership for the Environment
MRC	Mekong River Commission
MCRB	Myanmar Center for Responsible Business
NGO	Non-Governmental Organization
NNP1PC	Nam Ngiep 1 Power Company
OECD	Organization for Economic and Cooperation Development
PES	Payment for Ecosystem Services
RSPO	Roundtable on Sustainable Palm Oil
RTWG	Regional Technical Working Group
SASB	Sustainability Accounting Standards Board
SDG	Sustainable Development Goals
SEA	Strategic Environmental Assessment
SEAT	Social and Environment Assessment Tool

SNR-I	Sustainable Natural Rubber Initiative
TIMM	Total Impact Measurement Management
UNDP	United Nations Development Program
VBCSD	Vietnam Business Council on Sustainable Development
VDF	Village Development Fund, Thailand
VDC	Village Development Council/Committee, Myanmar, Cambodia
WB	World Bank
WRI	World Resource Institute
WWF	World Wildlife Fund

# Executive Summary

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Echoing a global trend, companies around the Mekong region are adopting stronger public engagement strategies, not only to minimize social and environmental harm, but to enhance their bottom lines and reputations. Through industry interviews—extractives, hydropower, and agri-business and desk research—this report attempts to contribute regional examples for the argument that effective public participation processes is good for business.

Mekong Partnership for the Environment (MPE) interviewed eight infrastructure development companies about the costs and benefits of meaningful and effective public participation in Environmental Impact Assessment (EIA) based on their experience in the region. Summaries of these conversations are presented in Section IV. The analysis of these conversations, along with additional desk research, attempts to lay out key features of effective public participation, lessons learned and good practices.

The public participation aspect of the EIA process can be challenging, especially for complicated large-scale development projects. Even when planned upfront, public participation is often not prioritized and can damage a company's bottom line if done ineffectively. Usually, "public participation" does not appear as a line item in EIA budgets, but is rather integrated into the larger EIA process. Thus, company representatives interviewed for this report were largely unable to explain precisely how much public participation activities cost. But they were able to articulate examples to illustrate that the most effective and meaningful engagement is achieved when stakeholders are involved throughout the project cycle, even when that means over the course of years or decades. And they cautioned that the actual cost of EIA is frequently underestimated in terms of both time and money, and can quickly escalate if conflicts arise.

What is clear in the Mekong region is that most local or regional project developers are not ready or willing to pay for the cost of EIAs that meet international environmental and social standards (i.e., IFC safeguards, etc.), including effective public participation. They usually only allocate a tenth of what international projects developers would budget for conducting a thorough EIA<sup>1</sup>. And for those companies who rely on local EIA consultants, the quality of assessments is very different

## Non-monetary Benefits of Public Participation

- A stronger social license to operate than if communities are presented with a non-negotiable benefits packages;
- Less opposition to the project and the changes that it brings to local communities;
- Long term and more trusting relationship with communities;
- Improved identification of and focus on the environmental and social risks most important to local communities;
- Access to helpful knowledge of local conditions and information;
- Streamlined financing and licensing processes;
- A more predictable and interactive community engagement process;
- Reduced delays in decision making; and
- An enhanced image and reputation.

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<sup>1</sup> As cited by Vietnamese development partners in 2016 meetings with MPE project team (Pact-VBCSD, 2016)



from those done by international firms, leading to additional costs. However, these costs could be reduced with a greater understanding of what is required to complete an EIA, including how to ensure effective public consultation.

Compelling examples have shown that costs are reduced when local communities participate in the design and implementation of a project, and thus are more likely to understand and support the changes brought by the project (Herbertson, Ballesteros, Munilla, & Goodland, 2009). Thus, understanding and support from communities ultimately helps avoid conflicts and related costs. Project proponents have an interest in keeping project costs low and investing their limited resources effectively, but local communities have an equal interest in demanding strong environmental and social safeguards. These interests do not have to compete. If designed properly, public participation in EIA can help avoid costs by identifying project risks and establishing ways to resolve communities' concerns throughout the life of the project.

## I. Background

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While every national government in mainland Southeast Asia has in place, or is in the process of developing, legislation on EIA, experience from multiple stakeholder groups highlights that critical gaps still remain in the effective implementation of these laws, particularly with respect to meaningful public participation. Examples from development projects around the world illustrate that a company's ability to gain the approval of the host community can affect the project's success and have tangible and often significant financial and economic implications.<sup>2</sup> Furthermore, the business risks of local opposition to a project can be more significant than many of the other project risks that project proponents and financiers work to mitigate or insure against.

Globally, a number of large mining and agribusiness companies and their investors have begun to acknowledge the risks posed by conflicts in their supply chains, corporate reputations and profit lines, as well as the associated costs due to reputation and brand damage. However, to date, there have been too few companies operating in the Mekong region that have been willing to share their experiences which illustrate the financial and economic implications of these risks and lessons learned concerning public participation in EIA processes.

This report attempts to fill this gap by sharing conversations with company representatives with business in one or more Mekong country (Cambodia, Laos PDR, Myanmar, Thailand and Vietnam). The intention is to contribute information and insight for "making the business case" for those companies considering whether more meaningful engagement with stakeholders is worth the cost. It is also intended to be used by NGOs and other interested stakeholders who are seeking examples of good business practice in the context of the Mekong region which can aid in efforts to incentivize companies to improve stakeholder engagement throughout the EIA

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<sup>2</sup> See for example, Herz, S., A. La Viña, and J. Sohn. 2007. [Development without Conflict: The Business Case for Community Consent](http://www.wri.org/publication/development-without-conflict-and-the-business-case-for-community-consent). Washington, DC: World Resources Institute. <http://www.wri.org/publication/development-without-conflict-and-the-business-case-for-community-consent>  
Herbertson, K., A. Ballesteros, I. Munilla, and R. Goodland. 2009. [Breaking Ground: Engaging Communities in Extractive and Infrastructure Projects](http://www.wri.org/publication/breaking-ground-engaging-communities-in-extractive-and-infrastructure-projects). Washington, DC: World Resources Institute. <http://www.wri.org/publication/breaking-ground-engaging-communities-in-extractive-and-infrastructure-projects>

process. This report does not attempt to claim that the practices highlighted here are “best” or could not be improved for more effective and meaningful participation.

**Objectives of the Report:**

- Increase the cost and benefit evidence base for meaningful public participation in EIA/development decision-making in the Mekong region;
- Identify concrete examples of good practices for public participation in EIA; and
- Provide sound justification for expanding application of those good practices more widely.

## II. Participation Makes for a Better Business Model

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By and large, companies that integrate effective and meaningful public participation practice into their business model do so for similar reasons. These reasons fall into four categories: competitive advantage, risk management, maintaining a social license to operate; and/or contributing to a country’s social development goals (SDGs).

### A. Competitive Advantage

All respondents for this report agreed that in a resource constrained world, companies that demonstrate they can simultaneously extract resources and build communities through public participation will gain the competitive advantage. Companies interviewed for this report attributed a number of benefits to improved public participation, including: social license to operate, low levels of conflicts with and grievances from the communities, support from the government, streamlined access to finance, and avoidance of delays and disruptions. Together, these commonly cited benefits comprise a competitive advantage for the companies. All respondents generally see a clear link between social, environment and safety performance and productivity.

### B. Risk Management

Conflicts can be costly to a company. This is evident through both previously available documentation and regional examples. An empirical study of 19 publicly traded junior gold-mining companies found that two-thirds of the market capitalization of these firms was a function of the firm’s stakeholder engagement practices, whereas only one-third was a function of the value of gold in the ground (Henisz, Dorobantu, & Nartey, 2013).<sup>3</sup> Authors of the study argue that efforts to win the cooperation of and reduce conflict with external stakeholders through meaningful public participation in the EIA process can be seen as investments in political and

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<sup>3</sup> The analysis used panel data on 26 gold mines owned by 19 publicly traded firms over the period 1993-2008, coding over 50,000 stakeholder events from media reports to develop an index of the degree of stakeholder cooperation or conflict for these mines. By incorporating this index in a market capitalization analysis, they reduce the discount placed by financial markets on the net present value of the gold controlled by these firms from 72 to between 33 and 12 percent.

social capital. Such investments reduce opportunistic hold-up, enhancing the probability that a business plan can proceed on schedule and on budget and, ultimately, generate sustainable shareholder value.

In another study, the same authors stated that the most often overlooked costs are those resulting from the additional staff time needed, especially at the senior management level, when conflicts arise or escalate (Franks, Davis, Bebbington, Ali, Kemp, & Scurrah, 2014). For one company, the working assumption is that 5% of an asset manager's time should be spent managing stakeholder related risk. However, for one of its subsidiaries in an African country, it is 10–15%, and in one Asia-Pacific country the figure is as high as 35–50%. In other cases, senior management estimated that assets worth 10% or less of the company's income were demanding more than 80% of senior management time, including, in one case, the CEO's.

Conflict can often be traced back to unclear or uncertain land tenure rights. History has shown that companies that ignore land tenure rights expose themselves to potentially disastrous financial risks. Insecure land rights cause farmers to vacate land and avoid investments in productivity improvements. Businesses that address land rights issues not only protect vulnerable people's interests, but also ensure the continuity of their own activities. Addressing land rights begin with active public participation in the EIA process.

### **How much do conflicts cost?**

In 2012 the Canadian Gold mining company, Infinito Gold, lost permission to develop a mine as a result of the potentially significant impacts on agriculture, forests and endangered species. This led to a decrease in share value of 50% and a reference in the annual report to material uncertainties regarding the company's ability to continue. Similarly, human rights issues, such as public protests on labor or consumer issues can cause a 1% drop in stock prices in the days around the event (Hespenheide, 2013).

In the mining industry, according to data compiled by the International Council on Mining and Metals (ICMM), the number of reported mining-related community conflicts has increased by more than eight times since 2002, including in South East Asia (Franks, Davis, Bebbington, Ali, Kemp, & Scurrah, 2014). This research reports on the financial value at stake and shows that mining and hydrocarbon companies fail to factor in the complete costs of conflict. For example, as a result of conflict, a major, world-class mining project with capital expenditure of between US\$3 and US\$5 billion was reported to suffer roughly US\$20 million per week of delayed production in net present value terms.

### **How do land tenure issues affect business as usual?**

The Vietnam Rubber Group (VRG), faced issues when Global Witness lodged a complaint to the FSC certification body in September 2014 stating that local villages affected by VRG's rubber concessions lost vast tracts of land and forest and that the company was clearing forests with high conservation values. The complaint also alleged illegal logging, timber laundering, non-compliance with national laws and the use of child labor on the plantations. In May 2015, FSC removed VRG from its accredited list of companies and asked the company to correct its activities.

Following negotiations with Global Witness, which had found evidence that plantations run by the company's subsidiaries in Laos and Cambodia were illegally confiscating and allocating land, VRG agreed to establish a complaint mechanism. Complaints received suggested VRG had failed to consult with villagers about its operations or offer them adequate compensation for their land.

Identifying conflict-reduction mechanisms is in the longer term strategic interest of companies investing in high risk industries. The World Economic Forum's Global Risks Report 2014 assesses 31 high potential risks, and six of the top ten risks relate to environmental and social issues. Thus, more and more businesses are seeking to report on ESG risks to better identify gaps and opportunities and re-think their sustainability agenda (Moloney, 2014).

### **Banks and Stock Exchanges Value Sustainability**

Stock exchanges in China, Indonesia, Malaysia, India and Japan already have sustainability-related indices in place. Lately, financial sector regulators in Thailand, Singapore and Indonesia have started ensuring that their national commercial banks apply ESG lending standards to projects they finance, with a particular focus on the agriculture, forestry and land use (AFOLU) sector. And The Association of Banks in Cambodia (ABC) recently committed to develop and integrate sustainable finance principles into their banking practices.

As examples, the Singapore bourse has now established sustainability indices rankings for listed companies based on their ESG performance. And as an added incentive for compliance, HSBC now offers discounted finance for RSPO-certified palm oil.

Industry-specific reporting frameworks and standards exist to help companies disclose ESG risks, with relevant sections on public participation in EIA. These are used by a number of companies operating in the Mekong countries, either because of compliance or voluntary programs (IPIECA<sup>4</sup>, ICMM<sup>5</sup>, IRMA<sup>6</sup> draft 2.0 standard, GRI Mines and Metals).

Generally, international corporate firms tend to be more concerned about their reputation and ESG risks when compared to family businesses (a common

business model in the Mekong region). However, as national stock exchanges move towards sustainability reporting and countries strengthen their EIA requirements, all types of businesses will increasingly be subject to the same standards, including reporting on EIA management and public participation.

Further incentive for change is coming from banks and investors who are requiring their loan portfolio to meet ESG risk management criteria, placing responsibility on companies for ensuring they demonstrate best practices, including public participation in EIA. International financial institutions<sup>7</sup> have also begun to impose safeguards mechanisms (Stampe & McCarron, 2015) with strong public participation components.

## **C. Social License to Operate**

A social license to operate is achieved through a multi-stakeholder process with the active participation and contribution of government, companies, community and civil society to identify and respond to the needs of the communities (Ethical corporation, 2015). There is often considerable complexity involved in gaining and maintaining a

<sup>4</sup> <http://www.ipieca.org>

<sup>5</sup> <http://www.icmm.com>

<sup>6</sup> <http://www.responsiblemining.net>

<sup>7</sup> The IFC performing standards, the ADB, the Equator Principles refer to meaningful public participation as a condition to cost avoidance.

social license, but, the challenges can usually be overcome if the process is properly conducted and supported by strong public participation.<sup>8</sup>

A social license to operate is intrinsically connected to the manner in which a company engages with impacted communities. Companies can best obtain and retain social license to operate through use of a long-term public participation process throughout the project cycle.

## D. Contributing to Social Development Goals

When communities have the opportunity to collaborate with project proponents during the design and implementation of a project, companies can more effectively identify and mitigate potential impacts, prevent harm, and shape the project to fit local conditions. Communities, in turn, can have a voice in determining how a project fits their development priorities.

Companies that start from the premise that there is real business value in solving societal needs and integrating social development goals (SDGs) into its bottom line through the development of a service rather than an asset, find expanded opportunity for longer term, sustainable growth for both the company and society.

### **Information Sources and Research Challenges**

The information serving as the basis of this report is drawn from the following sources:

- Interviews with company representatives offer insights into company perspective and practice in relation to public participation in EIA.
- Meeting minutes from Pact/MPE private sector consultations;
- Newspapers and other news media;
- Corporate information;
- EIA consultant feedback;
- Industry websites and media; and
- NGO and watchdog reports.

Even with this wide range of sources, research challenges remain due to:

- Lack of published and accessible information on costs and benefits of best practices in public participation
- No common industry standard or language for public participation
- Difficulty in calculating the monetary value of environmental services

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<sup>8</sup> Difficulties arise most frequently when companies are unable or unwilling to make the nominal investment to make things work. The company sees gaining a social license in terms of a series of tasks or transactions (in effect, making a deal), while the community grants the license on the basis of the quality of the relationship – a cultural mismatch that risks failure. Also, companies often confuse community acceptance for approval, co-operation for trust, and technical credibility with social credibility.



### III. Public Participation in EIA: Maximize the Business Benefit

Going beyond the Rio Declaration<sup>9</sup> and other national legal documents on public participation in EIA can reduce the company risk. This is because these documents do not necessarily provide sufficient detail or guidance on what constitutes effective and meaningful participation from the perspective of impacted stakeholders. This chapter outlines considerations and actionable steps for conducting meaningful and effective public participation based on international best practice. Importantly, practical examples from companies operating in the Mekong are provided and incorporated into the analysis.

The success factors for meaningful public participation presented here are recommendations for companies preparing community/stakeholder engagement plans. For additional information and approaches for effective participation, companies and other stakeholders can refer to the *Guidelines on Public Participation in Environmental Impact Assessment in the Mekong Region*<sup>10</sup>, developed by the [Regional Technical Working Group](#) (RTWG) on EIA comprised of 25 government and non-government members from Cambodia, Laos, Myanmar, Thailand, and Vietnam. The Guidelines were developed with support of the United States Agency for International Development (USAID)-supported Mekong Partnership for the Environment (MPE) program, the publisher of this report.

The table below summarizes the challenges, solutions, key success factors and benefits of meaningful public participation:

**Table 1: Comparative Analysis for Public Participation (PP)**

Challenges	PP Solutions	Benefits of PP	Key success factors
Consultations/engagement with stakeholders do not yield useful and/or needed information for specific EIA process step (i.e. screening, scoping, investigation, etc.)	Adopt a clear strategy for PP that allows for sufficient time with stakeholders and uses approaches reflective of level of participation required	<ul style="list-style-type: none"><li>• Build trust, strong relationships and a common understanding among parties</li><li>• Information shared/received improves project design and mitigates impacts</li></ul>	<ul style="list-style-type: none"><li>• Hire skilled EIA consultants</li><li>• begin with a clear tor</li><li>• Dedicated budget</li><li>• Define the level of engagement</li><li>• Start early in the project lifecycle</li><li>• Continue process through project lifecycle</li><li>• Allow enough time for feedback</li></ul>

<sup>9</sup> The Rio Declaration 1992, Principle 10, states that “*Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.*”

<sup>10</sup> <http://www.pactworld.org/library/guidelines-public-participation-eia-mekong-region>

Challenges	PP Solutions	Benefits of PP	Key success factors
Lack of company knowledge about local context	Social surveys	<ul style="list-style-type: none"> <li>• Information access at low cost</li> <li>• Local knowledge is valued</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct at/before scoping step</li> <li>• Update every year</li> <li>• Clarify land tenure</li> </ul>
Wrong stakeholders participate in the EIA process	Stakeholder mapping to define expectations, responsibilities and decision making processes	<ul style="list-style-type: none"> <li>• Helps target development plan</li> <li>• Improves community support</li> <li>• Social license to operate</li> </ul>	<ul style="list-style-type: none"> <li>• Use inclusive process involving vulnerable groups</li> <li>• Clarify decision making process and government role</li> <li>• Be objective</li> <li>• Consider transboundary impacts</li> </ul>
Communities do not understand EIA and PP procedures	Build capacity of the communities to gain active participation	<ul style="list-style-type: none"> <li>• Risk of conflict decreased</li> <li>• Informed decisions based on local knowledge</li> <li>• Prevents delays builds trust</li> <li>• Increase local ownership of decision-making process</li> </ul>	<ul style="list-style-type: none"> <li>• Include local leaders</li> <li>• Organize site visits use social survey knowledge</li> <li>• Management tools mentoring from international to local EIA consultants</li> </ul>
Low literacy rates and/or language barriers increase misunderstandings and create opportunity for spreading false information	Engage and communicate effectively using local language	<ul style="list-style-type: none"> <li>• Builds trust with communities</li> <li>• Improves quality of feedback</li> </ul>	<ul style="list-style-type: none"> <li>• Combine ad-hoc meetings and formal consultations</li> <li>• Ensure information is accessible, inclusive, culturally appropriate</li> <li>• Use multi-stakeholder platforms</li> </ul>
Conflicts escalate and create unexpected costs	Establish a formal grievance mechanism and provide opportunities for collaboration on project design. Consider applying Free Prior and Informed Consent (FPIC) methodology as appropriate	<ul style="list-style-type: none"> <li>• Grievances decrease</li> <li>• Escalation of conflict is avoided</li> <li>• Operations are secured</li> <li>• Lower cost</li> </ul>	<ul style="list-style-type: none"> <li>• Clear and robust mechanism</li> <li>• Easy and low cost access for communities to raise grievances</li> <li>• Record and report outcomes</li> <li>• Management support of process</li> <li>• Address the right questions</li> <li>• Follow international best</li> </ul>

Challenges	PP Solutions	Benefits of PP	Key success factors
			practice <ul style="list-style-type: none"> <li>• Demonstrate good faith</li> <li>• Allow adequate time for deliberation on impacts</li> <li>• Consider a formal agreement with community</li> </ul>
M&E of Environmental Management Plan (EMP) is costly	Participatory M&E using communities as a resource	<ul style="list-style-type: none"> <li>• Permanent and locally based capacity for M&amp;E</li> <li>• Cost effective way to measure impacts</li> </ul>	<ul style="list-style-type: none"> <li>• Train the communities</li> </ul>

## A. Engage Stakeholders Throughout the Project Lifecycle

### Benefits of Engaging Stakeholders Throughout the Project Lifecycle

- Builds trust among stakeholders
- Provides time for informed reactions and recommendations
- Allows opportunity to alter plans in response to stakeholder feedback

The timing of public participation is key, both in the sense of when participation is welcomed and for how long. Stakeholder engagement is a process that continues even after the project completes the EIA and moves into implementation. Affected communities in particular should feel that their voices have been heard through the entire lifecycle of a project, from the project concept, through prefeasibility, feasibility, construction, operation, and decommissioning.

### Early Engagement

By engaging affected communities early, maintaining engagement during each phase of the project cycle, and providing sufficient time for feedback, proponents can create stronger, more trusting relationships with those communities. Early involvement helps project proponents and communities better prepare for and respond to changes that occur over the life of the project, avoiding surprises that lead to costly confrontations and delays.

Project proponents should keep in mind that the degree of difficulty in community engagement work likely increases over time. For instance, Kemp and Owen (Kemp & Owen, 2013) identified the construction phase as the most difficult and disruptive for local communities. As such, companies' community engagement teams should be able to adapt to increasing levels of complexity throughout the project.

Furthermore, enabling public participation throughout the entire EIA lifecycle allows for the possibility that the plan/design might need to be changed in response to community feedback.

### Sufficient Time for Preparation

In addition to beginning engagement early, it is essential to allow sufficient time for stakeholders to prepare for meetings. Stakeholders who are informed well in



advance of consultations and provided with informative materials, will yield more effective consultations that help the project developer to understand potential risks and impacts.

### **PanAust Engages Stakeholders Early, Establishes Trust**

During the exploration phase for the Phu Bia Mining project in Laos (1995-1996), best practices for public participation in EIA were rarely discussed. PanAust sought out the best available standards in the industry, the IFC Performance Standards, and used international consultants to conduct the ESIA's. By following best practices and actively engaging stakeholders for 3-4 year prior to commencing operations, PanAust was able to establish trust and build relationships with stakeholders. This early engagement helped all parties reach a common understanding of the projects benefits and challenges, resulting in a low number of grievances concerning the project.

## **B. Plan to Maximize Stakeholder Engagement**

### **Benefits of Strategic Planning for Public Participation**

- Community support for the project as a whole can be improved
- Identification and management of environmental and social risks improved

### **Define the Level of Engagement**

Depending on the size and scope of the project, the project developer needs to adapt the amount and type of engagement. By determining which stakeholder engagement strategies are most appropriate at each point in the EIA and monitoring process, it is more likely that an outcome that satisfies both the proponent and communities will be reached.

### **Consultants Alone Cannot Run Consultations**

Although MPRL E&P enlisted the aid of professional EIA consultants to help with stakeholder consultation workshops, one of the lessons the company learned is that it is the company's responsibility to introduce itself directly to the communities in Myanmar, rather than through the EIA consultant. Small steps such as these provide transparency and accountability, forming stable ground for trust building.

### **Get technical support from professionals**

Using skillful and flexible facilitators to run the stakeholder consultation workshops can help them run smoothly. A combination of international and local EIA consultants that bring technical expertise and cultural understanding is ideal.

If the project proponent prefers to use company staff rather than consultants to run the consultations (which is often the case for smaller projects), the staff need to have the knowledge and skills to explain about impacts of the projects to the community and the environment.

### **Define and communicate meeting objectives**

Using a terms of reference for both EIA processes and public participation can help define the scope, level of engagement, resources needed, stakeholders, activities,

schedule and expected results for all stakeholders. Consultation meeting objectives, which can be achieved over the course of several meetings, may include:

- Collecting information for identification of stakeholders and potentially affected persons;
- Collecting baseline social and environmental data and information;
- Informing stakeholders and potentially affected persons about the project and its likely impacts;
- Recording public concerns about the project;
- Recording ideas for impact mitigation; and
- Maximizing any environmental or social benefits of the project

## C. Understand the Local Context

### **Benefits of Understanding the Local Context**

- Baseline studies of local context can help target services to meet needs
- Local knowledge of land, weather, etc., can benefit project operations

Before designing and implementing a public participation plan, project proponents should have a full understanding of the local socio-economic needs and challenges as well as land use history and practice, including local and indigenous land rights and resource use practices, both legal and customary.

### **Baseline Surveys**

#### **PanAust Realigns Plans Based on Socio-economic Surveys**

PanAust's operations team conducts periodic socio-economic surveys of household heads and community leaders to better understand issues and community living standards. The surveys provide an important mechanism to build an understanding of the needs and expectations of host communities to inform priorities and initiatives, and to assess the extent that stakeholders believe their concerns are effectively addressed.

The most recent survey, conducted in 2015, covered the three villages in closest proximity to the Company's operations in Laos; namely Nam Gnone and Nam Mo near to Phu Kham and Nasaysavang near to Ban Houayxai. The survey results reinforced the importance of realigning the Company's community development fund program to focus on these villages in the lead up to and post-closure (per recommendations made in a 2014 independent assessment).

Investing in baseline social surveys as early as possible is a best practice. Studies can help identify needs for essential services, capacity building, alternative livelihoods, and understanding of the industry operations. With this information in hand, project proponents can more efficiently target the services provided, saving time and money. Surveys should be updated every year or every two to track progress, community development, changes in habits or needs, and challenges.

It is also important to understand and recognize other ways in which the environment may be valued by the communities in order to design and implement community engagement plans that allow these values to be preserved. For example, land may hold significant religious and spiritual value or medicinal plants may be used as health treatment. These types of ecosystem services may be used as offset

mechanisms or as part of shared value schemes to generate income both for the communities and the company.

### **Appropriate Communication Methods**

Understanding the local context can ensure that the communication methods used by the project proponent are appropriate. People need to feel that they can comfortably and freely take part in the engagement process. To achieve this, project proponents should consider the appropriateness the following, based on the local context: venues, timing, formal vs. informal processes, and provision of support for participation (e.g. child care; transportation to meetings).

## **D. Map Directly and Indirectly Impacted Stakeholders**

### **Benefits of Stakeholder Mapping:**

- Clarifies decision making processes and actors
- Ensures relevant stakeholders are invited to participate
  - Defines stakeholder roles
- Helps target benefits to avoid un-necessary spending

Stakeholder mapping and analysis is a critical step in the public participation process and involves matching interested parties to particular issues using a risk assessment matrix. Stakeholder mapping is a complex exercise that aims to identify key stakeholders that may be affected by a project and understand their roles, influence, interests, and the potential costs and benefits they may face. This requires as much objectivity as possible. The process includes discussions with key NGOs and government representatives, researching media coverage of issues, review of company information, among others. Social surveys, done during project pre-feasibility, may anticipate risks and help define the stakeholder mapping boundaries.

Stakeholder mapping helps to anticipate and manage a number of risks. For example, while project proponents may seek to respect local decision-making structures, such as councils of elders, these structures may contradict international standards promoting inclusion of women and minority groups. Often groups excluded from a project's community engagement are those traditionally marginalized within existing community, local, and national politics such as women, ethnic, and nomadic groups (Herbertson, Ballesteros, Munilla, & Goodland, 2009). Additionally, even if a proponent complies fully with host government laws, projects can still have adverse impacts on local communities, especially traditionally marginalized groups.

### **Inclusivity**

The project proponent should deliberately involve vulnerable groups (e.g. the poorest; the disabled; those without land or access rights; women, young people or the elderly). These sub-groups of stakeholders may otherwise be left out of consultation processes. Techniques from gender impact assessments and gender audits may help with addressing the needs of women and other vulnerable groups. If this step is omitted, project proponents risk that the project will not effectively meet stakeholder needs, resulting in harm to communities or the environment, costs to re-build or re-do project components, allegations of wrong-doing or human rights abuses from advocacy groups, and reputational damage.

### **Identify Decision Making Processes and Actors**

Best practice for developing a clear strategy for stakeholder mapping uses a proper methodology with questions such as who to invite, at what stage, for what purpose,

in what language, in what location, and at what time. Special care should also be taken to balance international and local agendas, so that international issues do not overshadow the needs of local communities.

A successful stakeholder mapping will clarify the roles and responsibility of key actors including project proponents, EIA consultants, EIA authorities, local authorities and/or sector agencies. An important step in the process is identifying local mechanisms for decision making. Understanding existing processes as well as local 'gatekeepers' who may have the ability to control the participation process is key. Participatory mapping to identify different interests groups within the community may help to identify local leaders and decision makers.

#### **PanAust Expands Stakeholder Mapping to Include Relevant Players**

In the 1990s, PanAust initially relied on EIA consultants to run stakeholder mapping, which sufficed when the company's operations were in the early stages. But as the company's operations expanded, so did its stakeholder boundaries. As a result, PanAust now manages stakeholder mapping internally and has expanded the scope to include international NGOs such as WWF, Oxfam, WCS and Interplast and bilateral and multi-lateral organizations such as Norwegian Church Aid, DFAD, ADB, IFC. The most difficult part, according to PanAust, is managing occasionally divergent stakeholder dynamics and interests.

#### **Clarify Government Role**

It is important to reach a fair and balanced representation of all stakeholders, including government. Involvement of provincial/state/local departments is important for EIA as they have first-hand technical knowledge of the local issues, so their inputs inform and improve the quality of the process. However, they often do not understand their role and scope, and lack of awareness of and skills for EIA. Local government may need a push and/or a mandate from the national government to take responsibility for their role in public participation. In addition, training on EIA and public participation should be extended to provincial/state/local governments so that they understand the process.

### **E. Establish a Relationship Early with Public Authorities**

#### **Benefits of Establishing a Relationship with Public Authorities:**

- Government actors can help with public participation process, facilitating communication with communities
- Government officials can be a source of local knowledge

#### **Maintain a Positive Relationship**

Maintaining a strong working relationship with government, local and national, is an important priority for companies throughout the region. In some instances, host governments may act as project proponent or play an active role in a proponent's community engagement activities (Herbertson, Ballesteros, Munilla, & Goodland, 2009, p. 14). In this capacity, government officials can serve as an important source of local information, may lead consultations during environmental and social impact assessments, and provide licenses and permits. Often, proponents will rely on local government officials to facilitate communication with communities. This in turn may avoid costs to the company, saving them time and resources.

### **Cooperation with Local Authorities Eases Flow of Information**

Through its experiences as an EIA consultant in Vietnam, PECC1 has learned that the support of local authorities is essential. Because of the centralized information system in Vietnam, when local authorities are well informed, trained, and understand and support the project, meetings with communities run more smoothly and information flows more easily.

### **Avoid Solely Relying on Government**

However, project proponents that rely on government officials as the sole representative or intermediary when conducting community engagement can face increased risks. Some officials may not have the capacity to understand and communicate the project's impacts. Others may be susceptible to bribery, corruption, and conflicts of interest, or may not speak on behalf of the interests of minority groups and other stakeholders. Substantial costs may arise when companies exclusively rely on public authorities.

## **F. Prepare Stakeholders for Active Participation**

### **Benefits of Prepared Stakeholder:**

- Prevents unexpected delays and problems later in the project cycle
  - Improves the efficiency of the process
    - Better informed inputs
    - Decreased risk of conflicts
  - Improved relationships and trust

### **Stakeholder Capacity Building**

Capacity building prior to public consultations can help ensure that stakeholders are sufficiently prepared and informed to make decisions, lessening the chance of surprises later in the process. Through stakeholder mapping, project proponents can identify which stakeholders need capacity building and what topics should be covered.

However, giving people information is not the same as ensuring that they have knowledge to make informed decisions. Before beginning formal engagement on substantive issues such as management of impacts, compensation amounts, and benefit programs, project proponents need to prepare communities and their own employees for the process. Project proponents should anticipate that the first stakeholder consultation may turn into a basic training (see example: "Public Consultation Turns into Capacity Building"). Ideally, trainings should include issues at large, such as processes involved in community engagement, what is the purpose of environmental and social impact assessment, and phases of project development.

### **Public Consultation Turns into Capacity Building**

While conducting a public consultation for their project in the northern mountains of Vietnam, PECC1, a power generation company, came to realize that the local people's knowledge of how development projects and the EIA process works was limited. As a solution, the company conducted several additional meetings to explain their survey plans and how they would determine damages, land compensation and a resettlement plan. PECC1 believes that Vietnam's new EIA law has made progress by giving the project proponent the responsibility for making sure communities are aware and informed. The law helps to anticipate misunderstandings by requiring community consultations.

Local leaders and administrators can also benefit from being included in this capacity building exercise to strengthen their understanding of the public participation in EIA process.

### **Site Visits, Lessons Learned, Mentoring**

Several other techniques can help build stakeholder capacity. Site visits by community representatives to similar projects can be a way to demonstrate to communities the project development process. Collecting case studies and lessons learned and summarizing them in an accessible way can help with continuous learning and knowledge management. Finally, consider offering mentoring of local consultants by international consultants to help build capacity for delivery of higher quality products.

## **G. Use a Variety of Communication Methods**

### **Benefits of Using a Variety of Communication Methods:**

- Stimulates more comprehensive participation by all stakeholders
  - Avoids risk of miscommunication and rumor
  - Helps surmount political or other barriers

### **Local Context**

The frequency, venue, type and method of engagement depend on the local context. The time and venue for meetings should be convenient and not disruptive of communities' way of living. For example, meetings will be more effective if they are held before or after the work day and at a neutral venue. Incentives other than money, such as food, may be offered to attract community members to attend. Project proponents might consider the use of intermediaries to help understand the ethno-development, cultural, and community dynamics to determine the best course of action.

### **Language and Literacy**

Language can be a communication barrier. Technical or complex terms are difficult to translate in local languages and often indigenous groups may not speak the national language. During public consultations, it may be necessary to provide written materials and presentations in multiple languages (MCRB-PACT, 2016). Translators and interpreters should be organized at the cost of the project proponent.



Furthermore, stakeholder illiteracy may factor into how information is communicated. Information should be simple and clear, supported by material, appropriate for the education and literacy levels of communities and the communication styles of indigenous people. It should also be made accessible,<sup>11</sup> inclusive<sup>12</sup> and culturally appropriate. This may require the use of imagery, cartoons, videos, and other communication methods.

### **Glow Uses Regular and Reinforcing Communication**

Glow (see Case Study E) says “Solving conflicts before they happen is good for business. It helps companies to develop new products and services” (Engie Glow, 2015). The company determined the frequency of engagement to enable regular communication with stakeholders on key issues. They adapt the frequency of meetings as needed. Additionally, they reinforce their messaging and engagement through a variety of communication methods, such as tri-partite committee meetings, EIA monitoring committee meetings, knock-door meetings, plant visits and other informal communication channels.

### **Ad-hoc and Informal Meetings**

A combination of informal, ad-hoc meetings with more formal consultations may be appropriate. Different stakeholder groups may have different requirements and the processes chosen should meet the needs of the different stakeholder groups. Informal consultation should include regular discussions with local residents and local government staff.

Some people may feel uncomfortable speaking in front of other, more authoritative members of the community. Separating smaller focus groups for women, young people, disadvantaged groups, etc., may be necessary, as well as focus group by occupation or role in the community, for example, separate groups for farmers, fishers, or families. Smaller, more intimate meetings may encourage questions and avoid negative pressure from influential people.

### **Formal Consultation**

The EIA laws of the Mekong countries require a series of formal meetings at various stages in the process. These formal meetings are not considered sufficient in and of themselves, but rather part of a longer process of stakeholder engagement. Contact details for the company should be given in local language for post-meeting questions and concerns that emerge after stakeholders have a chance to reflect on what they heard and learned.

Contact details should be given in local language for post-meeting questions and concerns that emerge after stakeholders have a chance to reflect on what they heard.

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<sup>11</sup> In reference to grievance mechanism or engagement processes, means being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.

(Source: United Nations Office of the High Commissioner for Human Rights. 2011. Guiding Principles on Business and Human Rights. <http://www.business-humanrights.org/Documents/UNGuidingPrinciples>)

<sup>12</sup> In the context of stakeholder engagement, means that engagement includes men, women, the elderly, youth, displaced persons, vulnerable and disadvantaged persons or groups. (Source: Definition is based on text in IFC Performance Standard 1).

### **Dedicated Institutional Frameworks**

On long-term projects, to maintain quality communication channels, some companies opt to establish dedicated organizational mechanisms for community engagement, such as panels, that act as a continuous discussion arena for company and community representatives.

#### **Dow Chemicals Thailand Establishes Community Advisory Panel**

Dow Chemicals Thailand began emphasizing community engagement based on lessons from Map Ta Phut, installing a two-way communication approach aimed at 100% community acceptance by 2020 (Dow Chemicals, 2014). The company created space for discussion through a Community Development Project with a Community Advisory Panel (CAP) that bolsters the confidence of communities near the company's facilities. Community members can ask questions and provide comments to the CAP, which shares the feedback with operations. Communities can also raise concerns, which the company can further develop into community development projects. Currently, Dow Thailand has two community advisory panels. The first one, formed in 2010, is at the Asia Industrial Estate and the other, formed in 2011, is at the Map Ta Phut Industrial Estate.

IRMA's second standard on responsible mining states, "The operating company shall collaborate with stakeholders, including representatives from affected communities, to design and form a permanent stakeholder advisory committee (or its equivalent), to provide oversight of the mining project's environmental and social performance, and/or input to the company on issues of concern to stakeholders." Similar committees may work in other industries, but not be necessary in all cases.

### **Multi-stakeholder Initiatives**

Recently, the emergence of multi-stakeholder initiatives (MSI) has provided another means for communicating with stakeholders. MSIs serve as credible, trusted, neutral bodies that can help facilitate stakeholder engagement in an independent and impartial way. An MSI can help ensure fair, balanced, and productive exchanges between different parties and can help implement effective governance procedures for longer-term or more complex interactions. Engagement through an MSI may be useful in situations where companies find it politically difficult, inappropriate, or unwelcome to engage directly with national governments or other parties.

#### **Socfin-KCD Institutes Multi-stakeholder Initiative**

Since 2012, Socfin-KCD faced acute social conflicts, having been accused by human rights group of pressuring villagers of Busra commune in Monduliri, Cambodia into selling their land and encroaching on their ancestral land. In August 2014, the court heard the dispute and the UN Human Rights Representative in Cambodia visited the Bunong villagers in Monduliri province. The conflict and the effects on the indigenous communities have been widely documented in the press, reports (FIDH, 2011) and documentaries (Poree, 2014).

To remedy the situation, beginning in December 2015, the company has been utilizing a multi-stakeholder initiative, convening representatives from the government, civil society, community groups, environment and human rights NGOs, under the umbrella of the OHCHR (Office of the High Commission for the Human Rights). This method is nascent and a first in Cambodia, but its purpose is to set social and environmental standards, monitor compliance, promote social and environmental disclosure and encourage stakeholder dialogue and social learning through mutual exchange of ideas and experiences.



## H. Employ a Robust Grievance Mechanism

### **Benefits of Employing a Robust Grievance Mechanism:**

- Improved management of ongoing project risks
- Reduces amount and severity of conflicts
  - Reduces costs from conflicts

Grievance mechanisms are a systematic method for recording, negotiating, and resolving disputes between project proponents and local communities. Grievances can arise at any stage of the project cycle, and it is impossible to anticipate or resolve all potential grievances during initial planning and design. In the absence of a grievance mechanism, claims can escalate to courts and result in unexpected costs and delays for the company. In practice, companies have built on lessons learned and established grievance mechanisms after facing acute conflicts.

### **Elements for Effectiveness**

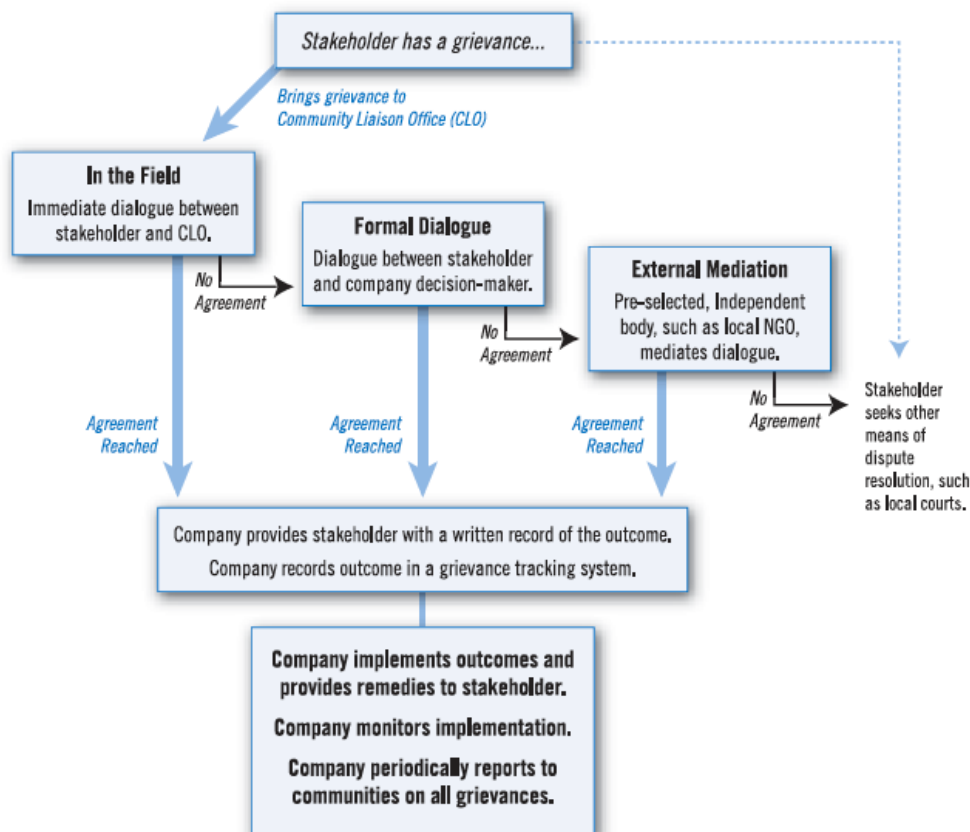
To be effective, grievance mechanisms should follow the criteria outlined in Principle 31 of the United Nations Guiding Principles on Business and Human Rights. Namely, they should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue. The grievance procedures need to be clear enough for a proponent's staff and local communities to understand, while ensuring that the procedures are sufficiently robust to support the resolution of complex and controversial disputes. An effective grievance mechanism will bring together communities and company decision-makers in dialogue, rather than either side attempting to resolve the issue unilaterally.

### **PTTEP Reduces Conflicts Through Two-Way Grievance Mechanism**

PTTEP, a mining company working in Northeast Thailand, recently launched Issue and Stakeholder Management System (ISMS), a two-way communication tool for addressing conflicts with communities. ISMS facilitates analysis, planning, measuring and monitoring potential social impacts.

In 2015, PTTEP deployed ISMS on its Sinphuhom Project, which spans two provinces (Udon Thani and Khon Kaen). PTTEP recognized the importance of active engagement to identify issues pertinent to stakeholders and its business. It was used as an opportunity to educate, explain exploration and production procedures to the communities.

The communities had fewer concerns about the social impacts of PTTEP operations and key risk indicators showed PTTEP had no conflicts with communities for the entirety of 2015. (PTTEP, 2015).



**Figure 1: Example of a project-level grievance mechanism (Herbertson, Ballesteros, Munilla, & Goodland, 2009)**

An effective grievance mechanism can have several steps and take various routes to resolution or agreement. Building personal relationships through informal dialogue can be an effective risk mitigation strategy. Project proponents might hire a “community liaison officer” (CLO), for example, to visit communities regularly, develop relationships with community members, and serve as a familiar face who can help resolve grievances as the company’s point-of-contact.

### **Cultural Appropriateness**

To ensure the formal grievance mechanism is culturally appropriate, involving communities in the mechanism’s design is a good strategy. From the outset, proponents should also clarify what remedies are available; set aside adequate budget and staff resources for the mechanism; build community capacity to understand the project’s environmental and social management plan; and agree to jointly review the outcomes of the grievance mechanism with communities on an annual basis.

### **Independent Third Party**

Grievance mechanisms may utilize an independent third party, such as an external, independent body, such as a mediator, arbitrator, ombudsman, or court, in circumstances in which trust between the project and the stakeholders is broken. This can create a degree of uncertainty for project proponents, but can also lead to a less adversarial and more constructive relationship with communities. For example, the International Finance Corporation (IFC) has established independent recourse mechanisms or ombudsmen to address local grievances related to projects.

## Management Involvement

From the case studies, it is clear that management involvement is a key success factor for a grievance mechanism. Given the importance of the issues and costs at stake, the grievance mechanism should be designed together with an internal corporate system that enables rapid escalation to senior management on pressing issues.

### **MPRL E&P's Mann Field Grievance Mechanism Considered Promising**

Launched in 2014 and adjusted after its pilot phase by MPRL E&P, an oil and gas company operating in Myanmar (see Case Study C), the Mann Field Grievance Mechanism's objective is to enable local communities to have a voice and to ensure impacts associated with operations are monitored and effectively addressed (CSR Asia, 2016).

In March 2015, MPRL E&P began tracking the Mann Field Grievance Mechanism's performance against key indicators. The tracking found that they were meeting targets for the average time to acknowledgement (3 days) and exceeding targets (50%) for the level of satisfaction reported by complainants on the grievance process and outcome. However, they learned that progress remains to be made in stakeholder understanding of this communication channel. Overall, though, the first of its kind in Myanmar mechanism is considered promising.

## I. Conduct Participatory Monitoring and Evaluation

### **Benefits of Conducting Participatory M&E:**

- Provides communities with greater technical understanding and a credible source of information about the project
  - Improves local capacity at the project site
- Serves as cost effective way of monitoring and evaluating an EIA management plan

Participatory monitoring is a process through which local communities systematically track the impacts of a project, and work jointly with proponents to resolve any concerns that are detected. It may involve activities such as scientific sampling, consultations with local community members, and review of the proponent's commitments in the environmental management plan and the impact benefit agreement.

### **Technical Training**

In many cases, local communities do not have sufficient technical understanding to run these activities. Proponents can resolve this issue through training for community members. Project proponents should fund the creation of and training for independent participatory monitoring mechanisms. Capacity issues can also be resolved through use of multi-stakeholder monitoring teams, which might include local community representatives, government officials, and independent experts.

### **MPRL E&P Supports Participatory Monitoring Through VDCs**

MPRL E&P provides supports for Village Development Councils (VDCs) in Myanmar to be trained in monitoring and evaluation, among other skills. The volunteers introduce and manage the grievance mechanism within their community and report the findings to the company and other stakeholders. MPRL E&P finds that putting responsibility in the hands of the communities also helps them to better understand the company's perspective, challenges, and lessons learned.

### **Sharing Findings**

Reporting on findings might take the form of community presentations, score cards, or any method that is culturally appropriate and tailored to the community's unique situation. In addition, specific guidelines on M&E should be instituted to ensure there is follow up and complaints/ concerns are closed.

## **IV. Perspectives: Interviews with the Companies**

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In September 2016, eight companies were interviewed to gather information on their experience and lessons on the importance of public participation in EIA in the Mekong region. The analysis presents key features of public participation, a cost-benefit analysis, lessons learned and how best practices may translate into a business case.

The eight companies were selected according to the following criteria:

- They cover three key industries in the five Mekong countries and represent different stages of project development, from pre-EIA to post-decommissioning;
- They represent a wide spectrum of challenges, benefits, lessons learned and key success factors of meaningful EIA public participation;
- They have available data and are willing to share it; and
- They were available at the time of the report and willing to contribute to the research.

The perspectives presented here contain information that was provided by the company representatives during interviews or was released by the companies in annual and sustainability reports. The information shared here does not constitute an endorsement of the project, but rather the intention is to contribute to the body of evidence for building the case that increasing meaningful and effective public participation is good for business. Specifically, the sharing of cost and other data for better understanding of all stakeholders as to how much short term monetary investment is made by companies in relation to the longer term benefits gained by effective public participation.

## A. PanAust, Laos

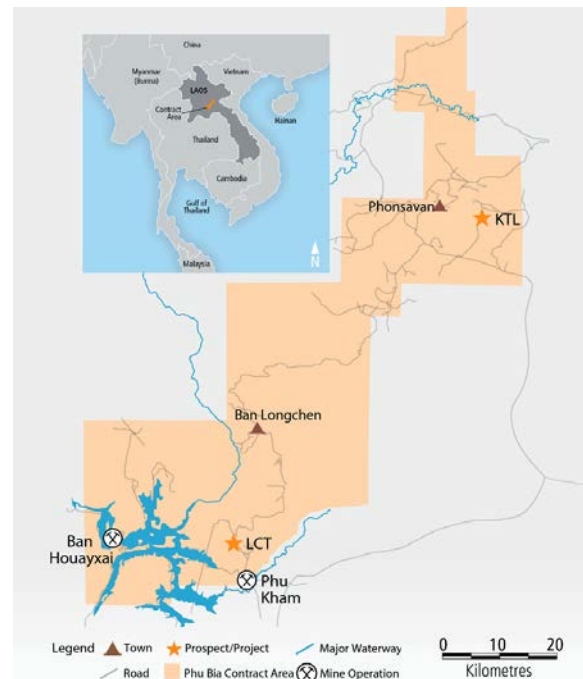
### **Background**

Phu Bia Mining Ltd., a subsidiary of PanAust Limited, has a mineral exploration and mining agreement for the 2,600 square meter Phu Bia Contract Area in central Laos. PanAust is an Australian incorporated company that is owned by Guangdong Rising H.K. (Holding) Limited, a subsidiary of GRAM Co. Ltd, a Chinese state-owned company.

PanAust owns a 90% interest in Phu Bia Mining Ltd; the Government of Laos owns the remaining 10%. The producing assets are the Phu Kham Copper-Gold Operation and the Ban Houayxai Gold-Silver Operation.

The Phu Kham Copper-Gold Operation comprises an open-pit mine feeding ore to a process plant with recovery of copper and precious metals into a saleable concentrate using flotation technology. The concentrate is then trucked to ports in Viet Nam and Thailand for export to smelters. The Ban Houayxai Gold-Silver Operation is located approximately 25 kilometers west of Phu Kham and comprises an open-pit mine feeding ore to a conventional 4 million tons per annum carbon in leach (CIL) process plant.

PanAust's experience with stakeholder engagement in preparation for the Phu Bia Mining project spanned a period of 15 years. A concession agreement was signed in 1994 and PanAust commenced preparation of their first ESIA in 2001-2002 when regulations, requirements and international benchmarks were substantially different than today.



**Figure 2: The Phu Bia Contract Area**

### **Experience with EIA**

#### *Early Engagement*

At the time PanAust was in the exploration phase for the Phu Bia Mining project (1995-1996), best practices for public participation in EIA were rarely discussed. PanAust sought out the best available standards in the industry, the IFC Performance Standards, and used international consultants to conduct the ESIA for Phu Kham (2006) and Ban Houayxai (2010). By following known best practices and actively engaging stakeholders for 3-4 year prior to commencing operations, PanAust was able to establish trust and build relationships with stakeholders. This early engagement helped all parties reach a common understanding of the projects benefits and challenges.

#### *Stakeholder Social Surveys*

For all its Phu Bia projects, PanAust staff conduct periodic socio-economic surveys

of household heads and community leaders to better understand issues and community living standards (PanAust, 2015). These are not limited to being conducted solely in during the EIA process. PanAust conducted baseline socio-economic surveys in communities near Phu Kham in 2005, Ban Houayxai in 2010 and Phonsavan in 2012. They followed up with household surveys at Phu Kham in 2007, 2008, 2010, 2012 and 2015 and at Ban Houayxai in 2012 and 2015. The surveys provide PanAust insight into the needs and expectations of the host communities, which informs project priorities and initiatives. In addition, the surveys help assess the extent to which stakeholders believe their concerns are effectively addressed by PanAust.

#### *Tailored Communication Methods*

PanAust's EIA consultants ran a series of public consultations involving all types of stakeholders, making special effort to accommodate vulnerable groups and ensure transparent and fair discussions. Accommodations included meeting separately with women and elders as well as holding meetings with and without commune chiefs and government representatives. In addition, handouts in Lao and other local languages were distributed in advance of the meetings to better prepare communities to provide thoughtful feedback. PanAust used videos to accommodate a non-literate audience and they recorded discussions. PanAust also facilitated community engagement by recruiting locals to serve in front-line community liaison roles. These Lao-national employees better understand local cultural and linguistic nuances, which strengthened community engagement outcomes.

#### *Expanded Stakeholder Mapping*

In the 1990s, PanAust initially relied on EIA consultants to run stakeholder mapping, which sufficed when the company's operations were in the early stages. But as the company's operations expanded, so did the number of stakeholders. As a result, PanAust now manages stakeholder mapping internally and has expanded the scope to include international NGOs (such as WWF, Oxfam, WCS, Interplast) and bilateral and multi-lateral organizations (Norwegian Church Aid, DFAD, ADB, IFC). The most difficult part, according to PanAust, is managing occasionally divergent stakeholders' dynamics and interests. A good solution is to have a long-term view of stakeholder engagement.

#### *FPIC*

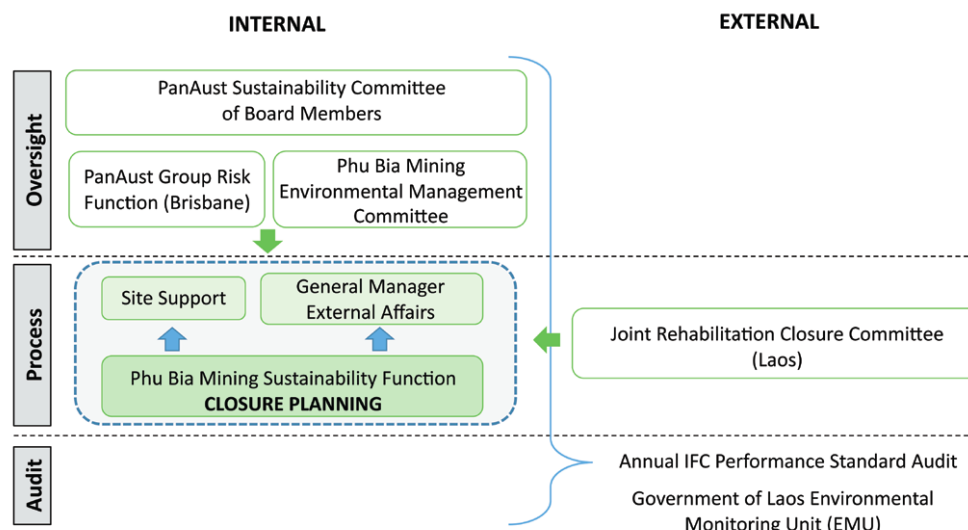
PanAust works towards FPIC but recognizes the current context in Laos where obtaining community consent does not contradict the right of sovereign governments to make decisions on resource exploitation (PanAust, 2015). Despite their efforts, PanAust acknowledges that the company still struggles with the lack of international agreement on how to best implement FPIC. PanAust's pragmatic approach is to obtain genuine and broad support of the community and government at all levels to find the most acceptable solution with the involvement of all parties.

#### *Engagement through the Full Project Lifecycle*

PanAust includes stakeholders in its planning at all stages of the project life cycle, from design, to operations, to the decommissioning of the site and through the post-closure rehabilitation of the land (CSR Asia, 2016). In 2015, PanAust established a stakeholder engagement process for mine closure for the main operations and other exploration areas. The process includes awareness-raising and capacity-building for the communities and the local authorities.

In addition, an internal closure committee (see Figure 4) meets regularly and liaises with the affected stakeholders and has organized field visits to neighboring MMG's

Sepon project in Southern Laos to see what other companies are doing in preparation for mine closure. The committee also focused on aligning the Community Development Fund with closure plans, increasing emphasis on the villages in closest proximity to operations, and finalizing permanent and temporary land compensation issues before returning the sites to agricultural production (PanAust, 2015).



**Figure 3: Phu Bia mining closure planning and management structure**

#### *A Comprehensive Grievance System*

PanAust has developed a comprehensive grievance system, based on an electronic reporting and corrective action event management system, InControl Software (INX) (PanAust, 2015). The system captures all engagement activities, feedback, complaints, grievances and commitments, allowing the identification of trends, monitoring and management reporting. To complement the sophisticated system, PanAust ensures capacity building of the communities and arranged easy and accessible ways for the community members to deliver the grievances: directly to the Corporate Reporting team, through the village elders, or in a box in the company office.

In 2015, 65 requests were processed by PanAust in Laos; predominantly relating to participation in community awareness activities. PanAust had no disputes relating to indigenous people and customary rights. Data shows that substantial progress was made on the close out of long-term grievances associated with sediment and land impacts. By year-end, all but one grievance was resolved and that grievance was subsequently closed out early in 2016. See Figure 5.



COMPLAINTS AND GRIEVANCE MEASURE	2015 GRIEVANCES	CARRIED OVER FROM PREVIOUS YEARS	TOTAL CASES ADDRESSED IN 2015
Number of grievances	12	3	15
Number of affected households	13	73	86
Close-out rate (by cases resolved in full)	12	2	14
Close-out rate (by affected households)	13	15	28
Process agreed (cases to be carried over)	0	1	1*

\* this grievance was resolved in early 2016

**Figure 4: PanAust complaints and grievances 2015**

## **Costs and benefits of Meaningful Public Participation**

### *Costs*

PanAust estimates that the cost of meaningful public participation in the EIA process is US\$200,000-300,000 for a single EIA exercise, including EIA consultants' fees, travel to sites, several workshops, supporting material, translation and reports. PanAust considers public participation to be a long-term, ongoing activity (from 1989 to 2030), the costs for which are combined in the community engagement and operations budget, making it difficult to isolate public participation spending. Furthermore, since 1989, annual public participation costs have varied depending on the project stage. PanAust's expenditure on community engagement and development (including CDFs) is approximately US\$1-2 million per year. PanAust's contribution to the overall Laos' economy accounts for over 3.4 % of Laos' real GDP (US\$12.7 billion in 2015) at US\$1.37 billion.<sup>13</sup>

### *Benefits:*

PanAust attributes its low grievance levels to the social license to operate, long-term government support and common stakeholder understanding, all of which it achieved through shared decision-making through meaningful public participation. In addition, streamlined access to finance is seen as a direct benefit of meaningful public participation in EIA. For example, Chinese investors Guangdong Rising H.K.Co. Ltd that recently bought out PanAust shares stated that they were particularly attracted to the high environmental and social standards used by the company. Finally, PanAust sees a clear link between social, environment and safety performance and productivity,<sup>14</sup> noting that "Good companies are doing good works on ESG indicators, and vice versa." In 2015, PanAust experienced strong economic performance amid widespread commodity price falls in the industry. At the mid-year point of 2016, the Phu Kham and Ban Houayxai operations continue to perform well, surpassing all key safety, production and cost metrics (PanAust, 2016).

<sup>13</sup> This investment does not take into account the indirect impacts of the Company's presence, for which there is a widely accepted and typical multiplier effect of around 2.5 from mining projects in developing countries such as Laos.

<sup>14</sup> PanAust tracks and records its sustainable development goals following the Global Reporting Initiative (GRI), G4 Guidelines including the Mining and Metals Supplement.



## **Conclusions**

### *Lessons Learned*

Based on its experience, PanAust realizes that more time is needed to accrue the benefits of public participation. If timing is too tight, obtaining useful feedback is difficult. In addition, the company plans to integrate more technology, such as videos on iPads or TVs, into their engagement efforts in the future. Their experience has shown that visualization via technology is more effective than printed material in a low literacy context. PanAust faced unclear guidelines and changing regulations, which were a challenge, creating uncertainty and reducing investment security in an industry that already suffers from commodity price instability.

### *Success Factors*

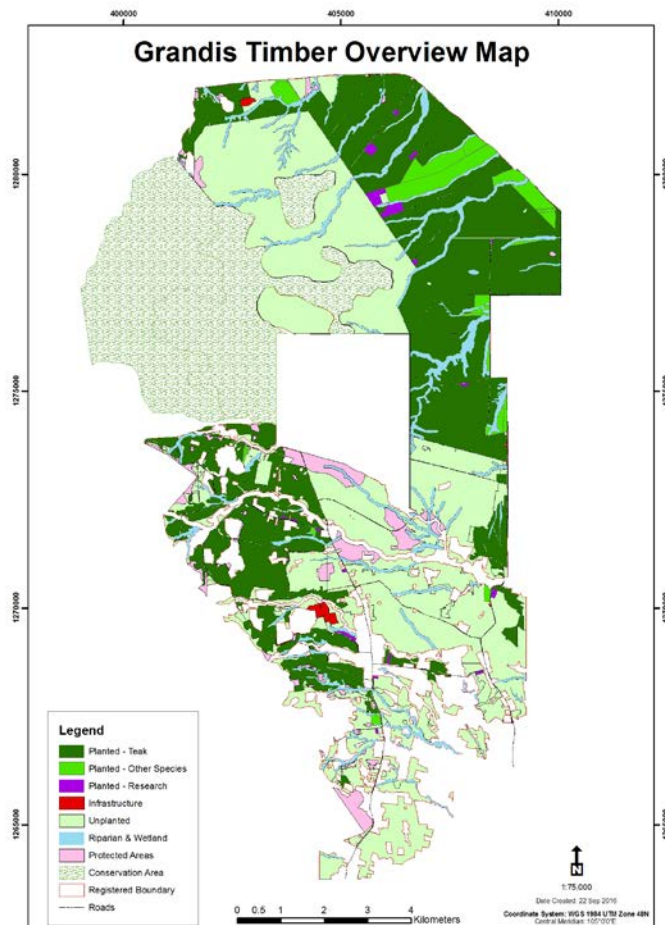
PanAust believes one of its success factors has been the use of external EIA consultants who introduced best practices in public participation from beginning and recommended the company follow their evolution over time. At the same time, PanAust believes maintaining a strong direct relationship with the community is important to ensure. Maintaining direct communication channels allows PanAust to receive first-hand information on what is material to the stakeholders. Finally, allowing sufficient time for public participation through informal and formal meetings is essential, as informed decisions can only be produced by a succession of meetings that encourage perspectives mature over time.

## **B. Grandis Timber, Cambodia**

### **Background**

Grandis Timber is a commercial reforestation company focused on establishment of timber plantations on previously deforested land. The company primarily focuses on teak plantations, but also has small areas of other commercial species and is investigating other agricultural crops and animal husbandry. The company is located in Kompong Speu Province (Phnom Sruoch and Oral districts), just outside of Phnom Penh. Grandis contracted 9,820 hectares of land in Cambodia through an Economic Land Concession (ELC) mechanism in 2008.

Grandis is wholly owned by European institutional investors that have stringent ESG requirements alongside their financial objectives. Grandis is



**Figure 5: Grandis overview map**

the first FSC®<sup>15</sup> (Forest Stewardship Council®) certified company in Cambodia, and only company with Forest Management certification. The company also works in partnership with Conservation International and Wildlife Alliance in their fight against illegal logging.

Grandis began the Initial EIA (IEIA) process in June 2009. While simultaneously applying the FSC standard, which requires clearance of outstanding land issues, Grandis decided to expand the IEIA to a more substantial study, equivalent to a full EIA in its structure, content and mitigation measures.

### **Experience with EIA**

#### *Land Tenure*

The most significant issue Grandis faced during the IEIA was land tenure and title demarcation as a result of unclear boundaries inherited from pre-Khmer Rouge era maps. Grandis committed to not moving people off their land as part of its shareholder sustainability policy, which is in keeping with their FSC certification and the Prime Minister's campaign to accelerate land registration for communities. As a result, between 2010 and 2016, Grandis began a long process of trust building and exchange with the goal of securing the communities' land titles and then re-working its plans based on the remaining land.

The discussions concluded in August 2016 with full approval from the Forestry Administration (national government) on a final map. The result of this policy was the adoption of a 'leopard skin' policy whereby the single land concession was divided into several lots--17 land titles ranging from 4000ha to 100ha. Some areas were allocated to communities and new migrants' families, and some reverted back to public land as conservation corridors. Grandis Timber saw its concession size reduced to 7,896 ha, 30% less than the 9,820 ha it had access to in 2008, partly due to opportunistic settlements of migrants and neighboring sugar plantations which cut off about 600 ha of the 1924 ha lost.

#### *Weekly Interactions*

The IEIA work started fairly early during the feasibility study in 2009, and the first public consultations followed shortly after that date, motivated by the strict land tenure security requirement of the FSC certification. Informal discussions with affected communities had been taking place, though, since 2008, and became part of a formal process after 2009. Two specially trained full-time staff travel from Phnom Penh to the plantation each week to meet villagers and their village chiefs, which maintains an open dialogue and provides room for thoughtful, confident and informed feedback. Additionally, ad-hoc meetings are held for major decisions, new information, or trainings. The frequency of community engagement efforts is expected to increase in the future as Grandis is now considering engaging in community forests along biodiversity corridors, in an improved forest management framework.

#### *Minimal Grievances*

Grandis has a formal grievance mechanism in place, which has been used to resolve various inquiries, including specific requests to monitor infrastructure on the plantation area (i.e. a defective water well). However, they have received no major complaints from the communities, which Grandis attributes to their successful and careful handling of the main concerns around land tenure through their effective public participation process.

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<sup>15</sup> <https://ic.fsc.org/en/certification>

## **Costs and benefits of Meaningful Public Participation**

### *Costs*

Grandis' environmental management plan, as agreed upon by the Ministry of Environment in 2009, had a budget of US\$3.4 million for the years 2010 to 2019. In addition, Grandis has made a substantial investment in human resources time, including the staff involved in community relations since 2009 (1.5 full-time positions with local salaries) and top management time away from operations during the land title discussions. The company further estimates expenses related to EIA consultants and public participation workshops to be approximately US\$100,000, although that figure is combined with the operational budget.

The lost land value as a result of the leopard spot land tenure strategy potentially represents tens of millions in potential future sales per cubic meter, if one assumes that all 1,924ha lost were productive land. However, the forgone income can be considered a long-term investment, providing the company and its investors' social license to operate for the remaining concession time.

Finally, the company incurred costs as a result of delays in production due to the unclear and rapidly changing legal environment. In 2015, the economic land concession period in Cambodia was reduced from 70 to 50 years, thereby reducing the potentially productive land by 30%, causing Grandis' EIA to become outdated.

### *Benefits*

Grandis identified several benefits they accrued from investing in a thorough public participation process. The company saved money and increased its market value on international stock exchanges due to the absence of compensation claims, demonstrations or open social conflicts at their project sites. Grandis believes that, from a long-term perspective, the company and its investors will benefit from a willing labor force and future partnerships with the communities as a result of their preservation of traditional livelihoods and the additional job opportunities they provided. Clean and fixed boundaries with secured land tenure give communities assurances about where the company will and will not operate while also providing assurances to shareholders that their ESG risks and costs are being managed.

## **Conclusions**

### *Lessons learned*

Although Grandis believes the benefits of their efforts are quite conclusive, they have not been able to monetize those benefits. The company is now seeking to strengthen its impact measurement framework by conducting a social survey to gather data sufficient to put a value on their community development impacts. This will help monetize social benefits and add value to its investor portfolio. Grandis also plans to use public participation techniques in a more systematic and sophisticated manner going forward.

### *Success factors*

For Grandis, its success can be attributed to its commitment to communities having the power to provide input on the project design. Additionally, having a clear, transparent and long-term legal framework helped them manage investment risks. Furthermore, their long-term view on community investment helped them manage community expectations. The main success factor, though, is that the communities living on Grandis' concession were given priority over the company, which avoided costs related to social conflicts and operational delays. This action, unprecedented in

the agri-business industry in the Mekong region, gave Grandis' investors peace of mind and increased their market value.

## C. MPRL E&P, Myanmar

### **Background**

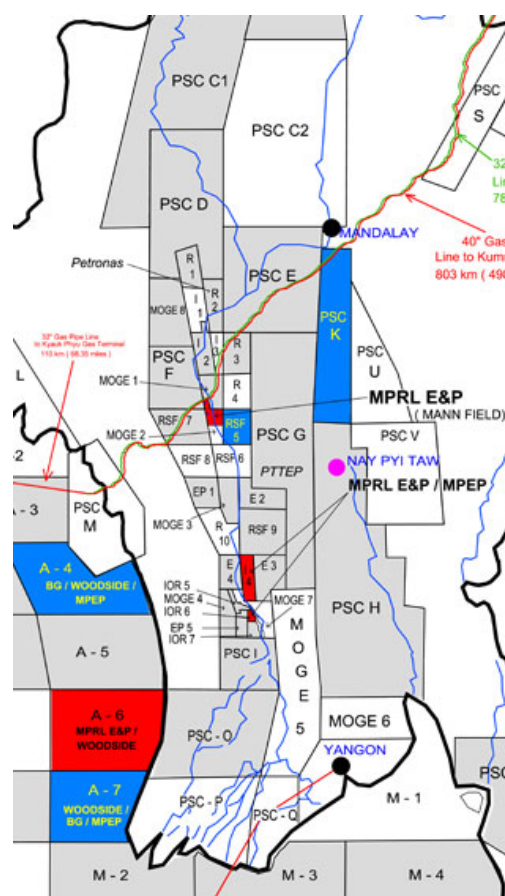
MPRL E&P is a privately-owned oil and gas exploration and production company established in 1996. MPRL E&P has two main projects in Myanmar. Their flagship project is in collaboration with Myanmar Oil & Gas Enterprise (MOGE), providing advice and support to the management of the Mann Field project located in the Central Myanmar basin.

MPRL E&P was also awarded Exploration Blocks IOR4 and 6 (a.k.a. Myanaung) in October 2014, acting, in this case, as the main contractor. Like many other fields in the area, IOR 4 and 6 contain outdated infrastructure and have been occupied by farming migrants for the last 20-30 years. Following the contract award, MPRL E&P plans to conduct seismic exploration activities, possibly consisting of 2- and 3-dimensional surveys across Block IOR-6 and 4. These activities require that EIAs be in place.

### **Experience with EIA**

#### *Pre-ESIA Consultations*

MPRL E&P has contracted EIA consultant ERM to conduct public consultations and stakeholder mapping as part of the ESIA study for IOR4 and 6.<sup>16</sup> Before the ESIA process began, while the company was developing its proposal for the public tender, MPRL E&P began to engage with the communities. The company conducted site assessments as a means of better understanding the reality in the field and communities for risk management. The company evaluated the existing infrastructure, health and safety situation, and social and environmental issues.



**Figure 6: MPRL block location in Myanmar**

After the company was awarded the blocks, their EIA consultant conducted a more thorough social baseline survey, collecting information on village infrastructure, education, crops, income types, and environmental impacts. In total, 61 household and seven community surveys were undertaken in the seven villages. Additionally, two focus group discussions for farmers and women's group were held in the Myanaung Township. At the time, the main concern that communities shared were the land tenure security.

<sup>16</sup> <http://www.mprlexp.com/index.php/mprl-e-p-completed-esia-disclosure-for-block-ior-6>

### *Disclosure of Information*

MPRL E&P discloses all environmental policies and EIA and/or SIA assessments to government representatives, international and local NGOs, CSOs, and host communities.<sup>17</sup> For example, the ESIA disclosure for IOR 6 has recently been released on the company website. MPRL E&P has further disseminated this type of information throughout the life of the project via an assortment of communication channels such as pamphlets and reports, displays and signboards in community and project areas, and verbal presentations during the outreach events with local stakeholders (ERM, 2015).

### *Public Participation Improves Project Design*

Using best practices and lessons learned from its Mann Field project, MPRL E&P decided to conduct a total of nine workshops in Myanaung and Yangon with affected communities from Block IOR-6. The workshops provided community members with the opportunity to understand the project and provide feedback, at different stages and in different groups (including separate groups for vulnerable people, men, and women), on the findings, risks, and impacts identified in the ESIA report. The successive community workshops confirmed the initial concerns identified in the ESIA: impacts on water resources, processes and procedures for land acquisition, calculations for crop compensations, loss of livelihoods, and importance of continuous engagement.

Following community meetings, a workshop was held in Yangon with civil society, MCRB (Myanmar Center for Responsible Business), Center for Human Rights and Business, and government representatives. The intent of the workshop was to establish direct communication with CSOs, particularly those in the Ayeyarwady Region, providing them the opportunity to discuss and raise concerns and/or questions.

The process resulted in two primary positive outcomes. First, the recurring meetings and workshops built stakeholder awareness and capacity concerning the opportunities and challenges facing the industry. Seismic surveys were explained through cartoons, the grievance mechanism was introduced in detail through fact sheets, posters and flyers, and participants were able to voice concerns. Secondly, during the discussions, stakeholders conveyed several suggestions that have since positively influenced the project's operational design and implementation.

### *Commitment to Community Investment*

Through the project development and ESIA processes, MPRL E&P has made binding commitments to ensure or improve environmental and social performance.<sup>18</sup> MPRL E&P encourages surrounding communities to participate in Village Development Committees (VDCs), leveraging existing groups of interest. The VDCs, which are led by volunteers that are nominated teachers, students or farmers selected through a thorough selection process (the company reviews their profiles and CVs) determine what community needs are essential. MPRL E&P supports the VDCs through trainings on negotiation, project and budget management, and monitoring and evaluation. Volunteers also receive further training and an allocation of US\$20-25 per month based on their performance. Their volunteers' main task is to introduce and manage the grievance mechanism within their community. MPRL E&P finds that putting responsibility in the hands of the communities also helps them to better understand the company's perspective, challenges, and lessons learned.

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<sup>17</sup> <http://mprlexp.com/index.php/sidebar-responsible-practices/environment/environmental-impact-assessments>

<sup>18</sup> <http://mprlexp.com/index.php/sidebar-responsible-practices/2016-07-05-10-08-35>



The outcome and impacts of all social investments at MPRL E&P are measured in a M&E plan to identify any significant changes. MPRL E&P trialed a new matrix for 2015-2016 that will provide results in early 2017. The matrix intends to monetize the results and translate them into income generation value. This first for MPRL E&P is strongly endorsed by the top management.

#### *Continuous Improvement of the Grievance Mechanism*

MPRL E&P pioneered the Mann Field Grievance Mechanism (MFGM) with MOGE, the first of its kind in the country (MPRL, 2016), but faced difficulty in implementation once the project had started. After a pilot phase in 2014, anecdotal evidence from VDC volunteers suggested that there was a general lack of awareness among stakeholders about the mechanism and how it functioned, as well as a prevailing concern that it was ineffective at resolving complaints (CSR Asia, 2016). MPRL E&P conducted a survey, which suggested community members lack interest in community affairs since they are often unavailable during the day due to work commitments and there is limited knowledge sharing among community members. As such, MPRL E&P adjusted their methods to reach out to community stakeholders at a more appropriate and relevant time.

PERFORMANCE AGAINST KPI's	
MARCH 2015 – PRESENT	
Number of cases filed	52
Number of cases addressed	52
Average time to acknowledgement (days)	2
Target 1-3 days	
Average time to feedback (days)	14
Target 14 days	
Average duration to closure (days)	43
Target 30 days	
Average time to compensation (days)	9
Target 7 days	
% satisfied with process	98
Target 50%	
% satisfied with outcome	98
Target 50%	

Figure 7: Progress update of the grievance mechanism in Q1 2016

### **Costs and Benefits of Public Participation**

#### *Costs*

The monetary costs MPRL E&P budgeted for public participation are relatively modest compared to the company's active engagement. to meet the EIA requirements, the company paid approximately US\$100,000-150,000, including consultant fees, workshops, compensation, grievance mechanism development, and staff time for the baseline study and community liaison efforts. For the VDCs, MPRL E&P spent approximately US\$3,500 for volunteer training, fees and materials and US\$12,000 on water and sanitation solutions.

Compensation for land tenure at the Mann Field project site became problematic when MOGE estimated US\$500,000 as compensation for the lost land market value. In a simulation exercise, MPRL E&P calculated the potential compensation rates to communities at up to US\$10 million<sup>19</sup> in the event social risk escalated. This

<sup>19</sup> Amount is an estimate only as it depends on oil price and real impacts on society.

simulated cost was presented to MOGE for review and discussion. After a long period of reflection on the risk of paying a higher cost in the future, MOGE opted to pay compensation up-front and invest into social peace.

### *Benefits*

MPRL E&P sees meaningful public participation as having provided them with multiple non-monetary benefits. Public participation ensured MPRL E&P had a social license to operate despite the fact previous operators of the Mann Field project did not develop trust with the community. Additionally, MPRL E&P found that complaints have decreased over the years, changing from crop damage and compensation claims to safety notices and constructive suggestions. These suggestions have positively influenced the project design. Through capacity building that helped the government better understand the benefits of non-financial investment, government relations have substantially improved and a more trusting relationship has formed. Based on these positive experiences, MPRL E&P now builds social management into its corporate strategy as opposed to adding it on after the fact, as in the past.

In terms of monetary impacts, MPRL E&P is convinced by the strong business case of meaningful public participation; stating, “The EIA process as well as technical activities related to our industry is a new and foreign concept to many communities... It makes business sense to include them in the decision-making process, share key information, and work towards developing 2-way communication and trust. Ultimately... a strong dialogue and relationship will result in effectively implementing activities and mitigating impact more efficiently.” MPRL E&P is currently monitoring impacts and calculating the monetary benefits in terms of value creation. Details will be available in early 2017.

## **Conclusions**

### *Lessons Learned*

MPRL E&P is currently incorporating several lessons learned on public participation, particularly in relation to the timing for engagements, into its next EIA. The company learned that public participation and engagement with the communities should come before, not after, a site visit. Also, they believe it is company’s responsibility to introduce itself directly to the communities, rather than through the EIA consultant.

Baseline surveys should come immediately after social and historical surveys. These surveys, which provide insightful and key information for EIA development, should not be delayed since they serve as the objective benchmarks for all future surveys. Additionally, conducting several consultation meetings, including focus groups, one-on-one discussions, and group discussions, before a full EIA is beneficial.

MPRL E&P learned that grievance mechanisms should be built into the design of the project, and already in place during the early stages of the EIA process. Furthermore, budgets for public participation in EIA should be distinct from other EIA costs to allow for measurement of social investment and its impacts. These small steps provide transparency and accountability, forming stable ground for trust building.

MPRL E&P encountered issues with neighboring companies that are not playing the game according to the same rules. These differing practices (for example, if a company does not announce seismic surveys, does not consult with communities, and/or does not disclosure relevant project information) create a climate of suspicion and fear among community members.

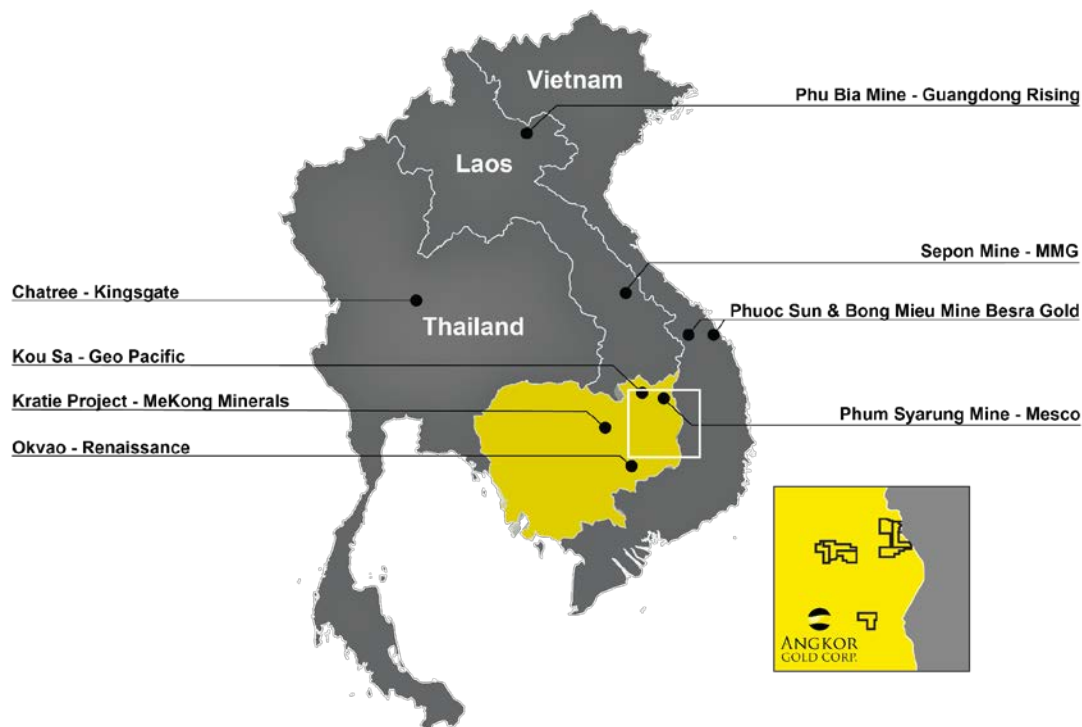
### *Success Factors*

MPRL E&P found that starting public participation early allowed trust-building from the very beginning. Furthermore, wide disclosure of information to the public, and internal disclosure to staff are equally important. Public sharing of the ESIA results helps build the capacity of all stakeholders and helps them better understand the company's perspective, its challenges and the reasons behind the mitigation measures. Finally, investment in the VDC and volunteer system helped create trust and an informed response from the communities.

## D. Angkor Gold, Cambodia

### **Background**

Angkor Gold Corp. is the first Canadian publicly-traded mineral exploration company in Cambodia. Angkor Gold has closed on three deals in the past two years, with a value in excess of US\$7.91 million. Angkor Gold's first exploration project was the Phum Syarung Mine in Rattanakiri province in northeastern Cambodia. The mine was sold to operator MESCO Gold Ltd. in early 2013, becoming Cambodia's first permitted commercial mine. MESCO received approval for its ESIA in August 2016,<sup>20</sup> one of the final steps necessary to obtain a license to extract minerals, including gold and other precious and base metals.



**Figure 8: Map of Phum Syarung Mine and other regional mining sites (Angkor Gold, 2016)**

This case study covers Angkor Gold's community engagement during the early stages of project exploration, before an EIA is required. Although the case study describes engagement conducted prior to the EIA process, it is highly relevant as it shows both the complexity of the mining sector and that early community

<sup>20</sup> <http://www.angkorgold.ca/environmental-approval-received-for-phum-syarung-mine/>



engagement activities can facilitate more effective and meaningful public participation in the EIA.

### **Community Engagement Experience:**

#### *Pre-Exploration Engagement*

Mining in Cambodia is still nascent, but Angkor Gold set a benchmark for responsible exploration in the country, engaging with communities on each of their six licenses, including the Phum Syarung mine, through formal and informal meetings. Angkor Gold began engaging with the communities at the very early stages of project exploration (before any project pre-feasibility study), despite the fact that in 2009 there was no law in place that required public participation.

#### *Stakeholder Mapping*

When the project began, proper procedures for public participation, and specifically FPIC, were undefined and the existing EIA law in Cambodia was out of date. There was little civil society involvement or understanding of mining in 2009, and local and international NGOs with structured programs only became involved later in the project, which changed the stakeholder map.

In light of this lack of legal clarity, Angkor Gold conducted stakeholder mapping according to best practices and lessons learned by its management teams in Africa and South America over the previous two decades. The company talked to vulnerable people, village chiefs, youth and authorities separately and then together as a group. Angkor Gold also organized trainings and informative workshops to help the communities better understand exploration and the mineral sector, its future development and how it might impact their livelihoods.

#### *Communities as Partners in Development*

Angkor Gold's management recognizes that industry should lead the way by "growing a healthy country," which "can only be achieved by working in a collaborative effort with all the stakeholders."<sup>21</sup> As such Angkor Gold let the communities assess and articulate their own needs for development, helping them do so by providing them with technical support from CSR staff. The company also sent six community representatives on field visits to neighboring provinces to witness what development projects could potentially look like: harvesting rain water, generating energy from alternative sources, establishing community gardens, etc. Informed by these experiences, the communities then organized themselves in Village Development Councils (VDCs), which prioritized four areas for development: water and sanitation, health care, education, and economic growth, including support for agriculture and micro-business productivity.

#### *FPIC*

In 2009, Angkor Gold decided to conduct FPIC consultations concerning the construction of an access road. The road was meant to give the operator, MESCO, access to the site and would also provide access to market for the farmers' agricultural outputs. After back and forth negotiations, an agreement was reached with the 26 adjoining landholders directly affected by the road construction, specifying the rights and obligations of all parties. The signed agreement states that

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<sup>21</sup> <http://www.angkorgold.ca/socially-responsible-investing/>

MESCO would build and maintain the road, and communities would receive free usage of the road.<sup>22</sup>

While the FPIC discussion with the communities went smoothly at the time, more recently Angkor Gold has faced criticism about the process, its outcomes and implications. As awareness of responsible mining practices and community rights have increased in Cambodia, NGOs have become more involved in advocating for responsible mining. Several issues have been raised by concerned NGOs since the agreement was made including: a) the FPIC only covered the access road and thus consent was not given to the mining site and project; b) communities should not just be consulted or informed, but rather have a say in the project development; and c) there was confusion and misunderstanding among the communities concerning the scope of the FPIC document they were signing. Angkor Gold's experience reflects substantial differences in the understanding and definition of FPIC in the Mekong region and difficulties in aligning theory with practice.

### **Counterpart continuity**

A specific challenge faced by the extractives industry is the change of counterparts as projects pass from explorers to operators, which makes it harder for communities to create and maintain trusting relationships with the project proponents. In early 2013, MESCO, the owner and operator of the Phum Syarung mining license, took over the lead on community engagement and public participation from Angkor Gold. and has received approval of their EIA by MoE in August 2016. Although this case does not cover MESCO's EIA, it is worth noting that the communities and MESCO effectively inherited the precedents set by Angkor Gold for community engagement.

### **Costs and Benefits of Public Participation**

#### *Costs*

Angkor Gold found that the non-monetary costs of public participation were the highest, including the cost of making business investments in the context of political instability and a quickly-evolving legal framework. However, the monetary costs were also substantial. Angkor Gold had a CSR budget of approximately US\$150,000 per year for 6 years, equivalent to about 10-15% of the total exploration budget. This budget included FPIC expenditures, human resources, and community development activities.

#### *Benefits*

Angkor Gold is listed on the Canadian stock exchange. Company management believes that the monetary benefits of community engagement are evident in the higher stock prices over a 4-year period when most listed companies on the same exchange saw their stocks drop significantly. Additionally, Angkor Gold believes that they have accrued numerous non-monetary benefits from public participation. As a result of the responsible mining benchmarks Angkor Gold has set for successors, their long-term ROI is improved and the company is enjoying strong market positioning. Angkor Gold's early efforts has led to an increased awareness on the part of all stakeholders concerning the opportunities and challenges faced by the mining industry, which they believe will facilitate future Angkor Gold project development. Finally, Angkor Gold feels that they have benefitted from the social and economic empowerment the communities obtained through the VDCs.

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<sup>22</sup> In a context of inadequate transport infrastructure, the road opened up economic opportunities, giving communities access to market agricultural products such as honey, cassava, and cashews.

## **Conclusions**

### *Lessons Learned*

Although they experienced challenges, Angkor Gold acknowledges that they gained insight from introducing new public participation processes. Upon reflection, the company believes that FPIC was attempted too soon in a country where a nascent mining industry was not fully understood, an assessment generally shared by the NGO community. In retrospect, the involved parties have concluded that meaningful public participation is more important and more constructive than reaching a weak FPIC. Awareness and education of the mining sector among all stakeholders will be key for meaningful and effective participation in future EIAs for mining projects. This includes undertaking a rigorous stakeholder mapping process to identify and ensure the participation of the decision-makers, influencers and vulnerable groups.

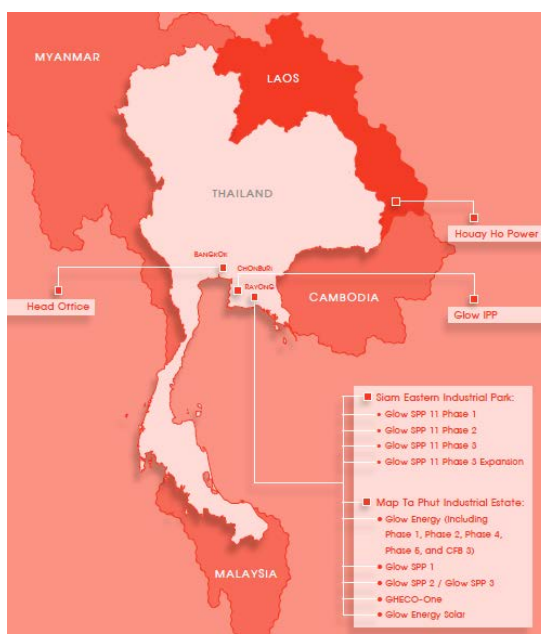
### *Success factors*

Angkor Gold learned that all stakeholders need to have a common understanding of the goal of public participation, while also maintaining realistic expectations for the process. The company attributes their success to having educated stakeholders and ensuring an open process so that all stakeholders agreed on the Terms of Reference for public participation and their expected role. Importantly, Angkor Gold's experience highlights that having support from the government and a clear legal framework is crucial from a risk management perspective.<sup>23</sup>

## **E. Glow, Thailand**

### **Background**

Glow Energy Public Co., Ltd. or GLOW is publicly listed on The Stock Exchange of Thailand and is nearly 70% owned by ENGIE (as of December 2015). Glow is a group of energy companies that produces and supplies electricity for industrial customers in Thailand, and provides electricity to the Electricity Generating Authority of Thailand (EGAT) under Independent Power Producer (IPP) contracts. Glow also provides electricity, steam, and clarified and demineralized water to industrial customers such as those in Map Ta Phut Industrial Estate (MIE). Glow invests in renewable energy and has received awards for environmental responsibility.<sup>24</sup>



**Figure 9: Glow IPPs and SPPs locations**

<sup>23</sup> For instance, Angkor Gold acquired an exploration site in 2014, in the vicinity of a Protected Area but the Area zones and boundaries are still lacking, leaving a more complicated future development climate on that specific site.

<sup>24</sup> ASEAN Coal Awards 2013 for GHECO-One, Glow Energy Phase 2 certified by FTI as Eco-Factory, EIA Monitoring Awards 2014 for SPP11.




[http://www.glow.co.th/index.php?op=csr\\_environmental-detail&cid=1&id=101](http://www.glow.co.th/index.php?op=csr_environmental-detail&cid=1&id=101)

This case study concentrates on the EIA and EHIA developed for the GHECO-One super critical coal-fired power plant, in MIE, Rayong Province. The power plant has supplied EGAT with a 660 MW contracted capacity since 2007. As a result of Thailand's constitution, enacted in 2007, combined with the government's decision to include MIE in a pollution control zone, Glow had to conduct an EHIA in addition to their EIA.

## **Experience in EIA**

### *Stakeholder Mapping*

For its EIA and EHIA, Glow used the Stakeholder Mapping and Engagement Framework tool (SMEF) developed by ENGIE to map stakeholders in relation to issues that matter to Glow (Glow, 2016). Through this process, Glow identified 18 main groups of stakeholders, including media, local and international NGOs, competitors, and embassies. Glow used a variety of different methods, including committee meetings, knock-door visits, open houses and field visits to define needs and expectations. See “*Examples of stakeholders*” table for more details.

STAKEHOLDERS	ENGAGEMENT CHANNELS	FREQUENCY
<b>Employees</b> 	<ul style="list-style-type: none"> <li>• Internal Activity Committee (IAC) meetings</li> <li>• Welfare Committee meetings</li> <li>• Quarterly Briefings</li> <li>• Suggestion box</li> <li>• Ethics Officer</li> <li>• Intranet</li> <li>• E-mail/Telephone</li> <li>• G-Power Magazines</li> <li>• Glow website</li> </ul>	<ul style="list-style-type: none"> <li>• At least 4 times/year</li> <li>• Quarterly</li> <li>• Quarterly</li> <li>• Regularly</li> <li>• Regularly</li> <li>• Regularly</li> <li>• Regularly</li> <li>• Quarterly</li> <li>• Regularly</li> </ul>
<b>Customers</b> 	<ul style="list-style-type: none"> <li>• Meetings</li> <li>• E-mail/Telephone</li> <li>• Annual Report</li> <li>• Glow website</li> <li>• Seminar</li> </ul>	<ul style="list-style-type: none"> <li>• Monthly</li> <li>• Occasionally</li> <li>• Once a year</li> <li>• Regularly</li> <li>• Occasionally</li> </ul>
<b>Local Communities</b> 	<ul style="list-style-type: none"> <li>• Tri-partite Committee meetings</li> <li>• Green Star Committee meetings</li> <li>• EIA Monitoring Committee meetings</li> <li>• Environmental Monitoring Committee meetings</li> <li>• Knock-door visits</li> <li>• Open-house</li> <li>• Plant visits</li> <li>• Public hearings</li> <li>• Jai Diaw Kan (One Heart) newsletters</li> <li>• Local media, such as newspapers, radio, billboards, etc.</li> <li>• Glow website</li> <li>• E-mail/Telephone</li> </ul>	<ul style="list-style-type: none"> <li>• Quarterly</li> <li>• Annually/ bi-annually</li> <li>• Annually</li> <li>• Monthly (during construction phase)</li> <li>• Monthly</li> <li>• At least once a year</li> <li>• Upon request; historically 20 times/year on average</li> <li>• Every time there is a new project</li> <li>• Quarterly</li> <li>• Occasionally</li> <li>• Regularly</li> <li>• Occasionally</li> </ul>

**Figure 10: Examples of stakeholders (Glow, 2015)**

### *Community Engagement*

Glow's community engagement efforts in the MIE case are significant because the company invested in long-term community relations. The strategy allowed enough time for trust to be built so that the process ran smoothly and the project received full approval in the end.

Following Thai regulations, Glow conducted two public participation workshops (technical and public review) on two separate occasions, first for the EIA and then

again for the EHIA. These workshops were followed by a review and public hearing by an independent organization appointed by the government authority. The Energy Regulatory Commission, the permitting authority, organized the meetings required for large industrial projects. Overall, the entire process took one year for the EIA, and two years for the EHIA.

Although the setting of the pollution control zone caused additional constraints, Glow's public participation strategy was to go beyond the regulatory requirements to ensure that all the stakeholders had a sound understanding of Glow's clean coal technology.<sup>25</sup> Glow supplemented the official process with approximately 10 side meetings before, during and after the EIA and EHIA. These meetings helped to build capacity on public scoping, share information, review the reports, seek input for decision-making, and final approval.

The required and additional meetings took place transparently, with EIA and EHIA reports made available on the company website and summaries published through local media and available in specific public areas such as the local community office. Glow designed the engagement frequency to enable regular communication with stakeholders on key issues and adapted it as needed. The side meetings were effectively preceded by 'knock-door dialogue,' initiated and enacted in-person by the top management,<sup>26</sup> and repeated at regular intervals. Additionally, every year, Glow offered field visits of the factory, giving 2000 stakeholders the opportunity to observe Glow's operations.

#### *Participatory Decision-Making*

Glow's regular, participatory meetings and constant communication helped build trust, forming the basis for building strong, meaningful and responsive relationships. Affected communities in Rayong had a say in the design of the project from the very early stages of development and received sufficient information to make informed decisions for the GHECO-One factory construction.

### **Costs and Benefits of Meaningful Public Participation**

#### *Costs*

Glow estimated that the EIA/EHIA consultant fees, informal workshops and meetings cost approximately US\$300,000. The official public participation procedures, including official workshops and fees for the permitting agency, cost approximately US\$150,000, paid directly to the authorities. In addition, over the course of two years, Glow invested staff time in public participation, including 20 staff for each workshop, and six full time community officers in constant communication with villagers through side meetings. Considering the total investment costs of the GHECO-One project

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<sup>25</sup> "Environmental responsibility is an important policy that Glow Group adheres to in its business conduct. For instance, Glow Group, Glow has invested significantly in technologies to reduce NOx, SO2, and TSP pollution, using a sea water flue gas desulfurization system. Moreover, we have continuously implemented many activities together with other entrepreneurs in the Map Ta Phut Industrial Estate to restore and preserve the environment. Those activities include marine juveniles releasing activity, crab bank, beach cleaning and reforestation activity. Glow Group also realizes the effect of global warming and has initiated and promoted the development of alternative and renewable energy projects, for instance Glow Energy Photovoltaic (PV) Solar Cell Plant in Asia Industrial Estate, Rayong Province, micro-hydro power plant in Attapeu Province, Laos and wind farm projects." [http://www.glow.co.th/index.php?op=csr\\_environmental-index](http://www.glow.co.th/index.php?op=csr_environmental-index)

<sup>26</sup> The Senior Vice President-Government and Public Affairs initiated the meeting himself, accompanied by his team.



were US\$1 billion, the total cost of the EIA and EHIA processes (US\$1 million) accounts for less than 1% of the total budget.

In addition to direct project expenditures, Glow pays a yearly contribution to the Energy Regulatory Commission's Energy Development Fund<sup>27</sup> of US\$3 million, which is used by communities near the power plant to service the needs of the people.<sup>28</sup>

### *Benefits*

Glow believes that it has garnered many benefits from the public participation process for the GHECO-One project. First, Glow obtained a social license to operate as a result of their efforts to build relationships and enhanced trust with the communities through open communication and engagement.

Glow also enjoys streamlined access to finance and acknowledgement from responsible investors as a result of their community engagement efforts. Notwithstanding the recent volatility in financial markets, the recent recapitalization of Houay Ho power plant in Laos clearly reflects the confidence investors have in Glow's business fundamentals and financial standing.

Finally, Glow believes that obtaining the agreement and support of the local authority through meaningful public participation has left them a favorable legacy and helped the company avoid escalation of conflicts. The company has direct communication channels to the authorities and communities, and aims to find solutions together, before a conflict escalates. As such, Glow now has stronger market positioning and long-term competitiveness due to minimal social conflicts and the security that provides for operations.

## **Conclusions**

### *Lessons learned*

Despite the complexities of its location in a pollution control zone and local protests in the early years of the project, Glow worked through each issue with constant communication and open dialogue before, during, and after the EIA and EHIA phases. Today, Glow recognizes that the main benefit of meaningful public participation is that project outcomes are improved by informed, shared decision-making. Glow intends on following the same participatory process for upcoming EIA requirements on future projects.

Glow notes that clear EIA and EHIA guidelines from the government are essential to companies to manage their time, effort, and money. Since detailed guidelines on public participation are currently lacking in the region, Glow provides active support to the Thai authorities in shaping policies and regulations towards meeting sustainable development goals.

### *Success Factors*

According to Glow, the key to a good EIA consultation process is to be honest and transparent in a sustained way and involve affected communities in the process in a constructive manner.

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27 The fund has a total budget of THB 400 million, shared among MIE power producer tenants.

28 [http://www.glow.co.th/index.php?op=csr\\_quality-index](http://www.glow.co.th/index.php?op=csr_quality-index)

## F. PECC1, Vietnam

### **Background**

Power Construction Joint Stock Company No. 1 (PECC1) is a leading power engineering consulting firm in the Vietnam power sector, offering services from design, production, implementation and commissioning. PECC1 primarily works on large-scale projects in Vietnam, Laos and Cambodia. Its flagship projects include hydropower projects, including Son La 2400 MW, Ban Ve 320 MW, Lai Chau 1200 MW, and Lower Se San 2 400 MW; coal thermal power plants, including Uong Bi 600 MW, Quang Ninh 1200 MW, and Thai Binh 1 and 2; and transmission lines and sub-stations. PECC1 also acts as an EIA consultant on large development projects.

This look here focuses on PECC1's experiences in their role as an EIA consultant on both local and regional projects.

### **Experience with EIA**

#### *Positive recent evolution in national requirements*

PECC1 sees a positive evolution in the recent changes of Vietnam's Law on Environment. The 2005 Law on Environment required a light public participation process for large development projects, to be managed by the commune. Meetings were organized by the commune People's committee itself and the report would then be shared to the district authorities, with a summary later passed on to the communities. The process including the local government only was considered 'easy and lenient.'

In 2014, the new Law on Environment introduced requirements for wider public participation to include not only local authorities but also affected people (villagers and communities). Expectations of project proponents and communities are now raised to a different level and considerations for villages and households are increasingly important.

#### *EIA Regulations and Best Practices*

The EIA regulations however lack specificity, which makes it difficult for the EIA consultants to harmonize their practices. PECC1 follows the best available practices when context allows, but the company admits that outcomes depend on the client budget and capacity. When following international donors' rules and guidelines for instance, the EIA tends to be more stringent, including preemptive safeguards that are however missing in national projects.

Having more specific and regional guidelines on public participation would have the benefit of using a common definition for 'affected people,' better managing investors' expectations, and improving all stakeholders understanding of cost and benefits of a project.

#### *Transboundary Issues*

PECC1 has been involved in a few transboundary projects and recognizes that those are the most complex. There is growing evidence showing benefits of good EIA practices, but lack of guidance on transboundary hydropower projects make it difficult for EIA consultants to align stakeholders' expectations. This has resulted very often in unexpected costs. A good example is the situation for the numerous hydropower plants located at the borders of Lao and Cambodia. Both countries may define 'affected communities' differently; have different environmental laws and EIA components, as well as expectations in public participation.



Adjusting their business practice to take into account two key lessons learned by PECC1 have made a positive difference in their business. First is the engagement of communities at the earliest stage possible (during pre-feasibility study for a light engagement, and during feasibility study for more thorough information collection) which eases the entire process and helps create trust. Second, PECC1 applies a full and sound stakeholder mapping is essential to running an inclusive process and avoiding future conflicts.

### **Cost and Benefits of Meaningful Public Participation**

#### *Costs*

Since financial disclosure is still a sensitive area of discussion in Vietnam, the cost benefits analysis in this case is limited. Nevertheless, PECC1 shared the following conclusions: The costs of EIA public participation very much depend on investors, project proponents and the scope of the projects. PECC1 has seen a wide range of costs, from local project to multi donor supported projects.

#### *Benefits*

Benefits are multiple. Although PECC1 was unable to talk about related financial performance, the company admits that an inclusive public participation helps to minimize costs attached to potential future conflicts.

### **Conclusions**

#### *Lessons Learned*

Through its past experience, PECC1 learned that support of local authorities is essential. Because of the centralized information system in Vietnam, when local authorities are well informed, trained, and understand and support the project, meetings with communities and information will flow more easily. In many cases though, commune representatives are afraid to share information for fear the communities will not understand the full spectrum of opportunities and hence oppose the project automatically. Another fear of the local authorities is that opposition on one project may affect other projects in the region, and hence slow down economic progress of an entire district.

#### *Success factors*

Amid fast changing rules and regulations, the first priority is for EIA consultants to be qualified to run meaningful public participation and to be well prepared on best practices.

Also, part of the EIA consultant role is to train and prepare the project proponent, investors, and local authorities in public participation. This goes beyond just a 'meeting organizer' role, and through a proper ToR with clarification on roles and responsibilities for each stakeholder.

It is key for an EIA consultant to understand the social and cultural specificities of the project area. In culturally diverse regions like Vietnam and neighboring countries, sociological skills are important. This helps a locally adapted public participation process to take place with a higher chance of success.

A long timeframe on public participation is essential to allow enough time for community surveys at early stages, up to EIA report feedback. This requires adequate investment in human resources, and budget.

## G. VINACOMIN, Vietnam

### **Background**

VINACOMIN (Vietnam National Coal and Mineral Industries Holding Corporation Limited) is a Vietnamese mining company, focusing on coal and mineral mining. VINACOMIN operates in various sectors including coal exploitation, processing and selling, explosive and cement production, shipbuilding, automobile manufacturing, tourism, hotels, financing, services and power generation in thermal power plants, including the Cao Ngan and Na Duong thermal power stations.<sup>29</sup>

This case study covers the activities of VITE, the Informatic, Technology, Environment Joint Stock Company, a subsidiary of VINACOMIN that is responsible for all environmental issues and acts as VINACOMIN's EIA consultant. VITE recently completed the strategic EIA (SEIA) for Vietnam's master plan for coal development. The plan covers the overall impact of the coal industry on environment and society, for the next five to ten years.

In recent times, VINACOMIN has invested billions of Vietnamese Dong (VND) in EIA reports for coalmines and ports. In addition to completing EIA reports, VINACOMIN's coal production and business units have adopted environmental protection measures in the process of coal mining, processing and trading, and reforestation in Quang Ninh province and other regions.

### **Experience in EIA**

#### *Timing*

According to Vietnam's Law on Environment, the time for public feedback is 15 days after reception of the EIA proposal report by the commune-level People's Committee. As such, the public participation process usually starts well ahead of this feedback, at the impact assessment stage. VITE recognizes that, if the participants are to be informed and trained, this amount of time is too short for a meaningful participation.

#### *Technical Support*

The support of an EIA consultant is essential in the public participation process, and consultants are usually the main interface with the communities. A contract signed between the project proponent and the EIA consultant would plan for all costs (meetings allowances, workshops preparation, communication material, etc.). However, the budget allowed is usually insufficient for the consultant to conduct a proper assessment.

#### *Stakeholder Mapping*

Stakeholder mapping is essential but difficult when conducted by local authorities. Often meetings are organized by the commune-level People's Committee and the results of the meeting depend on which stakeholders have been chosen to participate.

#### *Stakeholder Preparation*

Generally, stakeholders effectively express their concerns and expectations to the project developer during the EIA process, but they typically focus more on social needs, such as livelihoods and compensation, than environmental impacts. Currently, in Vietnam, there is very little stakeholder preparation, such as capacity

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<sup>29</sup> [http://vccinews.com/news\\_detail.asp?news\\_id=28544](http://vccinews.com/news_detail.asp?news_id=28544)

building, to inform them of other potential project impacts. The commune-level People's Committee restrict public engagement to information sharing. A solution, according to VINACOMIN, would be to spend more time preparing and educating the communities concerning the opportunities and impacts of a project, including its boundaries, the technology used, its environmental impacts and the mitigation measures planned.

#### *Communication Channels*

In Vietnam, communication about development projects and EIA processes is typically one way, from the local authorities to the communities, particularly in the case of mining projects that are located in remote areas and involve very small community groups, such as ethnic groups.

#### *Grievance Mechanism*

VINACOMIN has a formal grievance mechanism in place. The process is as follows: listen and understand the communities' concerns; classify topics of grievance and their claims; discuss and find solutions verbally if possible, following project owner rules and the government policies; and, in case of strong grievance, come to a formal and written agreement (usually for land clearance and compensation).

### **Costs and Benefits of Meaningful Public Participation**

#### *Costs*

The overall costs for the EIA are agreed upon by the project owner and the consultative service provider and are included in the investment cost of the project. Non-monetary costs include human resources, delays resulting from approval time, and stress resulting from grievances. VINACOMIN maintains and manages its own Environment Fund, with expenditures of up to US\$40-45 million per year covering unexpected impacts caused by past and current mining activities.

#### *Benefits*

VINACOMIN believes that a robust EIA report and strong public participation process will give them a better reputation and better relationships with the government, which is considered good value for the company. In addition, public participation aids in avoiding conflicts by providing a smooth process for concerns to be voice. Finally, VINACOMIN believes that the public participation process provides the company and its staff with improved knowledge of the local context.

### **Conclusions**

#### *Lessons learned*

VINACOMIN considers the main lesson learned to be that social issues are harder to manage than environmental issues, although they are intrinsically linked. They have also learned that when opposition to a project is too strong, the project developer may need to cancel it.

#### *Key success factors*

VINCOMIN believes that stakeholder mapping is essential to identify the communities being impacted by the project. Social surveys also help the EIA consultants adapt to the specific local and cultural dynamics of a project area. VINCOMIN believes patience is key, as is allowing time for meaningful feedback. Finally, fair trade-off between economic development and environmental preservation need to be found and compensation offers need to be realistic.

## H. Ngam Ngiep 1 Power Company, Laos

### **Background**

Nam Ngiep 1 (NN1) is a 290-megawatt hydropower project under development by the Nam Ngiep 1 Power Company (NNP1PC) on the Nam Ngiep River in Bolikhamxay and Xaysomboun provinces in Laos. The main dam will be 167m high with an installed capacity of 272 MW, releasing water to a regulating pond where a second dam and power station with an installed capacity of 18 MW for local use before releasing back to the Nam Ngiep river. 95% of the electricity generated by the dam will be exported to Thailand, while the remainder will be used in Laos.

NNP1PC is co-owned by KPIC Netherlands, a subsidiary of Japan's Kansai Electric Power (45%), EGAT International of Thailand (30%), and the Lao Holding State Enterprise (25%). At the end of the concession period (in 2046) ownership of the Plant will be transferred entirely to the Government of Lao. Financing for the NN1 project is provided by ADB, JBIC and Thai commercial banks. Although the negotiation on fundamental agreements of the project including PPA and CA began in 2006, it was put on hold during the global financial crisis in 2008 and was subsequently restarted in 2011.

The NN1 project will create a 66.9 km<sup>2</sup> reservoir requiring the relocation of 481 households comprising 3,197 people living in four villages in the lower reservoir area. The regulating reservoir will impact one community, comprising 39 households and 289 people. These relocated villagers are mainly ethnic Hmong. In addition, three villages situated at the upper reservoir area will lose part of their farmland, and several villages will be disturbed by the construction and resettlement activities including households along the transmission lines and access road who will lose portions of their land or assets. As well, changes in water flow and potentially water quality may impact those living downstream of the project.

### **Experience with EIA**

#### *Early Engagement through Surveys and Studies*

Beginning in 1999, JICA funded a scoping survey for the NNP1 Project that involved public input, but official detailed public consultations and disclosure of updated project plans did not occur until 2007 when the ESIA was conducted. At this point, questionnaire and survey data was collected and analyzed. A team from the Environmental Research Institute at Thailand's Chulalongkorn University which was contracted by the project conducted research on social and environmental impacts. After the study by Chulalongkorn was completed in 2008, further study was resumed in 2011, mainly for the development of resettlement area by Kansai team and after the establishment of the NNP1PC in April 2013, an in-house team from NNP1PC's Environment and Social Division began consultations and updated the information related with environmental and social aspects while outsourcing environmental studies to consulting companies. These experts interacted and communicated with the communities to obtain a complete picture of the project's potential impacts. Stakeholders were determined based on whether the company's studies revealed that they would be impacted by the project.

#### *Public Consultations*

NNP1PC has conducted consultations at many different levels, from informal village discussions to large stakeholder forums at provincial and national levels. Consultations were initially conducted on a flexible basis, not following a rigid structure or a Stakeholder Engagement Plan, but rather responding to requests for information and fulfilling requirements to engage. Later on, consultations became

structured, following the principles of ADB stakeholder engagement through meaningful consultation. As part of this process, public stakeholder forums were held during the EIA preparation, before finalizing the documentation. Forums were held in Paksan for government staff; in Vientiane for NGOs; and again in Paksan for affected villagers and government. All consultation meetings are made public through reporting of the Minutes of Meetings, attendance records and photos in the Annex A of the REDP 2014, posted on the companies and ADB's website.

During the consultations, NNP1PC used communications techniques such as focus group discussions and village meetings, combined with the use of visual information such as pictures, diagrams, field visits, a pilot farm at the resettlement area and three-dimensional models. NNP1PC conducted consultation activities largely in Lao and translated into Hmong, or presented in Hmong directly by Government and NNP1PC staff. NNP1PC addressed the issue of participation by women and vulnerable groups by organizing focus group discussions in the communities at a time and location suitable for participation by these groups. Where possible consultations were conducted using face-to-face communication and visual representation of information to account for a range of literacy levels.

#### *Broad Community Support*

To be compliant with ADB safeguards principles, NNP1PC needed to reach broad community support (BCS) for the project, rather than 'consent' as in FPIC. NNP1PC needed to identify all stakeholders, impacts and mitigation strategies and obtain overall community agreement with the mitigation and compensation. In addition, NNP1PC needed to provide documentation to ADB to demonstrate they had achieved BCS. NNP1PC organized a public consultation meeting in each affected community. During each consultation, they described among other issues the project impacts, mitigation strategies, compensation plans and values, project schedules and grievance methodology. Once the community 'agreed' with the project and information presented, the meeting minutes, along with attendance sheets, were presented, the exact wording discussed, printed on site and signed by village authorities.

#### *Project Design Revisions*

The feedback received during the consultation meetings was used to update and amend the project design, mitigation measures and implementation issues. Examples of changes that can be attributed to consultation include: revisions to the transmission line route to avoid an elephant conservation area; and changes in the location and composition of the resettlement sites, including the community infrastructure and the process and materials used to construct the housing.

#### *Monitoring*

NNP1PC pays for four different international monitoring agencies, for different stakeholders, either directly or indirectly. The first is an independent monitoring agency, which reports directly to MONRE. The second is LTA, a consulting company that provides environmental and social experts and engineers and reports to NNP1PC lenders, who is paid for directly by the company. The third is an independent advisory panel composed of resettlement, social, and environmental experts, who visits twice a year and reports to the public at large. The last is Dam Safety Review Panel, with three experts of dam engineering, hydrology and geology, which reports directly to NNP1PC and the Ministry of Energy and Mines. Monitoring reports are posted on NNP1PC's website.

### *Grievance Mechanism*

NNP1PC has a grievance mechanism in place in accordance with the Concession Agreement that follows the government's approach to grievances. NNP1PC is further formalizing the system and working with government to improve its structure, through training, payments of per diem, transportation, formal investigations, formal grievance hearings, etc. There is a district and village grievance committee, but the program aims to solve problems at village level first through mediation, before an issue becomes a formal Grievance. The grievance team, which is integrated into the company's Environmental and Social Division, maintains records and provides feedback to the community.

## **Costs and Benefits of Meaningful Public Participation**

### *Costs*

NNP1PC projected the Social budget to be US\$44 million before COD and US\$14.4 million post-COD during the stabilization phase, which is more than 6% of the total project budget. For development and studies of the Environmental and Social programs, an additional US\$4-5 million was spent. This development budget was spent in two phases: 1) From 2007-2011/12, they spent approximately US\$2-3 million on EIA work, studies, staffing, etc., and 2) In 2013/14, in-house costs and outsourcing for additional studies cost another US\$2 million. NNP1PC found it difficult to estimate how much of this was spent directly on involving the public, but their representative noted that holding the three public forums was not particularly costly compared to the overall development costs. They commented that their compensation rate is at replacement value, or above replacement, cost. This is calculated based on the following elements: (i) fair market value (unit rates); (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. The compensation unit rates are probably the highest in country to date, having been discussed and negotiated with the community. NNP1PC also provides 30 scholarships per year for higher education, as part of the Social Development Program. Forty per-cent of these scholarships are reserved for female students from affected communities. The scholarship program will cost approximately US\$2 million over a 10-year period.

### *Benefits*

NNP1PC believes they derive several benefits from meaningful public participation. Public participation improves community awareness about the project and activities, which provides the company with a social license to operate. This social license to operate allows NNP1PC to proceed with work without stoppage or delay and helps them to operate easily without having to pay for elaborate security measures in a sensitive area where resistance to the government has occurred in the past.

In addition, public participation is a requirement for the international safeguard approval process, so being able to demonstrate that they comply with international policies facilitates engagement with international financial institutions such as ADB and JBIC. A demonstration of public participation in the project design and implementation results in the project being a lower risk investment, allowing NNP1PC access to lower interest rate financing than they would receive from commercial banks.

## **Conclusions**

### *Lessons Learned*

A representative of NNP1PC commented that keeping the public well informed and maintaining the trust of the community is increasingly important as Laos modernizes and people can communicate more easily using mobile phones, internet and

television. People are more aware of what is happening in neighboring communities and a bad experience by another project, affects the communities' perceptions and trust concerning NNP1PC. Clear communication is therefore paramount to ensure accurate understanding of the high quality of compensation policy implemented by NNP1PC.

NNP1PC believes being prepared for two-way communication and taking into consideration comments and suggestions from the community to be the most important lesson learned. If NNP1PC were to start from the beginning, the company would ensure even more upfront investment in quality staff and equipment, and a clear plan on resettlement and land acquisition before signing/executing the concession agreement.

NNP1PC considers meeting ADB's document preparation and reporting requirements to be a challenge; they had to hire additional consultants to conduct studies and develop the required documentation. In addition, they needed a strong in-house team to manage those consultants. As well, understanding all the necessary requirements was work-intensive that required a strong team and sufficient resources. NNP1PC had to make upfront investments to achieve these standards. At the same time, NNP1PC believed having the ADB standards helped provide a logical approach to public participation and made them aware of key aspects of meaningful participation such as timeframes, how to minimize impacts, how to mitigate impacts, involving women separately from men, etc.

NNP1PC also noted that the iterative process is challenging, requiring flexibility to adjust to circumstances such as leadership changes and to incorporate and update the project plan based on community inputs.

#### *Success Factors*

NNP1PC considers hiring qualified staff to prepare, conduct, and record public consultations as a key success factor. While there are some international staff at the management and documentation level, working with and training Lao staff, most of the process is conducted by Lao people employed by NNP1PC.

NNP1PC also believes that providing the community members with a choice of resettlement options to be one of their success factors. They also believe that having a livelihoods program that includes the whole scope of social development – resettlement site, houses, schools, electricity, markets, roads, health center, agriculture, livestock, fisheries, fruit, off-farm, scholarships, and irrigation – has contributed to their success.

Finally, NNPIPC considers their gender and ethnic minority programs to be a key part of their success, as well as their willingness to incorporate changes and suggestions from the consultations into project plans and activities.



## V. Conclusions

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This report's objectives were to increase the cost and benefit evidence base for meaningful public participation in EIA in the Mekong region, identify concrete examples of "good" practice, and provide sound justification for applying and expanding good practices.

The main finding from the interviews with companies is that there are several companies in the region which are currently trying new and innovative approaches to public participation in EIA, moving away from minimalist and transactional relationships with governments and communities. These companies have realized that the previous business practices associated with large scale infrastructure development, particularly the lack of meaningful stakeholder engagement, increasingly place major investments at risk. The most forward thinking companies have taken a long-term approach to creating positive societal impact in places where they operate, and they understand that meaningful public participation plays a significant role in achieving that objective. They also realize that meaningful public participation can have both monetary and non-monetary benefits for their businesses.

Although there are some innovative and thoughtful approaches to engaging with stakeholders highlighted in this report, there is still work to be done. A fact seemingly acknowledged by all those companies who participated and shared their information and experience. Although none of the companies featured in this report can be considered a complete success story, collectively they demonstrate key elements of a successful and meaningful participatory process. The use of these elements can help companies to arrive at informed decisions, improve project outcomes and save costs through conflict avoidance and a shared value approach.

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