

The Xayaburi Dam: Threatening Food Security in the Mekong



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September 2012



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Construction activities at Xayaburi Dam Site, June 2012

1. Summary

A water conflict has emerged in Southeast Asia over the proposed 1,285 MW Xayaburi Hydropower Project in Laos.¹ The project is the first of eleven dams proposed for the transboundary Lower Mekong River. It is also the first to undergo a joint decision-making process by the four governments of the Mekong River Commission (MRC)—Cambodia, Laos, Thailand, and Vietnam.

The process has not been a smooth one. In 2010, the Lao government proposed to build the Xayaburi Dam and sell the electricity to Thailand, but Cambodia and Vietnam raised concerns about the dam's downstream impacts. In April 2011, the four governments met to discuss the project but could not reach agreement and elevated the decision to the Ministerial level. While these negotiations were underway, Laos began building roads and worker camps at the dam site, claiming that these activities were merely preparatory work. In December 2011, ministers from the four governments met and agreed to conduct further studies on the impacts of the eleven proposed Mekong dams, including the Xayaburi Dam. Between January and June 2012, however, without notifying other MRC governments the Lao government expanded construction activities at the dam site, including digging in the river, resettling a village, and building dikes and other structures at the dam site.²

When an International Rivers investigation revealed in June that construction was well underway, the Lao government began an advertising campaign in the state-run *Vientiane Times* describing the merits of the project.³ Laos called the project “the most modern and transparent dam ever built,”⁴ and claimed that construction of the dam would not cause environmental and social impacts downstream. Although the four MRC governments have not reached a joint decision, Laos announced unambiguously in September 2012 that construction on the dam would proceed.⁵ Thailand has remained largely silent throughout the dispute, despite its commitment to purchase 95% of the dam's electricity and the central role of Thai companies in developing and

¹ For more background on the Xayaburi Dam, please visit International Rivers' website, <http://www.internationalrivers.org/campaigns/xayaburi-dam>.

² For more details about the current status of construction, see: <http://www.internationalrivers.org/blogs/267/how-the-next-12-months-of-xayaburi-dam-construction-will-affect-the-mekong-river>.

³ For a summary of events in June and July, please visit <http://www.internationalrivers.org/blogs/267/testing-the-waters-laos-pushes-xayaburi-dam-to-critical-point>.

⁴ Lao PDR government, “Dam a natural blessing in Laos,” *Vientiane Times*, 20 August 2012.

⁵ Lao PDR government, “Laos clarifies Xayaboury dam development,” *Vientiane Times*, 6 September 2012.

financing the project. Cambodia and Vietnam continue to insist that more impact studies are needed.

The conflict focuses largely on the impact that the Xayaburi Dam and other Mekong dams will have on food security.⁶ Over 60 million people live in the Lower Mekong Basin, and 80% depend on the river system for their food and livelihoods.⁷ Scientists have concluded that the



project will harm fisheries, block the flow of sediments and nutrients downstream, and flood the homes and agricultural lands of hundreds of thousands of people.

If all eleven dams are built, the impacts would be magnified. The MRC's 2010 Strategic Environmental Assessment raised concerns about the eleven dams' impacts on fisheries and agriculture.⁸ The dams would flood 54% of the gardens along the banks of the Lower Mekong River, many of them owned by subsistence farmers. Over 106,000 people would lose their

homes and require resettlement.⁹ Nutrients and sediments would be blocked from reaching the Mekong Delta downstream, one of the region's most productive agricultural areas. Dams would block fish migrations and change habitats, affecting the world's most productive inland fishery.

Even in the early stages of construction at the Xayaburi Dam site, threats to food security are emerging. On 14-18 June 2012, International Rivers traveled to Laos and interviewed 77 households in fifteen of the villages affected by the Xayaburi project (see [Annex 1](#)).¹⁰ One village has already been resettled. Within the next few years, at least 2,100 people will be resettled. If the dam is completed and the impoundment area is filled,¹¹ an estimated 200,000 more people will have their agricultural land flooded and fish catch reduced. The project's developers, including Thai company Ch. Karnchang and the Lao government, have promised to build new resettlement homes for some villagers, compensate people for lost trees and gardens,

⁶ At the 1996 World Food Summit, the international community defined food security as existing "when all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life." Food security has three components: (1) *Food availability*: sufficient quantities of food are available on a consistent basis; (2) *Food access*: sufficient resources to obtain appropriate foods for a nutritious diet; and (3) *Food use*: appropriate use based on knowledge of basic nutrition and care, as well as adequate water and sanitation. For more information, please visit <http://www.who.int/trade/glossary/story028/en>.

⁷ WWF, "Mekong dams could rob millions of their primary protein source," 27 Aug. 2012, <http://cambodia.panda.org/?206032/Mekong-dams-could-rob-millions-of-their-primary-protein-source>.

⁸ International Centre for Environmental Management 2010, "Strategic Environmental Assessment of Hydropower on the Mekong Mainstream" (prepared for the Mekong River Commission), <http://www.mrcmekong.org/assets/Publications/Consultations/SEA-Hydropower/SEA-Main-Final-Report.pdf> [hereinafter "MRC Strategic Environmental Assessment"].

⁹ MRC Strategic Environmental Assessment, p. 18.

¹⁰ Box 1 lists the villages that we visited, and Annex 1 summarizes the concerns that people raised in each village.

¹¹ The impoundment area is the portion of the river upstream of the dam where water will be blocked from flowing naturally. The Xayaburi Dam will store water for up to five days, but is still being called a "run-of-river" dam by the project developers.

and provide new job training. As this report demonstrates, however, these efforts have not been sufficient. Food insecurity is growing near the Xayaburi Dam site, as communities lose access to the Mekong River resources on which they depend. Key findings of this report include:

Resettlement activities at the Xayaburi Dam site have violated Lao law. The first village was resettled in January 2012 and the livelihoods of many people have still not been restored. Seven other villages are likely to be affected by 2013 or 2014—five villages will be resettled and merged with two existing villages where land is scarce. Compensation is not being provided for lost fisheries, gold panning, and other uses of natural resources, as required by Lao law. All together, Thai builder Ch. Karnchang has violated at least 22 standards in Laos’ 2005 resettlement and compensation decree, and only partially complied with eight standards (see [Annex 2](#)). The Lao government has also committed to follow the World Bank’s resettlement standards,¹² but a closer look reveals numerous violations of this standard as well (see [Annex 3](#)).

Laos has not fulfilled its commitment to study the project’s transboundary impacts. The impacts of the dam will extend into Thailand, Cambodia, and Vietnam. Both Cambodia and Vietnam have called for further studies on the dams’ impacts before making any decisions on whether to proceed. Laos is required under the 1995 Mekong Agreement’s procedures and international law to meet these requests, but has not done so (see [Annex 4](#)). Instead, Laos has relied exclusively on two consultants’ desk studies that do not assess transboundary impacts.¹³

The project developers have not set aside adequate time to resolve the Xayaburi Dam’s food security concerns. Despite the conflict, construction continues on schedule. The project developer plans to resettle five more villages within the next year and complete construction on the project’s “coffer dam” by May 2013.¹⁴ These activities will adversely impact food security.

No solutions have been found to fully mitigate the Xayaburi Dam’s impacts. The project developers have not fully studied the food security risks, but have guaranteed that their proposed mitigation measures will work.¹⁵ In contrast, scientists at the MRC Secretariat, International Centre for Environmental Management, and WWF have concluded that no mitigation solutions have been found to fully replace the food security that will be lost by building the Mekong dams.

There is need for an immediate stop to all construction and relocation activities. Even in the early stages of construction, the Xayaburi Dam illustrates the food security challenges that will arise from building large dams on the Lower Mekong River. Given the risks involved, it is urgent that the Xayaburi Dam builders stop all relocation activities and delay further construction, so that adequate time can be set aside to study the dam’s impacts in more depth. Only in this way can the four MRC governments proceed towards an informed, mutually agreeable solution.

¹² On 16-17 July 2012, Laos’ Deputy Minister of Energy and Mines Viraphonh Viravong told a delegation of visiting diplomats that his government would use the World Bank’s resettlement standards in the Xayaburi project.

¹³ For more analysis of the Pöyry and CNR studies, please visit:

<http://www.internationalrivers.org/blogs/267/p%C3%B6yry-responds-on-its-role-in-the-xayaburi-dam>.

¹⁴ “Coffer dams” are temporary structures to divert the river from the construction site, so that the permanent dam can be built.

¹⁵ The MRC identified numerous information gaps in the project’s environmental impact assessment. These gaps have remained largely unfilled. See MRC’s March 2011 technical review of the proposed Xayaburi Hydropower Project: <http://www.mrcmekong.org/assets/Publications/Reports/PC-Proj-Review-Report-Xaiyaburi-24-3-11.pdf>



2. Why is the Mekong River important for food security?

The Mekong River is an essential provider of food security in Southeast Asia, and not one that can easily be replaced. According to the MRC's 2010 Strategic Environmental Assessment (SEA), the Mekong River provides fish, fertile farmland, and income for millions of people. As the SEA reports, "In a river basin where 70% of communities are rural and inland fisheries are the most intensive in the world, food security and livelihoods are still largely based on river-dependent natural resources."¹⁶

The villages near the Xayaburi Dam site illustrate some of the ways that food security is linked to the Mekong River. The dam site is located in a mountainous region of northern Laos about 150 km south of the UNESCO World Heritage city of Luang Prabang. People living along the river in this region generally obtain food and income through a variety of sources, rather than relying on a single profession. In the fifteen villages that we visited, for example, people's food security largely depends on:

- **Fish:** Almost all households catch and eat fish every day, sometimes selling any extra fish that are caught. Fish is the major source of protein for these villages.
- **Riverbank gardens:** Almost all households have riverbank gardens where they grow fruits and vegetables to eat.
- **Rice fields:** Most households grow their own rice. Many fields are located up in the hills, but some are also located in low-lying areas along the river.
- **Livestock:** Many households raise water buffalo, chickens, pigs, and other livestock in the lands along the river.
- **Forest products:** Many households rely on the forests around the river to gather mushrooms and other food, as well as bamboo and wood to build homes and boats.
- **Income:** For several months each year, many families earn extra income by panning for gold in the river, collecting sand, and harvesting river plants such as *kai*. Some families grow cash crops like teak trees, corn and peanuts in the hills beside the river.

¹⁶ MRC Strategic Environmental Assessment, p. 16.



Resettlement site for Ban Houay Souy

3. Food security concerns in the first resettled village

The Xayaburi project developers relocated the first village, Ban Houay Souy, in January 2012. International Rivers visited the resettlement village six months later in June and documented several threats to the villagers' food security. An investigation in August by the *Bangkok Post* also documented threats to food security.¹⁷

Ban Houay Souy has around 65 households, or 333 people, and was previously located next to the Mekong River directly at the dam site. Construction activities have already cleared away the land, forests, and riverbank gardens that once existed near the village. The entire village was resettled to a location about seventeen kilometers from the Mekong River near Xayaboury town.¹⁸ The *Bangkok Post* reported that villagers were only given a few days notice before the relocation took place. Now in their new homes, the villagers are still searching for livelihoods to replace what the river once provided.

In the previous location, people grew their own food in rice fields and riverbank gardens. They fished every day and gathered fruits, mushrooms, and timber products from the forests. Many people also earned extra income by panning for gold and growing corn and grain to sell.

"We are concerned about our food and income here. At our old village we could make more, here we make less."

– Villager from Ban Houay Souy

Loss of fisheries

Villagers have found it difficult to fish from their new location. They are located far from the Mekong River, and even those who go to fish are not able to do so every day. Villagers are able to catch some fish at a tributary about 30 minutes away, but fish catch is quite low. No compensation was provided for loss of fisheries, as required by Lao regulations.¹⁹ A substitute for this critical source of protein has not yet been found.

¹⁷ Bangkok Post, "Home is not where the heart is for Xayaburi locals," 5 August 2012,

<http://www.bangkokpost.com/news/investigation/306038/new-home-not-where-the-heart-is-for-xayaburi-locals>.

¹⁸ The relocated village is now called Ban Na Tor Mai.

¹⁹ According to the Implementing Regulation for the 2005 Lao Decree on Compensation and Resettlement, "[affected persons] whose livelihood is based on the service sector or in hunting, gathering or otherwise exploiting natural resources shall receive compensation in cash to the value of economic opportunity lost due to project intervention together with cash, materials, and training support for economic restoration in alternative sustainable livelihoods at levels better than or at least equivalent to the pre-Project situation." See Article 22, section 7.

Loss of agricultural land

The company originally agreed to provide each resettled family with two hectares of agricultural land, comparable to the amount they owned in the old village. Later the company decided only to provide 0.75 hectares, which villagers do not consider to be sufficient to grow their food. As of June 2012, the company had still not provided the villagers with the new agricultural land. Plans were underway to clear land, but it was already too late to grow crops during the current year.



Villagers reported that gardens next to their houses are small and not as productive as those in the old village, because the water supply provided by the company contains heavy chemical treatment and few nutrients. Villagers must also pay for this water supply. In the old village, water from mountain streams was free and rich in nutrients. This has been an unexpected cost for people living at the resettlement site.

The villagers reported that they have not received compensation for their lost land and riverbank gardens. The company told them that they could still access their old lands. In fact, many have already lost their land due to construction activities at the dam site, and the villagers now live too far away to access remaining lands on a regular basis. Some have returned to live in their agricultural fields. Many have not, however, because the company does not allow villagers to freely use the dam site's access roads.

Housing costs

As promised, the company built new houses for the resettled families. However, the new houses are smaller than many of the villagers' previous homes. The company provided only a second floor and left the ground floor un-built. Some villagers complained because the company used wet wood in the rush to complete the houses, which has now bent and caused cracks in the homes. Some villagers expressed concern that that wood in the houses is infested with insects. As of June 2012, most of the households had completed the ground floor at their own expense, using much of their compensation money from the resettlement process. For example, one family said they received 50 million kip (about US \$6,000) from the company in total compensation, but had to spend 30 million kip to finish building their house.



Cost of living exceeds the compensation provided?

The villagers have found themselves with less compensation than they were promised, while also facing expenses that they did not expect. As of June 2012, many had not received compensation for lost land and riverbank gardens. Several people complained that the compensation they received for fruit and teak trees was unfair and did not account for the size or market value of the trees.

No compensation was provided for lost fisheries and gold panning. Many of the villagers previously earned extra income each year from fishing. At the resettlement site, the company promised to provide alternative sources of income. The company provided each family with a single source of income, such as duck raising, pig farming, or mushroom growing. Many families were responsible for buying their own supplies. In most cases this single source of income has not brought enough money into the household. As of June 2012, many people still did not have full-time jobs and spent most of their time idle. Some families had already sold the last of their animals and were already in debt.

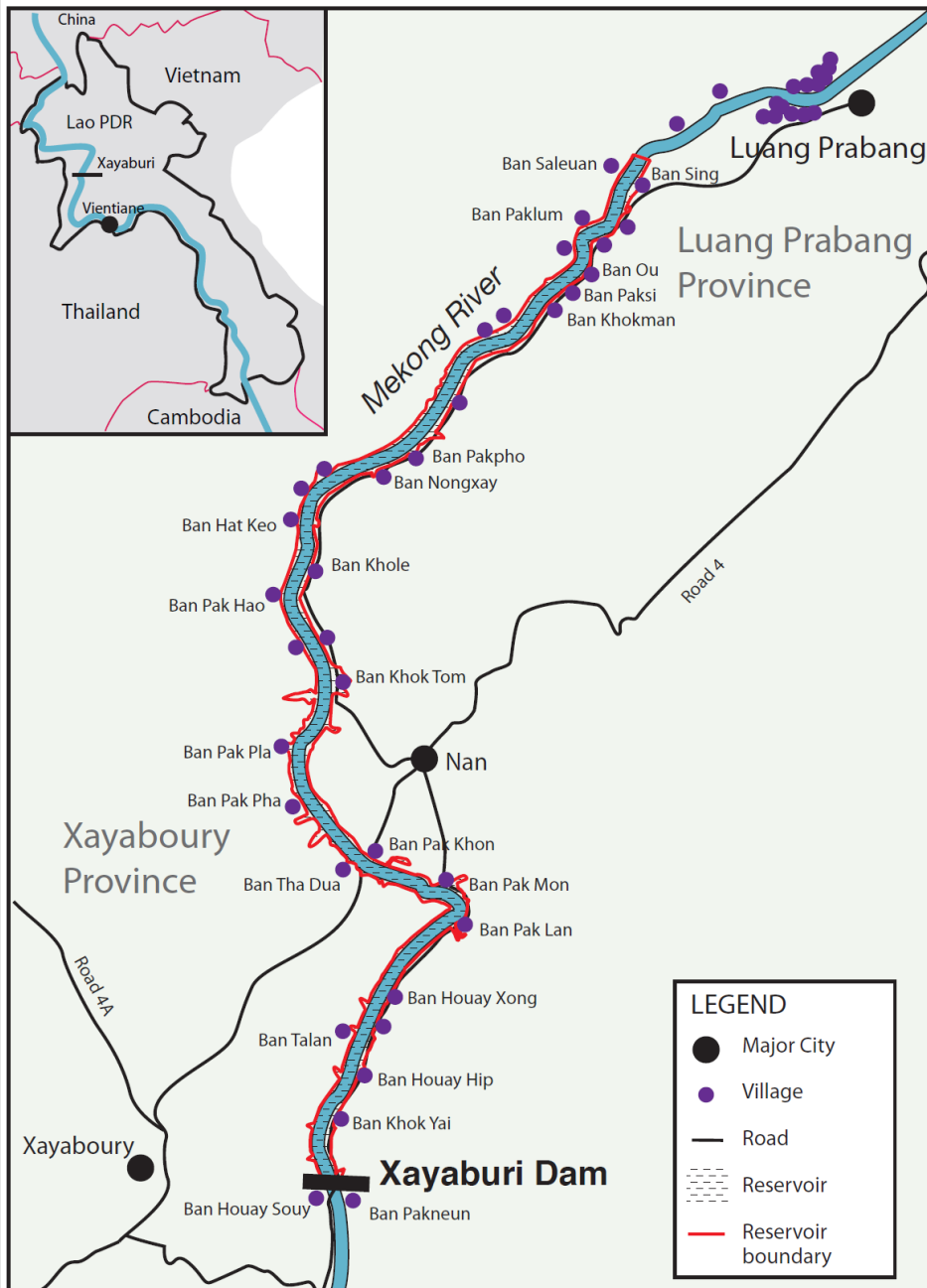
The company provides villagers with a monthly stipend of 120,000 kip (about US \$14) per person per month. Yet unexpected expenses have also raised the cost of living in the new village. In addition to the costs of completing their houses, villagers must pay for their own drinking water and also pay the costs to travel to the city market to buy and sell goods. The company promised to provide the first year of electricity for free, but changed its mind after the relocation and only provided one month for free. The villagers refused to pay the electricity bill. As of June 2012, they were still negotiating with the company for a better deal. In the old location, the villagers had access to inexpensive, renewable electricity through micro-generators on Mekong tributaries (see photo on the right of a micro-hydro system). The Mekong River basin provided many natural resources at no cost.



As a result, villagers have been placed into a cash-based economy without enough cash or resources to sustain a living. Lao law requires that the company fully restore the livelihoods of resettled persons to pre-project levels. None of the people who we interviewed felt that they were better off at the resettlement site.

Box 1: Map of villages visited

On 14-18 June 2012, International Rivers interviewed 77 households in fifteen of the affected villages (listed from south to north): Houay Souy (*already resettled*); Pakneun; Khok Yai; Houay Hip; Houay Xong; Pak Lan; Pak Mon; Pak Khon; Khok Tom; Houay Khua (*marked but unlabeled on map*); Pak Hao; Vangsa / Pak Heng; Pak Pho; Pak Lum; and Saleuan.





4. How the construction phase will impact food security

The Xayaburi Dam is scheduled to become operational by 2019. Even before this time, food insecurity is likely to increase if construction on the project continues. We can expect to see the following impacts during the next seven years if construction on the project proceeds.

Transboundary impacts

During project design, the Xayaburi developers only studied the impacts within ten kilometers downstream of the dam site. Yet many of the downstream impacts are likely to extend hundreds of kilometers into Thailand, Cambodia, and Vietnam. Since April 2011, the Cambodian and Vietnamese governments have asked for a transboundary impact assessment, but this request has not been met. In July 2012, the Lao government told a visiting delegation of foreign governments that there was no need for a transboundary impact assessment.²⁰

"We want to see development, but we are afraid this won't be development. We are local people, it's like a dog barking at an elephant. So our worries and concerns will not change anything."

- Villager affected by the Xayaburi Dam

Impacts from resettlement

By 2013 or 2014, an estimated seven villages will be significantly affected by the Xayaburi project. The company plans to resettle five villages and merge them into two existing villages. Three villages will soon be moved to Houay Hip, and two villages will be moved to the Pak Mon. By the end of the construction phase, around 2,100 people will be resettled. Villagers were not given an opportunity to critique or even comment on the resettlement plans.

The resettlement will not only affect the villagers who are moved, but those who already live in the host community. Villagers in Houay Hip and Pak Mon are concerned that competition for food will increase, as land is scarce and a larger population will place greater strain on the surrounding forests and water resources. Both of the villages are located in steep, mountainous terrain where extra farmland is not readily available. The Xayaburi developers offered only limited compensation to people in both host villages. Several households are being removed from their land to make way for the resettlement sites. These households have not received compensation, replacement homes, or new land.

²⁰ See <http://www.internationalrivers.org/blogs/267/testing-the-waters-laos-pushes-xayaburi-dam-to-critical-point>.

Impacts from flooding

In all of the villages visited, riverbank gardens, teak trees, and agricultural land will be flooded. In most villages, at least a few households living close to the river or tributaries will be flooded although the exact number remains unclear. The company has provided the villagers with mixed messages about what impacts to expect. The company has also required at least two village headmen to sign a statement that the company would not be responsible for any damage that occurs above 275 meters, the projected water levels after the dam is built.



All of this has led to confusion over who will need to move, what will be compensated, and whether people will receive enough compensation to restore their lives.

Impacts on fisheries

Almost every household in the affected area fishes daily. Most villagers are not concerned about the dam's impacts on fisheries, however, because the company told them there would not be any impacts. In the past year, the company showed a video in many villages describing how its fish passage system will allow fish to travel freely past the dam, despite the fact that many scientists believe that the technology will not work and fish mortality will be high.²¹ Villagers are under the impression that they can continue to fish in the Mekong as they do now once the dam is built.



Loss of income

Although the villagers near the Xayaburi Dam site catch and grow most of their own food, they also earn income from other river-based sources. Many of these—panning for gold, harvesting river plants, collecting sand, and selling excess fish catch at markets—will be lost and not compensated, despite the requirements of Lao law. Rather, the company promised to provide new sources of income. Early indications at the Houay Souy resettlement site suggest that the

new income sources provided by the project developer will not be sufficient. Many villagers have sent representatives to visit Houay Souy and are concerned about the higher cost of living and the project company's record of broken promises.

²¹ Concerns with the use of fish passage technologies on the Lower Mekong River are documented in E. Baran 2010, *Mekong Fisheries and Mainstream Dams, Fisheries section of the MRC's 2010 Strategic Environmental Assessment*, http://www.worldfishcenter.org/resource_centre/WF_2736.pdf.



5. Cumulative impacts of eleven Mekong Dams

The Xayaburi Dam is only the first of eleven proposed dams on the Lower Mekong River. If all of these dams are built, food insecurity will expand rapidly as millions of people lose access to natural resources that the Mekong River provides, such as fisheries and productive agricultural land. The Lower Mekong River provides food and livelihoods for around 60 million people. Over 29.6 million people live and work within fifteen kilometers of the river.²²

Significant impacts

The MRC's 2010 Strategic Environmental Assessment presented initial findings of what would happen if the eleven dams go forward.²³ The study warns of “serious and irreversible environmental damage.” Fisheries worth an estimated US \$476 million/year would be lost, in addition to the coastal and delta fisheries in Vietnam that have not yet been studied. The dams would raise water levels, flooding 54% of riverbanks along the Mekong River. Over 106,000 people would lose their homes and require resettlement. Even those whose homes are not flooded would feel the impacts. The 2.1 million people who live within five kilometers of the river are at the highest risk. Agricultural land worth an estimated US \$25.1 million/year would be flooded, with the subsistence-level communities bearing much of the loss. The dams would also block sediments and nutrients from flowing downstream, resulting in further losses in land and agricultural productivity.

Effective alternatives may not exist

The SEA concluded that mitigation measures—such as reservoir fisheries, fish passages, and aquaculture—would only be able to partially replace these losses.²⁴ Poor families would face resettlement, loss of land, and other impacts as soon as construction begins. Loss of fisheries would lead to declines in nutritional health, especially in Cambodia and Laos where up to 80% of the national protein supply would be at risk.²⁵ Rural poverty could then spill over into urban areas.

²² MRC Strategic Environmental Assessment, p. 18.

²³ MRC Strategic Environmental Assessment, pp. 13-18.

²⁴ See also, the MRC's March 2011 technical review of the proposed Xayaburi Hydropower Project, which reaches similar conclusions for the Xayaburi Dam project.

²⁵ Baran 2010, p. 20, http://www.worldfishcenter.org/resource_centre/WF_2736.pdf.

An August 2012 study by WWF and Australian National University examined the fisheries impacts of the proposed dams and concluded that “proposed dam construction in the Lower Mekong Basin will considerably reduce fish catch and place heightened demands on the resources necessary to replace lost protein and calories.”²⁶ The study noted that finding additional land and water to raise livestock to replace the lost fisheries would not be easy: “Shifting the food security of 12 million households from heavy reliance on aquatic protein to a more rainfed, land-based economy has obvious and significant challenges.”²⁷



As the authors of the study explained: “Policymakers in the region need to ask themselves where they are going to find this additional land and water. The Mekong demonstrates the links between water, food and energy. If governments put the emphasis on energy, there are very real consequences for food and water—and therefore people.”²⁸

Laos will also feel the impacts

Laos plans to build nine dams on the Mekong River, which will not only affect people living in other countries but its own citizens as well. An estimated 3.4 million Lao citizens—over half of the national population—live within fifteen kilometers of the Mekong River.²⁹ This includes some urban areas such as Vientiane, but numerous rural villages as well. As the MRC noted in its March 2011 review of the Xayaburi project, “Government capacity to reach the poor is constrained by resource limitations and no real safety nets exist. In this context, rural self-sufficiency is a critical dimension of resilience to change. Households along the mainstream Mekong are in many areas able to combine crop production and livestock rearing with fishing and the collection of other aquatic animals...and non-timber forest products.”³⁰

If all nine dams are built, the livelihoods of more than 1.8 million people in Laos would be threatened.³¹ Other projects are planned on the Mekong’s tributaries, as well.³² The Lao government has not conducted any assessment of the cumulative impacts of these projects. Although the Lao government has identified food security as a national development priority, its recent decisions around the Mekong dams are at odds with this goal.

²⁶ Orr et al. 2012, “Dams on the Mekong River: Lost fish protein and the implications for land and water resources,” *Global Environmental Change*, <http://cambodia.panda.org/?206032/Mekong-dams-could-rob-millions-of-their-primary-protein-source>.

²⁷ Orr et al.

²⁸ Orr et al.

²⁹ MRC’s March 2011 technical review of the proposed Xayaburi Hydropower Project, p. 87.

³⁰ MRC’s March 2011 technical review of the proposed Xayaburi Hydropower Project, p. 86.

³¹ The livelihoods calculation is based on the total of directly and indirectly affected populations in Laos identified by the MRC Strategic Environmental Assessment, p. 109. Fish loss estimates are summarized on p. 101 of the SEA.

³² Please visit: <http://www.internationalrivers.org/campaigns/laos>.



6. Next steps

Human rights violations are already taking place at the Xayaburi Dam site, which require urgent action to redress. The people in the Houay Souy resettlement village have already been placed in a situation where their future livelihoods are at risk. Even if the Xayaburi Dam is not built, their lands have been destroyed and they will find it difficult to return to their previous lives. Support by the Lao government and its donor partners is urgently needed to guarantee food security for Houay Souy residents. The resettlement process poses significant risks to these communities, and should not take place before the MRC governments make a final decision on whether to build the Xayaburi Dam.

The concerns of Houay Souy are likely to be repeated in the five villages awaiting resettlement in the coming year. The two host villages of Houay Hip and Pak Mon will also face tremendous food security challenges if several other villages are merged into their own. Scarcity of land and other natural resources is a risk that has not been properly addressed.

Currently, the project company Ch. Karnchang does not seem prepared to answer villagers' questions about how they will be affected and what kind of compensation they will receive. Although the affected villagers have concerns, they are not able to raise them without placing their personal safety at risk. No grievance mechanism has been set up, as required under Lao law. Indeed, most villagers have not even been given the opportunity to ask the company questions. Villagers need better assurances that their food security will not be taken from them.

The Xayaburi Dam is only the first of eleven proposed dams on the Mekong River. These dams' food security risks—in combination with 77 dams planned on the Mekong's tributaries—have not yet been studied. The 2010 Strategic Environmental Assessment recommends a number of additional studies that should be undertaken in the coming years. The Mekong governments are still designing a larger study to understand the dams' impacts, and further studies on the Xayaburi Dam's transboundary impacts have already been requested by the Cambodian and Vietnamese governments. These studies need to take place before construction on the Xayaburi Dam continues, because even the construction phase itself will have significant impacts on food security throughout the region. Only together can the four Mekong governments of Cambodia, Laos, Thailand, and Vietnam resolve one of the greatest threats to food security that the region now faces.



Annex 1: Summary of Concerns in Villages Visited

On 14-18 June 2012, International Rivers visited fifteen villages that are affected by the Xayaburi project and interviewed 77 households. All of these villages are located near or upstream of the dam site. If the dam becomes operational, land in each of the villages will be flooded. This will include loss of riverbank gardens, cash crops, and houses. In some cases, enough of the village will be flooded to require resettlement of the entire village to a new location. Some villages are also being resettled to make room for construction activities. The company has visited each village, usually around two to four times, and has promised compensation for losses and new jobs such as aquaculture, livestock, and mushroom farming. Nevertheless, villagers expressed a number of concerns related to food security.

Villages visited	Main concerns of villagers
<p>Ban Houay Souy (now called Ban Na Tor Mai)</p> <p><i>Located near Xayaboury town about 17 km from the river. Population: 65 households. We visited on June 18 and interviewed 7 households.</i></p>	<ul style="list-style-type: none"> - First village to be resettled: This village was already resettled in January 2012. See the main text for more details.
<p>Ban Pak Neun</p> <p><i>Located immediately at the dam site. Population: 89 households. We visited on June 16 and spoke to a number of villagers. We asked about the status of dam construction and resettlement plans, but did not conduct comprehensive interviews on their livelihoods due to security concerns.</i></p>	<ul style="list-style-type: none"> - Next village to be resettled: The entire village will be resettled to Houay Hip and will lose all of its riverbank gardens. The village is very active in gold panning, which is a significant source of income. Gold panning will be lost. The village will be resettled in late 2012 or early 2013. The company has a large presence in the village, as it is located immediately at the dam site.

<p>Ban Khok Yai</p> <p><i>Located slightly north of the dam site. Population: 34 households. We visited on June 16 and interviewed 8 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam's impacts: The entire village will be flooded and resettled. In late 2012 or early 2013, the village will be merged into Houay Hip. Villagers do not know how much land will be available in their new village. They do not think they will be given riverbank gardens or fruit trees, because there is already limited space in the village. - Vague promises to provide compensation: The company promised to provide new houses, one job per person, and free food and electricity for one to three years. The company also promised to provide land and to compensate for lost fruit and teak trees. However, the villagers are unsure whether they will receive adequate land to grow food. - No warnings about fisheries impacts: The company told villagers that there will be no impacts on fish.
<p>Ban Houay Hip</p> <p><i>Located slightly north of the dam site. Population: 76 households. We visited on June 16 and interviewed 4 households.</i></p>	<ul style="list-style-type: none"> - Plan to move other villages here, creating competition for land and food: None of the houses in Houay Hip will be flooded, but three more villages will be resettled here. The company said that Houay Hip villagers would not be impacted, and offered no compensation. Yet villagers believe that the merging of several villages will increase competition for land, food, and jobs. About 240 households will come to the village, bringing the total population to around 2,000 people. The company is already clearing about 50 hectares of land for the resettled households and is evicting Houay Hip villagers from this land without compensation. The resettled villagers could arrive in late 2012 or early 2013. - No compensation for houses evicted from the resettlement land: Around five households in the village are being evicted from their land to make way for the resettlement land. These are among the village's poorest and most vulnerable families. The families were ordered to leave the area and break down their houses. They have been offered no compensation or new place to live, because the company says that the land belongs to the government. The land near the village is steep, so it is unclear where these families can move. - Company has given mixed messages on dam's impacts: The company said there would be no impacts on the village, and thus has conducted minimal consultations. The company has not discussed with the villagers potential

	<p>losses to their income such as gold panning, teak trees, etc.</p> <ul style="list-style-type: none"> - Vague promises to provide compensation: The company told the villagers it would not provide any compensation. - No warnings about fisheries impacts: The company told villagers that there would be no impacts on fisheries, although villagers expect that there will be more competition as other villages are moved here.
<p>Ban Houay Xong</p> <p><i>Located slightly north of the dam site. Population: 48 households. We visited on June 16 and interviewed 6 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The entire village will be relocated in 2013 or 2014 and will be joined with the Pak Mon village. Villagers are concerned that it will be more difficult to find farmland in the new location, because Pak Mon village is already crowded with little land available. The company told the villagers that they can return to their current agricultural lands, which will not be flooded. However, the land will be 20 km away from the resettlement site, making it difficult to access. Villagers think that the company should pay for their boat travel between the village and their agricultural lands, which costs about 42,000 kip per day for three liters of gas to make the roundtrip. - Vague promises to provide compensation: The villagers are still unclear on what compensation they will receive. The company has not told the villagers if they will get land in their new village. The company has not promised to compensate for the costs of traveling between the village and their current agricultural lands, which will not be flooded. The company also promised to provide free food, electricity, and water in the new village, but it is unclear for how long. Villagers are concerned about the quality of the houses that the company will build after hearing stories from Houay Souy’s resettlement. - Villagers hired as labor but concerned about unfair treatment: Over 40 villagers work for the company. Most work long hours and chose to work for the company this year rather than plant rice. Villagers are concerned about the pay they receive. For example, several villagers reported only earning 7,000 baht per month while Thai workers doing comparable work earn 13,000 baht per month. - Villagers were told not to invest in land or houses until they are moved: The company told the villagers that they would not compensate for any improvements they make on their houses and land between now and the time of

	<p>resettlement. As a result, the villagers are hesitant to make any repairs or improvements to houses and land.</p> <ul style="list-style-type: none"> - No warnings about fisheries impacts: The company told the villagers that there would be no impacts to fisheries.
<p>Ban Pak Lan</p> <p><i>Located slightly north of the dam site. Population: 49 households. We visited on June 17 and interviewed 7 households.</i></p>	<ul style="list-style-type: none"> - Vague promises to provide compensation: The entire village will be resettled to Pak Mon village. They are not sure when they will be moved or how much compensation they will receive, but it is likely to be in 2013 or 2014. The villagers do not think they will have riverbank gardens in their new village because of shortages of land. The company said it would provide compensation for loss of gardens, teak trees, and fruit trees, but did not tell the villagers how much they would receive. The company has sent mixed messages about how long it will provide food, water, and electricity for free. Villagers have visited the Houay Souy resettlement area and are aware that people there have trouble with food, jobs, and housing. - No warnings about fisheries impacts: Villagers were told there would be no impacts on fisheries. The company said it would provide them with fish ponds or new jobs if they are unable to fish. One villager noted that “in Pak Mon, it will be very hard to find food, sometimes Pak Mon people come here to fish.” - Loss of low-cost microhydro electricity: Villagers already have electricity from a micro-hydro project, which will be lost. Each household invested over one million kip to build the microhydro generator, but will not be compensated and is expected to have to pay for electricity in the new resettlement site. The company told villagers it would provide free electricity for one year.
<p>Ban Pak Mon</p> <p><i>Located slightly north of the dam site. Population: 65 households. We visited on June 17 and interviewed 7 households.</i></p>	<ul style="list-style-type: none"> - Plan to move other villages here, creating stiff competition for land and food: All of the houses except two will be flooded, and the village will be moved uphill from its current location. Additionally, the company plans to resettle two other villages into this village. The resettled villages will be placed on land that is currently used by Pak Mon villagers for gardens, agriculture, and collection of forest products. There are no plans to compensate Pak Mon villagers for these losses. Villagers are concerned about shortages of land when the other villages are moved here, because the land is steep and mountainous. They are also concerned there will not be enough jobs for everyone during the dry season.

	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The company has changed its view on how much will be flooded in the village and how many households will be resettled. The company has not told the villagers when the other villages will be moved here. The company has also not explained the impacts that could happen from merging villages together, such as loss of access to forest products on land that is cleared for new homes. - Vague promises to provide compensation: The company told the villagers they would receive compensation “for everything.” The villagers have visited the Houay Souy resettlement village and are concerned about the quality of houses and other broken promises that villagers there have experienced. At least ten households rely on the land that will soon become the new resettlement villages, but they will not be compensated for these losses. The company said it would not compensate for lost gold panning or fisheries. Villagers currently have three hectares of land per family, but will only be given one hectare per family after resettlement. As a result, villagers are concerned about whether they will be able to grow enough food. - Villagers were told not to invest in land or houses until they are moved: The company told the villagers that they would not be compensated for any additional improvements they make to their houses or land right now, because they will be moved “soon.” As a result, the villagers believe that “everything is stuck” for the next several years. - No warnings about fisheries impacts: Villagers were told there would be no impacts on fisheries, so they would receive no compensation for lost fisheries.
<p>Ban Pak Khon</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 66 households. The village currently hosts a ferry service for vehicles traveling across the Mekong River, but this will soon be replaced with a bridge that is being constructed nearby. We visited on June 17 and interviewed 2 households.</i></p>	<ul style="list-style-type: none"> - Vague promises to provide compensation: About 20 houses in the village will be flooded, so the entire village will be moved. Villagers are unclear how much compensation they will receive or when they will be moved. The company promised to provide compensation for everything, new jobs, free electricity for one year, and free rice for three years. The land where the village will be moved is currently owned by someone already, so it is unclear what location they will ultimately be sent to. - No warnings about fisheries impacts: Villagers were told there would be no impacts on fisheries.

<p>Ban Khok Tom</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 96 households. We visited on June 15 and interviewed 7 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The company has been vague on how the village will be impacted. Between seven and eleven households will be relocated because of erosion and flooding. They will likely be resettled within the same village, but are unsure where exactly. - Vague promises to provide compensation: The company has been vague on how much compensation people will receive. The company said it would solve problems as they arise. The villagers to be resettled are unclear about how much food they will be provided. Some believe they will receive one year of food from the company, while others believe they will receive three years. - Company not taking responsibility for dam’s impacts above 275 meters elevation: The company said it would not compensate for any losses that occur above 275 meters in elevation. If this is true, much of the village would be excluded from compensation. People are concerned about what will happen if flooding goes above this level. People further inland are confused about what impacts will be, and are concerned they will not be compensated. - No warnings about fisheries impacts: Villagers were told there would be no impacts on fisheries.
<p>Ban Houay Khua</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 42 households. We visited on June 15 and interviewed 6 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The company told the villagers to “wait and see” which households will be affected by flooding. As a result, there is a great deal of uncertainty among many villagers about what to expect. Most recently, the company said that six households will be resettled to another part of the village. The company also said that if too many houses are flooded, it will move the entire village to higher land nearby. The villagers believe that more houses could be affected and that the flooding will extend into the nearby tributary river, causing damage to other houses, rice fields. The company has not acknowledged the risk of flooding along the tributary. - Vague promises to provide compensation: The company promised compensation but did not indicate what will be compensated and how much they will receive. Gold panning is major source of income for the village between March and June. Company will not compensate for lost income but promises to provide other jobs such as weaving and aquaculture.

	<ul style="list-style-type: none"> - No new houses for resettled villagers: The company promised to move the materials of the resettled house, but it will be up to the villagers to rebuild their own houses. The company is not planning to provide new houses, although it is doing so in other resettled villages. - No warnings about fisheries impacts: The company said there would be no impact on fisheries, and is offering no compensation for lost fisheries.
<p>Ban Pak Hao</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 67 households. We visited on June 15 and interviewed 2 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The company first told the villagers that five households would be resettled, and later said two would be resettled. The villagers are not clear what to expect. - Vague promises to provide compensation: The company promised to compensate for lost riverbank gardens and fruit trees, but did not indicate how much compensation they would offer. Villagers will not receive compensation for gold panning and fisheries. The project company promised to provide alternative sources of income. - Company not taking responsibility for dam’s impacts above 275 meters elevation: The company has only promised to compensate for losses up to 275 meters (the projected water level of the impoundment area) and will not compensate for any damage caused above this point. - No warnings about fisheries impacts: Villagers have not been told about the dam’s potential impacts on fisheries. Villagers believe that the number of fish in the Mekong will increase because there will be more water. - Loss of low-cost microhydro electricity: Villagers will lose their microhydro generators on a nearby tributary, which will be flooded by the dam. The company promised to provide electricity, but villagers will have to pay higher rates for this electricity.
<p>Ban Vangsa / Pak Heng</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 111 households. The two villages merged one decade ago. We visited on June 15 and</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: Six households were originally told they would be resettled, and then the company said that no households would be resettled. The villagers are unclear about what to expect. - Vague promises to provide compensation: The village is located near a tributary, so inland flooding of gardens and

<p><i>interviewed 5 households.</i></p>	<p>rice fields will occur. The villagers are unclear if they will receive compensation for these lands. Many villagers living near the riverside are concerned, because they will be at higher risk of floods, erosion, and insects.</p> <ul style="list-style-type: none"> - No warnings about fisheries impacts: Villagers have not been told about potential impacts on fisheries. - Loss of low-cost microhydro electricity: Around 75 households have electricity from microhydro generators on a tributary next to the river. These generators will not be able to function when the dam raises water levels, but the company has not promised to compensate for this loss.
<p>Ban Pak Pho</p> <p><i>Located north of the dam site in the middle of the impoundment area. Population: 85 households. We visited on June 14 and interviewed 6 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The villagers believe that more than ten households could be flooded by the dam. The company has given villagers mixed messages about how many houses will be flooded, so villagers do not know what to expect. - Vague promises to provide compensation: The company told villagers it will resolve all compensation issues after the dam has been built and impacts have already happened, but villagers want assurances now that they will be compensated. - No warnings about fisheries impacts: The company did not tell the villagers about potential impacts on fisheries.
<p>Ban Pak Lum</p> <p><i>Located at the northern end of the impoundment area near Luang Prabang. Population: 51 households. We visited on June 14 and interviewed 7 households.</i></p>	<ul style="list-style-type: none"> - Company has given mixed messages on dam’s impacts: The village is located near one of the Mekong River’s tributaries, and villagers are not clear how rice fields and lands along a nearby tributary will be affected. Along the Mekong River, villagers will lose riverbank gardens, teak trees, and income from gold panning and sand collection. - Vague promises to provide compensation: The company promised to compensate villagers for riverbank gardens and teak trees, but villagers do not know how much compensation they will receive. The company said it would not provide compensation for gold panning or sand collection, but would find them new jobs. - No warnings about fisheries impacts: The company told the villagers that there would be no impacts on fisheries.

Ban Saleuan

Located at the northern end of the impoundment area near Luang Prabang. Population: 67 households. We visited on June 14 and interviewed 3 households.

- **Company has given mixed messages on dam's impacts:** Villagers are still confused about whether their village will be flooded. The company told villagers that if the houses flood, they will find new land for them.
- **Vague promises to provide compensation:** Villagers have not been told if or how much they will be compensated. The company told the villagers it will wait and see what the impacts will be. The company has also not clarified if people in the village will be resettled.
- **No warnings about fisheries impacts:** The company told villagers there would be no impacts to fisheries.



Annex 2: Does the Xayaburi resettlement comply with Lao law?

The Xayaburi project’s resettlement scheme has not complied with Lao laws and policies on involuntary resettlement and compensation. As the following initial assessment demonstrates, the project has violated at least 22 requirements set forth in Laos’ Decree #192 on Compensation and Resettlement of People Affected by Development Projects (2005).³³ The project also has failed to fully comply with at least eight requirements in the decree.

The requirements of Decree #192 are further detailed in its 2005 implementing regulations.³⁴ The protection of Lao citizens’ food security is further supported by the requirements of the 1991 Constitution, 2003 Land Law, 2004 Law on Food, 2006 National Policy on Environmental and Social Sustainability of the Hydropower Sector, and the 2010 Decree on Environmental Impact Assessment. These laws and policies were reviewed but not assessed for compliance in the following chart.

Key requirements of Lao decree 192 (2005) on resettlement and compensation	Has the Xayaburi project complied with the decree?
Part I: No compliance	
<p>(1) Leave the affected people no worse off than before the project. <i>The law “aims to ensure that project affected people are compensated and assisted to improve or maintain their pre-project incomes and living standards, and are not worse off than they would have been without the project.”</i> (Art. 1)</p>	<p>No compliance. As discussed in more detail below, resettled villagers reported lower incomes, lower quality of life, and higher food insecurity than before. Similar risks exist in the villages that will be resettled in the next two years, because concerns about food security, income sources, and land availability remain unresolved.</p>

³³ For the full text of Decree 192, please visit:

<http://www.prflaos.org/Government%20Policy/Land%20and%20Forest/41.%20PM%20Decree%20on%20the%20C%20ompensation%20and%20Resettlement%20of%20the%20De.pdf>.

³⁴ Regulations for Implementing Decree 192 on Compensation and Resettlement of People Affected by Development Projects (2005),

<http://www.prflaos.org/Government%20Policy/Land%20and%20Forest/42.%20Regulations%20for%20Implementing%20Decree%20192%20on%20compensation%20.pdf>.

<p>(2) Make every attempt to avoid causing impacts on people. <i>Project owners have a responsibility to “make every attempt so that displacement and other direct adverse impacts on peoples’ assets and income are avoided or, if unavoidable, minimized by examining all design options available to the project.”</i> <i>(Art. 4b)</i></p>	<p>No compliance. The project company proceeded with resettlement of the first village before the Mekong River Commission made a decision on whether the project will go forward, and even before the Lao government publicly stated that construction would move forward. The company told villagers that additional resettlement will continue over the next year, with the next villages to be resettled by early 2013.</p>
<p>(3) Set aside adequate budget for resettlement and compensation. <i>Project owners have a responsibility to “be responsible for the timely provision of adequate budget for all aspects of planning, implementing, monitoring and evaluating all resettlement and compensation activities.”</i> <i>(Art. 4c)</i></p>	<p>No compliance. The project company does not appear to have provided full and adequate compensation to restore the livelihoods of affected people. Key elements of the first resettlement were not completed on time, such as construction of housing and preparation of agricultural lands.</p>
<p>(4) Pay particular attention to vulnerable groups. <i>Project owners have a responsibility to “pay particular attention to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment. Appropriate assistance must be provided to help them improve their socio-economic status.”</i> <i>(Art. 4d)</i></p>	<p>No compliance. Based on interviews with villagers, the project company did not take into account the particular concerns of the most vulnerable groups. There is no evidence that consultations were conducted with these groups. In the villages of Houay Hip and Pak Mon, for example, poor households were being displaced from their lands without any support whatsoever.</p>
<p>(5) Ensure meaningful involvement of affected people in the resettlement process. <i>Project owners have a responsibility to “ensure that the resettlement process is carried out through a meaningful involvement of project-affected communities, and their existing social and cultural institutions are supported to the greatest extent feasible.”</i> <i>(Art. 4e)</i></p>	<p>No compliance. Not all households within communities who will be impacted by the dam have been consulted. Where interactions took place between the company and affected communities, they did not consist of two-way dialogue or meet other international standards for community engagement. The project company has visited many of the affected villages around two to four times in order to take surveys. On one occasion, the company showed a video to villagers describing the benefits of the project, the quality of resettlement sites, and how the dam’s fish passages will work. However, at no point were communities given an opportunity to provide input into the design of the resettlement process. Most villagers who we interviewed were unclear about how much compensation and what type of resettlement package they would receive.</p>

<p>(6) Ensure that all affected people are provided with assistance. <i>For purposes of compensation, rehabilitation, and rehabilitation assistance, “all individuals and entities residing or making a living within the area to be acquired for a project as of the formally recognized cut-off date would be considered as project affected persons (APs).” Furthermore, “people who are not living within the project areas, but have land and buildings in the project areas, are also entitled to compensation, resettlement and rehabilitation assistance.”</i> <i>(Art. 5)</i></p>	<p>No compliance. The company appears to have excluded several categories of affected people or livelihood sources from assistance: (1) villagers living on land where resettlement villages will be built are being displaced without any compensation or assistance; (2) no consideration of impacts on fisheries; (3) no consideration of how the villagers depend on the Mekong River for their income and resources; (4) in some cases, no compensation for lost micro-hydropower schemes. Many villagers are unclear about whether the company intends to provide them with compensation, and are also unclear about how exactly their villages will be impacted.</p>
<p>(7) Replace lost land with land of equivalent size and productivity. <i>“Where significantly large or entire land holding is affected by a project namely agriculture, residential or commercial land, the compensation shall be through provision of “land for land” arrangements of equivalent size and productivity and be acceptable to [affected people] and project owners.”</i> <i>(Art. 6-2)</i></p>	<p>No compliance. In the first resettlement village, the company provided only 0.75 hectares of land per family, when most families previously owned around two hectares. Villagers that we interviewed consistently argued that 0.75 hectares was insufficient for their livelihoods.</p>
<p>(8) Provide compensation for lost or damaged houses and other structures. <i>“If the house or structure is only partially affected by the Project and the remaining structure is unviable for continued use or the remaining area is less than the minimum house size, the [affected people] shall be entitled to be compensated for the entire structure at replacement cost without depreciation or deduction for salvaged materials. In case the remaining structure is viable for continued use, project owners shall provide compensation for the lost portion and assistance in cash or material for restoration of the remaining structure.”</i> <i>(Art. 6-3)</i></p>	<p>No compliance. The project company several villages that it would not provide compensation for any impacts above 275 meters, the level at which they expect waters to rise. Several villagers whose housing are currently on higher ground but will soon be located near the new riverbank are concerned. Several expressed fear about possible damage to their houses from flooding, erosion, and increased insects. The company has not offered to provide compensation to these households.</p>
<p>(9) Compensate affected people for lost land use rights, even if they do not own the land. <i>Affected persons “who are living in rural or remote areas, who do not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy shall be compensated for their lost rights to use land and for their other assets at replacement</i></p>	<p>No compliance. In several villages, the project company does not appear to have recognized the full range of land rights. Where villagers did not have formal title to the land, the company said it would not provide compensation even though the villagers have traditional land use and access rights.</p>

<p><i>cost and provided additional assistance to ensure that they are not worse-off due to the project. [Affected persons] in urban areas, who do not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy and who have no land at other places will be compensated for their lost rights to use land and for their other assets at replacement cost and other additional assistance to ensure they are not worse off due to the project.”</i> (Art. 6-6)</p>	
<p>(10) Provide assistance to ensure that affected people are not worse off due to the project. <i>All affected persons “regardless of land use right, will be entitled to compensation for lost assets (structures, crops, trees) at replacement cost, and provided with other assistance during the transition period, and economic rehabilitation assistance to ensure that they are not worse off due to the project.”</i> (Art. 6-7)</p>	<p>No compliance. Villagers in the resettlement site considered themselves worse off than before. Many people expressed concerns that they would not receive adequate compensation or would not be able to find adequate food. The project company did not appear to measure the overall well-being of affected communities, instead relying on a checklist of activities. The company did not appear to assess the full extent to which villagers depend on the Mekong River for their livelihoods.</p>
<p>(11) Work jointly with affected people to assess losses that need to be compensated. <i>“Before provision of compensation, project owners shall establish a joint committee, with representatives from all stakeholders, to assess the loss to [affected persons].”</i> (Art. 6-9)</p>	<p>No compliance. There is no indication that the project company worked collaboratively with affected people to identify potential losses and compensation measures.</p>
<p>(12) Provide full compensation before construction begins. <i>“Prior to the commencement of project construction, [affected people] shall be fully compensated and resettled and rehabilitations measures shall be in place, although not necessarily completed yet.”</i> (Art. 6-10)</p>	<p>No compliance. The company has not provided full compensation to the first resettled village, even though construction activities have begun. The company provided no indication to affected people of when or how much compensation they would receive. At the first resettled village, people were moved before their houses were completely constructed or their agricultural lands prepared.</p>
<p>(13) Restore lost income of affected people to pre-project livelihood levels. <i>All affected persons “severely affected by the project due to loss of 20% or more of productive income generating assets (loss of agricultural, industrial or commercial land), means of livelihood, employment or business and access to community resources shall be entitled to sustainable income restoration measures in</i></p>	<p>No compliance. At Houay Souy, all villagers who we interviewed indicated that their income levels and livelihoods were worse off than before. There is no indication that the company is measuring current livelihoods against previous livelihoods (or that the company assessed livelihood levels prior to the resettlement).</p>

<p><i>addition to their entitlement for compensation and other allowances enabling them to attain at a minimum pre-project livelihood levels.”</i> (Art. 8-1)</p>	
<p>(14) For land-based affected people, provide new land at resettlement site. <i>“For displaced persons whose land-based livelihoods are affected due to the project, preference shall be given to land-based resettlement strategies, or where land is not available, options built around opportunities for employment or self-employment.”</i> (Art. 8-2)</p>	<p>No compliance. As of June 2012, the project company had not yet cleared land for the resettled village. The company had acquired land and planned to do so within the coming months. However, land scarcity remains a major concern in Ban Houay Hip and Ban Pak Mon, where other villages will be resettled. These villages are located in steep terrain where there is not much land available. Villagers expressed concern about the availability of land and food, and the company does not appear to have addressed these concerns.</p>
<p>(15) Ensure that vulnerable groups achieve household income levels above the national poverty line. <i>“These rehabilitation measures shall specifically focus on vulnerable groups. Adequate assistance, in addition to compensation for affected assets and other allowances, shall be provided to enable such [affected people] to achieve household income targets set above the national poverty line.”</i> (Art. 8-4)</p>	<p>No compliance. There is no indication that the project company has taken special efforts to ensure that vulnerable groups in the affected area will be above the national poverty line.</p>
<p>(16) Replace community property resources. <i>“Any impact or restriction on access to resources managed by affected community as a common property shall be mitigated by arrangements ensuring access to improved or at least equivalent resources on a continuing basis. Attention shall also be paid to directly [affected persons] if their benefits are affected due to the loss of access to common property resources.”</i> (Art. 9-2)</p>	<p>No compliance. The company does not appear to have assessed the impacts of the dam on community natural resources, such as the river and forests. Many villagers depend heavily on these natural resources for food, shelter, and transport. These lost community resources appear to be one of the major burdens that the first resettled community now faces.</p>
<p>(17) Avoid causing environmental and social harm to areas around the resettlement site. <i>“Project owners shall take responsibility to develop resettlement sites in order to avoid or mitigate adverse social and environmental impacts to the surrounding areas.”</i> (Art. 10-3)</p>	<p>No compliance. There is no indication that any environmental or social assessment was conducted at the new resettlement sites, especially in the villages Houay Hip and Pak Mon that will host large resettled populations.</p>
<p>(18) Mitigate impacts on the host community at a group resettlement site. <i>“Where relocation to a group resettlement site is</i></p>	<p>No compliance. There is no indication that the project company considered the impacts of joining together several resettlement villages. At the Houay</p>

<p><i>considered necessary, project owners shall mitigate the adverse impacts on host community and shall provide appropriate compensation (to damaged assets) and assistance to host community similar to the project affected persons.”</i> (Art. 10-4)</p>	<p>Hip and Pak Mon villages, which will soon each host at least large resettled populations, the company has promised little or no compensation. Villagers have been ordered to leave the land designated as resettlement sites with no compensation. The company does not appear to have assessed the food security and health risks of merging the villages together where land is limited.</p>
<p>(19) Take into account local cultural and religious practices. <i>“During planning, construction and operation periods, project owners shall consider local cultural and religious properties, practices and beliefs.”</i> (Art. 11-1)</p>	<p>No compliance. Many of the affected villagers come from ethnic minorities in Laos. Nevertheless, the company did not appear to take into consideration the distinct needs or differences among ethnic groups. Villagers interviewed did not anticipate any problems or tensions, but there is an absence of in-depth consideration of this potential issue.</p>
<p>(20) Determine mitigation measures and benefits in consultation with affected communities. <i>“Project owners shall define mitigation measures and socio-economic benefits to improve status of ethnic communities and shall be in harmony with their cultural preferences and shall be decided in consultation with affected communities.”</i> (Art. 11-3)</p>	<p>No compliance. There is no indication that the project company conducted meaningful consultations with affected people. The company made presentations in some villages, but did not seek input early in the design stage as expected under international involuntary resettlement standards (such as the World Bank Group’s standards).</p>
<p>(21) Design the resettlement program in a participatory manner. <i>“The project owners shall implement the resettlement program in a participatory manner ensuring that [affected people], local authorities and other stakeholder are fully informed and consulted and their concerns are taken into account at all stages of the project cycle, particularly during the planning and implementation phases of the land acquisition, valuation and resettlement process.”</i> (Art. 12-1)</p>	<p>No compliance. As discussed above, the resettlement program was not designed in a participatory manner. Many affected villages remain unclear when they will be resettled and how much compensation they will receive. The first resettlement site was selected by the company. The company has made a number of promises to villagers (such as giving them the option to select land for new homes), but there is no indication yet that these promises will be implemented.</p>
<p>(22) Provide public information about the project. <i>“Project owners shall make concerted efforts for an effective public dissemination of information about the objectives of the project, the compensatory package that is part of the resettlement process, through the mass media such as newspapers, radio, TV or public meeting and other means to inform local authorities at provincial, district and village levels and mass</i></p>	<p>No compliance. Villagers have received very little (and often contradictory) information about the impacts of the dam. Many are unclear if they will be resettled, if they will be compensated, and how much they will receive. The project company did not inform villagers about the risks that the dam poses to fisheries or other potential negative impacts of the project.</p>

<p>organizations, [affected persons] and other concerned people as necessary.” (Art. 12-2)</p>	
<p>Part II: Partial compliance</p>	
<p>(1) Provide compensation for lost land rights and lost assets. <i>“Project owners shall compensate project affected people for their lost rights to use land and for their lost assets (structures, crops, trees and other fixed assets) affected in full or in part, at replacement cost.”</i> (Art. 6-1)</p>	<p>Partial compliance. The company has promised to provide compensation for lost trees and crops, and to provide replacement housing. However, people living in the first resettlement village complain that the replacement housing is sub-standard. The company did not offer compensation for lost land rights, arguing that the land is owned by the government (although the decree focuses on all forms of land use rights).</p>
<p>(2) Conduct a survey to identify affected people and determine mitigation measures. <i>Project owners have a responsibility to collaborate with the government “to carry out necessary surveys and field investigations, identify affected communities, prepare inventory of impacts by types and degree, determine entitlement to mitigation measures including compensation for affected assets.”</i> (Art. 4a)</p>	<p>Partial compliance. The project’s Resettlement Action Plan has not been made public. Villagers confirmed that the project company had conducted surveys, marked flood levels, and identified houses that might require resettlement. The company has also counted fruit and teak trees. However, there was no indication that the company assessed the full extent to which villagers’ livelihoods depend on the Mekong River. No information was gathered, for example, to assess protein from daily fish catch, income from gold panning and other sources, or the value of forest products.</p>
<p>(3) Providing funding to support affected people in a timely manner. <i>Project owners “must provide appropriate funding to assist, support, relocate [affected people] and to implement income rehabilitation measures and to prepare necessary plans in an efficient and timely manner and approved by the concerned agencies to ensure the improvement of their socio-economic situation.”</i> (Art. 4a)</p>	<p>Partial compliance. The project company appears to have set aside limited funds for compensation of lost fruit and teak trees, housing, and relocation costs. However, villagers complained that they have not received compensation in a timely manner. In the first resettled village, land was not provided in time for the resettlement, housing construction was not completed, and full compensation payments were not made. Trees were not assessed according to their real market value. Monthly stipends do not cover full expenses of living at the resettlement site.</p>
<p>(4) Provide assistance for transport, food, and development assistance during transition period until income levels and living conditions are stabilized. <i>Assistance during Relocation and Transition Period: Affected persons “displaced and/or affected due to the loss of income and livelihood shall be</i></p>	<p>Partial compliance. At the Houay Souy resettlement site, the company has provided a single source of replacement income and a monthly stipend to buy food. Villagers complained that the amount provided is insufficient. There is no indication that the company has provided transport to and from local markets, or to and from the villagers’ remaining agricultural fields. As of June</p>

<p><i>provided with the following assistance until their income levels and living conditions can be stabilized:</i></p> <p><i>(a) Transport allowance or assistance in kind to transfer to the resettlement site or their choice of relocation;</i></p> <p><i>(b) Food allowance, in cash or in kind to compensate for income lost, during the transition period;</i></p> <p><i>(c) Suitable development assistance after displacement during the transition period until they are able to restore their incomes and living standards or reach the targeted level of household incomes on a sustainable basis.</i></p> <p><i>(Art. 7)</i></p>	<p>2012, the villagers and company faced a dispute over how long this assistance would be provided (especially free electricity, which was promised for at least one year but provided for only one month).</p>
<p>(5) Replace lost businesses of affected people. <i>“For displaced persons whose businesses are affected due to the project, in addition to compensation for lost land, structures, and income, assistance shall be given to finding replacement sites for business as appropriate.”</i> <i>(Art. 8-3)</i></p>	<p>Partial compliance. The project company promised to provide new sources of income, but in the first resettlement site only provided a single source of income for each family. This single source has not proved adequate to replace the previous livelihoods. Several business people in villages, such as “middlemen” and merchants, did not appear to receive any compensation for their lost income.</p>
<p>(6) Restore or repair community facilities. <i>“Project owners shall restore or repair community facilities and infrastructure that are damaged due to the project, at no cost to the community.”</i> <i>(Art. 9-1)</i></p>	<p>Partial compliance. The company promised to replace community facilities that were lost, such as schools and temples. However, in the first resettlement village, the company did not inform villagers about additional costs that they would incur, such as water fees, electricity after only one month, street lighting, and transport costs.</p>
<p>(7) Provide suitable housing, business locations, and community facilities at the resettlement site. <i>“All persons relocating to group resettlement sites shall be provided with suitable housing or developed housing lots, shop lots if businesses are affected, agricultural sites of equivalent size, with productive potential and locational advantages better or at least equivalent to the old site. Replacement land, house/business plot shall be as close as possible to the land that was lost and/or acceptable to the [affected persons]. Group resettlement sites shall be developed with water supply, sanitation, drainage, with internal and access roads, and access to electricity. When it is necessary they may be provided other form of assistance from project owners such as public</i></p>	<p>Partial compliance. The company promised to provide housing and community facilities at the resettlement site. At the first resettlement site, however, they did not complete construction on the ground floor of houses, creating a significant expense for villagers. The company is also requiring the villagers to pay for many of the community facilities only a few months after the resettlement.</p>

<p><i>health and education.”</i> <i>(Art. 10-1)</i></p>	
<p>(8) Provide a grievance mechanism for affected people starting during the planning phase. 1. <i>“Project owners shall establish an effective mechanism for hearing and grievance redress during the resettlement planning and implementation in a project”.</i> <i>Art. 13(1)</i></p> <p>2. <i>“Project owners in consultation with concerned government authorities, shall establish a Grievance Redress Committee to address complaints and grievances pertaining to land acquisition, compensation and resettlement due to the project.”</i> <i>Art. 13(2)</i></p> <p>3. <i>“Grievances related to any aspect of the project or sub-project shall be handled through consultations conducted in a transparent manner and aimed at resolving matters through consensus at the project level before complainants forward these to higher level and ultimately to the court of law. The responsible agency shall record the complaints (or put in written form the oral report) by the [affected people].”</i> <i>Art. 13(3)</i></p> <p>4. <i>“[Affected people] will be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures. In case the complaints are forwarded to the court of law, all costs for pursuing such cases in the court of law must be borne by the project.”</i> <i>Art. 13(4)</i></p>	<p>Partial compliance. The first resettled village has a committee through which it negotiates grievances with the company. However, other affected villages have no mechanisms through which to raise concerns or ask questions. No individuals, including in the resettled village, have the option to raise concerns directly to the company or government without fear of retribution.</p>



Annex 3: Does the Xayaburi resettlement comply with World Bank standards?

On 16-17 July 2012, the Lao government hosted a delegation of foreign governments at the Xayaburi Dam construction site. At this event, the Lao government told the visiting diplomats that it would use the World Bank’s resettlement standards (Operational Policy 4.12) in the Xayaburi project.

However, a closer look reveals that the Xayaburi project has failed to comply with at least sixteen of the World Bank’s resettlement standards. The project has also partially failed to comply with at least six standards.

Key provisions of the World Bank’s involuntary resettlement policy	Has the Xayaburi project complied with this standard?
Part I: No compliance	
<p>(1) Avoid resettlement where feasible. <i>“Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.”</i> (Paragraph 2a)</p>	<p>No compliance. A full understanding of the dam’s social impacts was not available at the time that resettlement began. The project company began resettlement in January 2012, less than one month after the MRC governments had agreed to conduct further studies on the impacts of the proposed Mekong dams. As the final decision has not been made on whether to construct the dam, resettlement at this time is not necessary.</p>
<p>(2) Conduct meaningful consultations. <i>“Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.”</i> (Paragraph 2b)</p>	<p>No compliance. The project company has visited the affected villages around two to four times each for the purpose of taking surveys and showing a video. Villagers were not provided with full information about the project’s impacts. Many communities have had no opportunity to provide input into the design of resettlement programs. Where the company provided details or promises, it</p>

	often changed its position at a later date.
<p>(3) Fully restore the livelihoods of displaced persons. <i>“Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”</i> (Paragraph 2c)</p>	<p>No compliance. There is no indication that the project company has promised villagers that they will be restored to pre-displacement standards of living. Indeed, many villagers have expressed concern about being removed from their land-based livelihoods and forced quickly and with minimal support into a cash-based economy.</p>
<p>(4) Inform displaced persons about their rights and options. <i>Displaced persons should be “informed about their options and rights pertaining to resettlement.”</i> (Paragraph 6a)</p>	<p>No compliance. There is no indication that villagers were informed of their rights during the resettlement process. Many villagers that were interviewed were not aware of the Lao resettlement policy and decree.</p>
<p>(5) Provide prompt and effective compensation. <i>Displaced persons should be “provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.”</i> (Paragraph 6a)</p>	<p>No compliance. Resettled villagers in Houay Souy have still not been paid full compensation. People living in other affected villages have been promised compensation, but do not know how much or when they will receive it. In some cases, the company has said that villagers will not receive compensation until after impacts are felt.</p>
<p>(6) Provide development assistance to displaced persons. <i>Displaced persons should be “(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a); (iii) such as land preparation, credit facilities, training, or job opportunities.”</i> (Paragraph 6b)</p>	<p>No compliance. The project company promised to provide resettled villagers with one year of free electricity, three years of food, and free water. In Houay Souy, however, after making this promise the company instead provided only one month of free electricity before sending the first bill. The villagers are still negotiating with the project company for a better deal. Water has not been free, and has been excessively treated with chemicals that prevent it from being used to grow gardens. Villagers complained that the quality of rice provided was sub-standard.</p>
<p>(7) Address the needs of vulnerable groups. <i>Particular attention should be paid “to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.”</i> (Paragraph 8)</p>	<p>No compliance. No attention was paid to the vulnerable groups within each village. Many of the villages are largely composed of ethnic minorities. In Houay Hip village, several of the poorest households are being displaced from their homes to make room for resettled villages to merge into Houay Hip. These families are not being provided with any compensation or assistance. One village is being resettled for the fourth time in fifteen years.</p>

<p>(8) Explore alternative project designs to avoid displacement, if not feasible, allow resettled communities to continue land-based livelihoods. <i>The project proponent should explore “all viable alternative project designs to avoid physical displacement of [indigenous peoples with traditional land-based modes of production]. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups...that are compatible with their cultural preferences and are prepared in consultation with them.”</i> (Paragraph 9)</p>	<p>No compliance. Although most of the affected villagers live land-based lifestyles, the project company has not taken efforts to ensure continuation of land-based livelihoods. Several of the villages are being merged into existing villages where available land is scarce and natural resources may become strained. In Houay Hip, for example, the terrain is steep and leaves little room for agriculture or other livelihoods.</p>
<p>(9) Displacement should not occur before resettlement site is prepared. <i>The project proponent should “ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place....[T]hese measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons.”</i> (Paragraph 10)</p>	<p>No compliance. The resettlement process has been rushed. Villagers of Houay Souy were resettled in January 2012 before adequate measures were in place. As of June, villagers still did not have access to agricultural land and would not be able to plant during the current season. Land for vegetable gardens was sub-standard. Each family was provided with a single source of income, but this was not enough to sustain a living. Houses were provided but the ground floor was left un-built.</p>
<p>(10) Provide sufficient new land for displaced persons. <i>“Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based... Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken.”</i> (Paragraph 11)</p>	<p>No compliance. As described above, many of the villages are being merged into existing villages where available land is scarce.</p>
<p>(11) Provide sufficient cash compensation for lost land and assets. <i>“Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction¹⁸ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use</i></p>	<p>No compliance. The project company promised compensation, but has not yet specified how much villagers will receive. In many cases, many aspects villagers’ livelihoods—such as fisheries—are not being compensated. Villagers who have received compensation for teak trees have complained that the compensation amounts were unfair and did not adequately take into account the size of the trees.</p>

<p><i>such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.”</i> (Paragraph 12)</p>	
<p>(12) Provide communities with access to information and ensure their participation in planning the resettlement. <i>“Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.”</i> (Paragraph 13a)</p>	<p>No compliance. The project company provided most villages with very little information about the impacts of the project. Many villages have not been given an opportunity to participate in resettlement planning. As a result, villagers are still unclear about what to expect.</p>
<p>(13) Ensure that displaced persons have access to grievance mechanisms. <i>“Appropriate and accessible grievance mechanisms are established for these groups.”</i> (Paragraph 13a)</p>	<p>No compliance. A grievance committee exists in Houay Souy, which has already been resettled. However, people living in other villages have no access to any form of grievance mechanisms. The project company does not visit the villages often or respond to concerns.</p>
<p>(14) Preserve existing social and cultural institutions of the community. <i>“Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.”</i> (Paragraph 13c)</p>	<p>No compliance. It remains unclear how village structures will be maintained. Headmen of villages that will be merged together are unsure how their status will change, or how the new merged villages will be governed. This issue has not been discussed with the headmen of resettled villages.</p>
<p>(15) Determine who will be affected by the project through consultations with local communities. <i>“Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project...to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure...for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful</i></p>	<p>No compliance. The project company carried out a census of affected people. However, there is no indication that villages had an opportunity to participate in the identification of affected people. Furthermore, the company has not clearly told the villagers who would be affected, how much compensation they would receive, or what impacts they can expect. As a result, the villagers are unsure what to expect. Villagers also have nowhere to raise concerns.</p>

<p>consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.” (Paragraph 14)</p>	
<p>(16) Inform potentially displaced persons about the resettlement early in project design, and take their views into account in project design. <i>The project proponent should inform “potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.”</i> (Paragraph 19)</p>	<p>No compliance. There is no indication that the project company sought input from villagers in the project design. The company has not provided full information about the project’s impacts and has not created space for villagers to openly discuss the project without fear of retribution. Many villagers have still not received information about the project’s impacts, although construction is underway.</p>
<p>Part II: Partial Compliance</p>	
<p>(1) Ensure project affected people share in benefits of the project. <i>“Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.”</i> (Paragraph 2b)</p>	<p>Partial compliance. There is no indication that displaced villagers will share in the project’s benefits. The project company has provided a limited number of jobs in the first resettled village, but even after six months, these villagers still did not have access to comparable levels of income, land, or food sources as before. Jobs have been provided for some villagers at the construction site, but villagers complain that the wages are low and the jobs are temporary.</p>
<p>(2) Consult displaced persons on resettlement alternatives. <i>Displaced persons should be “consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives.”</i> (Paragraph 6a)</p>	<p>Partial compliance. The affected villagers have had few options to provide input or access information about the resettlement process. In some cases, the project company promised to provide displaced persons with options on where to move, and also promised some villagers that they can choose their own land. In the case of Houay Souy, however, some villagers reported that their requests for choice of new jobs were not honored.</p>
<p>(3) Provide moving, housing, and agricultural assistance to physically relocated persons. <i>Persons who are physically relocated should be “(i) provided assistance (such as moving allowances) during relocation; and (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.”</i></p>	<p>Partial compliance. The company promised to provide most resettled villagers with moving allowances and new houses. However, villagers in Houay Souy complained that the company did not complete construction on the homes (leaving the first story un-built) and provided only 0.75 hectares of land, when most families previously owned at least 2 hectares. Villagers interviewed did not consider this a sufficient amount of land to grow food.</p>

(Paragraph 6b)	
<p>(4) Provide employment options for displaced persons. <i>“If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost.”</i> (Paragraph 11)</p>	<p>Partial compliance. The project company promised to provide new jobs to families. However, only a single income source has been provided so far to resettled villagers from Houay Souy. Villagers reported that the amount of income was insufficient to meet the expenses of living in the resettled village. There is no indication that these income sources will be adequate to replace the income from gold panning, fishing, sand collection, and other sources provided by the Mekong River. In the old village, people depended on multiple sources of food and income to sustain their livelihoods.</p>
<p>(5) Provide infrastructure and public services at the resettlement site, and replace lost community resources. <i>“In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).”</i> (Paragraph 13b)</p>	<p>Partial compliance. In Houay Souy, the project company provided electricity, water, houses, and roads. However, the company has forced the villagers to use much of their compensation money to pay for these services. Previously, the villagers had access to all of these services at low cost from microhydro generators, mountain streams, and forest products to build houses.</p>



Annex 4: Have Cambodia’s and Vietnam’s concerns with the Xayaburi Dam been addressed?

In April 2011, the Mekong River Commission (MRC) governments of Cambodia, Laos, Thailand, and Vietnam met to discuss the Xayaburi Hydropower Project, the first of eleven proposed dams to undergo the MRC’s prior consultation process. At the meeting, Cambodia and Vietnam requested more information about the project in order to inform further discussions. They also highlighted a number of technical concerns that they felt should be addressed before further project implementation. Under the 1995 Mekong Agreement procedures and international law, Laos is obligated to meet these requests for more information.³⁵

Nevertheless, Laos put forward its position that the prior consultation was closed. The MRC governments announced after the meeting that a decision on whether to proceed with the project was deferred to the Ministerial level.³⁶ The four governments have not yet agreed to close the prior consultation process or made a final decision on the project.

After the April 2011 meeting, Laos hired the Pöyry Group to assess whether the project complies with MRC’s environmental standards. Following criticisms of the Pöyry report, Laos hired Compagnie Nationale du Rhône (CNR) in January 2012 to conduct further study. It is important to note that the Lao government hired these consultants on a unilateral basis, and the Pöyry and CNR reports have not been endorsed by other MRC governments. In July 2012, Laos invited a delegation of governments to visit the project site and insisted that it is committed to addressing the concerns of neighboring countries. Less than two months later, however, the Lao government announced that construction on the project continues on schedule.³⁷

Have Laos and Thailand really addressed the concerns of their neighbors? This annex compares the MRC governments’ requests for more information with the actions taken by Laos and Thailand.

³⁵ MRC (2005), Procedures for Notification, Prior Consultation, and Agreement, para. 5.4.2; 1995 Mekong agreement, art. 7; International Court of Justice, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, at 60-61, para. 204 (20 April 2010), available at <http://www.icj-cij.org/docket/files/135/15877.pdf>.

³⁶ MRC, “Lower Mekong countries take prior consultation on Xayaburi project to ministerial level,” 19 April 2011, <http://www.mrcmekong.org/news-and-events/news/lower-mekong-countries-take-prior-consultation-on-xayaburi-project-to-ministerial-level>.

³⁷ Lao PDR government, “Laos clarifies Xayaboury dam development,” *Vientiane Times*, 6 September 2012.

CAMBODIA'S AND VIETNAM'S REQUESTS (April 2011)	LAOS' RESPONSE (as of September 2012)	THAILAND'S RESPONSE (as of September 2012)
<p>More studies are needed before further implementation of the Xayaburi project. (Cambodia, Vietnam)</p>	<p>Not addressed. Construction on the project has continued. Laos proposed to conduct some studies while construction is already underway, but has not addressed the impacts that construction itself will cause nor has it assessed potential transboundary impacts.</p>	<p>Not addressed. Thailand has continued to implement the project, signing agreements to finance the project and purchase its electricity. It has made no commitment to conduct more studies. A complaint was brought in Thai Administrative Court by potentially affected Thai villagers in August 2012, requesting further impact assessments and consultations consistent with the requirements of the Thai constitution.</p>
<p>Study the project's transboundary impacts. (Cambodia, Vietnam)</p>	<p>Not addressed. In July, Laos told a visiting delegation of foreign governments that it would not conduct a transboundary impact assessment. Laos stated that all transboundary impacts were already addressed through the reports of Pöyry and CNR, although both of these were desk studies rather than impact assessments. The full extent of the project's transboundary impacts remains unknown.</p>	<p>Not addressed. Thailand has not addressed this issue, although Thai communities are likely to be impacted by the project. This issue is addressed in the pending Thai Administrative Court complaint.</p>
<p>Study the cumulative impacts of the eleven proposed Mekong mainstream dams. (Cambodia, Vietnam)</p>	<p>Not addressed. The four governments have agreed to conduct a joint impact study on hydropower development. Laos, however, has expressly stated that it does not plan to stop Xayaburi Dam construction while this study is underway.</p>	<p>Not addressed. Thailand is participating with the other MRC governments in designing the joint study. However, the Thai government already approved a Power Purchase Agreement to buy 95% of the project's electricity as well as a loan by state-owned Krung Thai Bank, indicating its support for construction on the project to continue.</p>

<p>Develop measures to mitigate the transboundary and cumulative impacts, undertaken with participation of downstream countries. (Cambodia)</p>	<p>Not addressed. Laos' consultants Pöyry and CNR proposed mitigation measures, although they have done so without first studying the actual impacts that will need to be mitigated.</p>	<p>Has remained silent.</p>
<p>Implement the recommendations of the MRC's March 2011 technical review of the project. (Cambodia, Vietnam)</p>	<p>Not addressed. Laos' consultant Pöyry concluded that these recommendations could be addressed during the construction phase, although the MRC report explicitly stated that this was not possible.</p>	<p>Has remained silent.</p>
<p>Conduct further study of the dam's impacts on hydrology, fisheries, sediment, water quality, and dam safety. (Cambodia, Vietnam)</p>	<p>Not addressed. Laos' consultants Pöyry and CNR proposed mitigation measures without conducting a study of the dam's impacts.</p>	<p>Has remained silent.</p>
<p>More time is needed under the MRC prior consultation process to gather sufficient evidence to evaluate the project. (Cambodia, Vietnam)</p>	<p>Not addressed. Laos maintains its position that the MRC prior consultation process concluded automatically after six months.</p>	<p>Has remained silent.</p>
<p>Stakeholders need information in a more timely manner in order for effective consultations to take place. (Cambodia)</p>	<p>Not addressed. No further consultations have been carried out.</p>	<p>Not addressed. Thailand has not organized further consultations, despite requests by affected Thai communities.</p>
<p>Develop a benefits sharing mechanism for affected downstream countries. (Cambodia)</p>	<p>Not addressed. No such mechanism has been developed for the Xayaburi project. The MRC secretariat has conducted preliminary research on this topic.</p>	<p>Has remained silent.</p>
<p>Defer all decisions on Mekong hydropower projects by ten years. (Vietnam)</p>	<p>Not addressed. Laos has already approved the environmental impact assessment for the Don Sahong Dam on the Mekong River. Early work is underway and construction is scheduled to begin in the next two years.</p>	<p>Has remained silent.</p>

