



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

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No. 561/CPI

NATIONAL POLICY

ENVIRONMENTAL AND SOCIAL SUSTAINABILITY OF THE HYDROPOWER SECTOR IN LAO PDR

BACKGROUND

By the end of the 1990s, the hydropower sector accounted for three percent of Lao GDP and electricity sales to Thailand currently represent 30 percent of exports. Yet only an estimated 15-20 percent of Lao PDR's economically viable hydropower generating capacity has been realized to date. The National Growth and Poverty Eradication Strategy recognizes the importance of the hydropower sector in economic growth and poverty reduction. The Government of Lao PDR acknowledges that hydropower development must be sustainable, if its development potential to deliver lasting benefits to Lao PDR can be fully realized

Sustainable development of the hydro-power sector is founded on three important principles: (a) *economic sustainability* relies upon the maintenance of the renewable resource base, and the use of non-renewable resource rents to support the development of other factors of production; (b) *social sustainability* is based upon the principles of inclusiveness, mutual understanding and consensus; and (c) *ecological sustainability* relies upon the avoidance of irreversible environmental impacts such as the loss of biodiversity, accumulation of persistent pollutants, or disruption of ecological cycles.

The planning and design process for the Nam Theun 2 Hydropower Project has been unprecedented for a single development project in Lao PDR in terms of its length, comprehensiveness, inclusiveness and transparency. It has not only defined new environmental and social standards for a development project in Lao PDR, but has been inseparably linked to the development of national legal and institutional provisions for environmental and social safeguards. National developments since the initiation of work on the NT2 project include:

- the establishment of STEA, Provincial Environmental Committees and Environmental Monitoring and Management Units, and the Environment Protection Fund (EPF);
- the drawing up of the National Environmental Strategy and Action Plan, and provincial environmental strategies; and
- the promulgation of the Environmental Protection Law (EPL) and Environment Assessment Regulations (EAR), and the Resettlement Decree.

PURPOSE

This National Policy aims to capitalize on these efforts by adapting and tailoring the principles developed under the NT2 project to the hydropower sector as a whole, thus enabling procedures to be streamlined and institutionalized. This Policy Statement, founded on the aforementioned three principles of sustainability, applies to all large hydropower dams, where large dams are defined as having installed capacity of higher than 50 Megawatts or inundating more than 10,000 hectares of land at their fully

supply level. This National Policy applies to hydropower projects constructed after 1990. An integrated approach to river basin management will be practiced for multiple projects planned to dam a single river. Such an approach will include addressing cumulative impacts and their mitigation, supported by an appropriate institutional and financing mechanism.

1. ENVIRONMENTAL ASSESSMENT

All large hydropower projects as stipulated above must produce a full Environmental Impact Assessment (EIA) report and Environmental Management Plan (EMP) according to the Environmental Protection Law of 1999, and Environmental Assessment Regulations 1770 of 2000 or successor Decree. The EIA will include a comprehensive risk analysis over the entire life-span of project, an analysis of alternatives for project structure and location, including the no-project alternative, lessons learned from previous projects, and sub-basin cumulative impact analysis. The EMP will include a strategy for avoiding and/or mitigation of impacts, and risks, including accidents and emergency events. The EMP will also provide cost estimates for these activities, identify their sources of funding and an implementation schedule. A comprehensive monitoring and evaluation framework consisting of both internal and independent or third party monitoring arrangements should also be included in the EMP.

The EIA process will include provisions for field based surveys of archaeological, historical and/or sacred sites. These surveys will provide the cultural resources section of the EMP. The EMP should also include provisions for "chance find" procedures to address measures to be taken when unknown cultural materials are encountered during the course of project implementation or operation. The implementation of EIA activities related to cultural heritage would be coordinated with the Ministry of Culture and Information.

2. PROJECT-AFFECTED PEOPLE

Project-affected people will be recognized as those whose assets, resource use and livelihoods, and/or social or cultural structures are involuntarily altered by the project, and will be identified on the basis of social, economic, health and cultural studies and impact assessments. Assets and resource use will be recognized on the basis of legally established and/or customary use rights. All involuntary resettlement issues will be handled in accordance with the Resettlement Decree, which will be enacted by the Government, shortly. The right of all project-affected people to sustainable livelihood options and services at least at the level previously enjoyed will be recognized, and achieved through a Resettlement / Social Development Plan. The plan will consider distributional effects of development activities and the participation of vulnerable groups, including women and ethnic minorities, and will commit to targets for replacement or compensation for loss of assets, livelihoods restoration, and services and community development over the entire life-span of the project, with provision for monitoring and evaluation, participatory planning and adaptive management. In cases where ethnic groups are in the project area a specific plan to meet their aspirations would be prepared in consultation with these communities.

3. WATERSHED MANAGEMENT AND CONSERVATION

Any loss of natural terrestrial habitat will be offset, where possible, by funding and implementing effective conservation management in nearby protected areas of similar habitat and at least equivalent conservation importance, in line with the principles set out for the NT2 Watershed in Decree 39 of 2005. A watershed adaptive management and participatory planning strategy will be developed to stabilize land use, maintain vegetation cover and manage National and Provincial Protected Areas within the catchment area, and to enhance the productivity and sustainability of aquatic resources within the reservoir and its tributaries. Sustainable Biodiversity Management plans will take into account the need to compensate populations residing within protected areas for eventual restriction to the resource base on which they depend and to develop alternative means of livelihoods.

4. CONSULTATION

Free, prior and informed consultations will be conducted with all project-affected communities, to enable public involvement in environmental and social assessment according to the provisions of the EAR and Resettlement Decree, and to ensure public views are heard before a decision is made on a project. Consultations would be meaningful, balanced and transparent, for which additional guidelines will be issued. As much as possible, the villages will be afforded opportunities to build their skills through the involvement of independent facilitators, who will guide the process at the village-level. Comprehensive environmental education and awareness activities will also be undertaken. Every effort will be made to ensure representative participation of vulnerable groups such as women, elderly, disabled and ethnic minorities. Consultations on trans-boundary impacts, if materially identified, may also be conducted with neighboring governments through processes established by the Mekong River Commission. Consultations will continue throughout project implementation.

5. DISCLOSURE

Project consultation reports, impact assessments, mitigation plans and monitoring reports, will be publicly disclosed. Project developers will be required to establish information centers in the project area and in Vientiane. Information might be disclosed both in Lao and English, as the case might be, and appropriate methods will be used to communicate with ethnic groups. During implementation of the project, the project developers will be required to make public progress reports on the project. Third-party review will be encouraged. Gross project revenues and spending on environmental and social safeguards will be disclosed.

6. COMPLIANCE

Compliance with all relevant obligations under Lao national law, policies, strategies and action plans, and international conventions will be ensured through regular monitoring and reporting, with oversight from a third party agencies. Provisions for immediate corrective action and financial penalties, following instances of non-compliance, will be embedded in Concession Agreements. A grievance / dispute mechanism accessible to project-affected people will be established.

7. REVENUES

The Developer will cover the cost of implementing all environmental and social safeguard procedures under the "user pays" principle. A certain portion of the revenues from each project will be allocated to general funds or special financing windows within the Environment Protection Fund (EPF). These funds will be used to support nation-wide environmental protection and conservation efforts in the country. In general, it is recognized that investment in future productive capacity, in the form of manufactured capital, human capital, social capital, or maintenance of the renewable resource base, would be prioritized in the use of revenues.

8. EXISTING HYDROPOWER PROJECTS

From the start of 2007, all existing hydropower projects will be subject to a third-party monitoring and assessment of their compliance with respect to the environmental and social guidelines set forth in this Policy Statement as well as in the National Third Party Monitoring Guidelines for the Energy and Transport Sectors, and with pertinent legislation at the national, provincial and district levels, including the contractual agreements (e.g. concession agreements) under which these hydropower plants were approved by the Government. Costed plans and timelines to bring each project into full compliance will be developed by December 31, 2007. These plans will also specify the time duration required to achieve the agreed level of compliance, but not exceeding a five period from the date of such approval the plans by the Government. Annual performance reports will detail progress in line with these plans thereafter.

9. INSTITUTIONALIZATION

Detailed procedures and supporting decrees (if any) for implementing the environmental and social guidelines set forth in this Policy Statement, and an institutional framework for GoL monitoring and oversight will be issued by the end of 2006. These will be periodically reviewed thereafter on the basis of lessons learned from implementing this policy

10. REPORTING

The Government, through the Bureau of the Secretariat of the Lao National Committee on Energy (LNCE) will prepare and disclose an annual Status of the Environment, and Social Compliance Report detailing the performance of all hydropower projects in planning, design, construction and operational phases. For purposes of implementing this policy, the Bureau of Secretariat (BoS) will report to the LNCE and the National Environment Committee (NEC) and seek their guidance. The BoS will receive financial assistance from EPF to implement this National Policy Statement.

Vientiane, 07 JUN 2005

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