

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

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March 21, 2020

Hao Peng
Chairman

State Assets Supervision and Administration Commission
No 26 Xidajie, Xuanwumen,
Beijing (Xibianmen) 100053

Fax: +86-10-63192442

Email: ysqz@Zsasac.gov.cn

Re: Research on the Lower Sesan 2 hydroelectric dam in Cambodia

Dear Mr. Hao Peng,

We are writing on behalf of Human Rights Watch, regarding research we have conducted since January 2019 into the resettlement and compensation of communities impacted by the construction of the Lower Sesan 2 hydroelectric dam in northeastern Cambodia.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally.

According to public and company records, the Lower Sesan 2 project was planned and carried out by Hydropower Lower Sesan 2 Ltd. Co., which is majority owned and controlled by the China Huaneng Group, a central state-owned company controlled and managed by the State Assets Supervision and Administration Commission (SASAC).

Human Rights Watch carried out extensive research on the Lower Sesan 2 project in 2019 and 2020, and has examined the impact of the dam on the rights of local communities, including compensation for lost income, lost land, and other assets, the general impact on livelihoods and access to food and water, and communities' access to information about the resettlement and compensation process. We conducted two visits to communities impacted by the resettlement process in 2019. We interviewed dozens of residents impacted by the resettlement in several villages – both those displaced by the project and others upstream of the project who have seen their livelihoods affected by it. We also interviewed several local leaders, civil society organizations, journalists, and others familiar with the project.

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As outlined in the attached appendix of the preliminary summary of our findings, we have identified several serious problems with how the project was planned and how Huaneng Group and its subsidiary companies carried out consultations with impacted communities on resettlement and compensation plans. In particular, we documented major problems concerning how the company decided who would be compensated and how much they would receive, which has now resulted in thousands of people suffering severe deteriorations in their income and livelihood. We are sharing our findings with you and wish to provide you with an opportunity to provide the perspectives of the SASAC on the Lower Sesan 2 project and answer a number of questions we have posed below.

We would be very grateful if, having reviewed our findings, you can provide us responses by April 15 to the following questions:

1. Were SASAC officials involved in reviewing or monitoring planning by China Huaneng Group or its subsidiaries relating to the Lower Sesan 2 project, including the resettlement and compensation plans?
2. If so, what steps did SASAC take to assess the project's impacts on communities near the dam site, such as through site visits, reviews of project documents, and meetings with company officials and Cambodian government officials overseeing the resettlement process?
3. What standards do SASAC apply to evaluate resettlement and compensation plans and how were they implemented? How did SASAC apply those standards in the case of the Lower Sesan 2, or assess the quality of resettlement or compensation plans against those standards?
4. We understand that in 2017, SASAC issued "Measures for Supervision and Administration of Outbound Investment by Central Enterprises," providing guidance as to how central state-owned enterprises should operate abroad.¹ Article Six states that central-enterprises' foreign investments should abide by recipient countries' "laws and regulations, business rules, cultures and customs." How does SASAC enforce this provision and what steps did it take in the case of the Lower Sesan 2 project to ensure Huaneng's compliance with this regulation?
5. Has SASAC written any reports or conducted any written reviews of the resettlement or compensation policies or processes for the Lower Sesan 2 dam and, if so, has any of that written material been made public? Can you provide us copies of any such reviews?

We plan to publish a report on the resettlement and compensation processes for the Lower Sesan 2 dam in mid-2020. In the interest of ensuring our reporting is comprehensive and objective, we are requesting your responses to our questions so that they can be reflected in

¹ Measures for Supervision and Administration of Outbound Investment by Central Enterprises (中央企业境外投资监督管理办法), promulgated by Instrumentalities of the State Council, All Commissions, State-owned Asset Supervision and Administration Commission of the State Council, January 7, 2017, <http://www.sasac.gov.cn/n2588035/n2588320/n2588335/c4258448/content.html> (accessed March 19, 2020).

our report. In order to ensure that there is time to incorporate your responses, we will need to receive written responses to the above inquiries by April 15, 2020. We would also be happy to speak by video if you wish to discuss these matters in more detail. To arrange for a discussion or for any questions, please contact me, John Sifton, Asia Advocacy Director, at siftonj@hrw.org.

Human Rights Watch thanks you for your time and attention.

We look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Sifton', written in a cursive style.

John Sifton
Asia Advocacy Director
Human Rights Watch

Appendix: Preliminary Summary of Findings

Human Rights Watch's research on the Lower Sesan 2 project has revealed serious problems with the consultation and compensation processes that company personnel and Cambodian government officials carried out between 2012 and 2019, during which several thousand people were forced to move off property flooded by the dam, either to resettlement sites or sites of their own choosing. We found that the dynamics of the consultation processes were often coercive, with villagers often being told that packages of compensation were non-negotiable, or that if they refused what was offered, they would receive nothing. The specific compensation funds offered to impacted families was in almost all cases inadequate or otherwise problematic. For impacted families outside areas flooded by the dam — those in communities upstream and downstream who depend upon the river's fish and sediment for their productivity and income — no compensation was offered at all, despite predictions that the dam would impact fishery incomes (including in areas not only just upstream and downstream of the dam, but across the entire Mekong system).

As will be detailed in our upcoming report, specific problems included the following:

- Funding offered by Huaneng Group to build new homes was inadequate, and pre-built homes were in poorer conditions than homes villagers already had.
- New lands offered to resettling families were less fertile and harder to plow than land villagers had before, but no compensation was offered for increased costs of plowing and fertilizer.
- Compensation for lost fruit trees and other crops was far below the appropriate values.
- Compensation for lost income from fishing was calculated for only one year and did not address the future decades of lost income villagers would suffer as a result of lower fish catch yields.
- No compensation was offered for loss of income from gathering of forest products.
- Household heads, many of whom cannot read, said they signed compensation documents with no knowledge of their contents and no independent advice.
- While the project offered some transitional assistance to persons resettling, in the form of food and cash for moving costs and basic essentials, many villagers indicated that the amounts offered were inadequate to meet needs.
- Inadequate methods were used for calculating compensation for the destruction of the graves of villagers' ancestors, and compensation practices did not take into account the special status of burial grounds within indigenous communities' belief systems. (As noted below, consultation practices in general did not follow international standards applicable to indigenous peoples.)
- Many villagers said they had complained to company representatives or local government officials about the resettlement and compensation processes, but that they often received no response or a response that did not address their concerns.
- Affected communities did not know of any formal grievance mechanisms set up by the Hydropower Lower Sesan 2 Company, or its owners, to address their concerns.

- Communities also said the lack of information about the resettlement process made it difficult to make decisions and file grievances. Civil society groups said key project documents that set out the project's plans, the company's and the government's obligations during resettlement, and more recent versions of the project's impact assessments, were not made readily available to communities or explained to them in sufficient detail.
- Neither the China Huaneng Group or any of its business partners, nor relevant Cambodian government officials, appear to have taken any steps to ensure specifically the rights of the indigenous people in affected areas, or ensure that arrangements impacting them were agreed to with their free, prior, and informed consent, as set out under international standards.
- None of the communities upstream or downstream of the dam were consulted with or offered compensation for anticipated income losses resulting from interrupted fish migration and sediment loss, which led to steep reductions in fishery catches and productivity of crops planted along riverways.
- Neither China Huaneng Group or its subsidiaries, financiers, nor any business partners, nor relevant Cambodian government officials, appear to have taken any steps to gauge the social, economic, or environmental impacts of this project beyond the immediate areas affected by the dam's construction and the flooded reservoir created by the dam after its completion — larger impacts that are likely being felt by hundreds of thousands, and perhaps even millions, of people in Cambodia.

2020年3月21日

郝鹏主任
国务院国有资产监督管理委员会
西便门办公区
北京市宣武门西大街26号
邮编：100053

Fax: +86-10-63192442

Email: ysqz@Zsasac.gov.cn

主旨：关于柬埔寨桑河二级水电站大坝的研究

尊敬的郝鹏先生：

谨代表人权观察，就我们自2019年1月起对柬埔寨东北部桑河二级水电站大坝建设受影响社区拆迁与补偿问题所作的研究，致函阁下。

人权观察是独立的国际非政府组织，监测报导全球近100国人权状况。

根据公开和业者纪录，桑河下游二级项目由桑河二级水电有限公司设计建造，该公司多数股权及控制权属于中国国企中国华能集团，后者由国务院国有资产监督管理委员会（国资委）监管。

人权观察从2019年至2020年对桑河二级水电站项目进行了深入研究，检视该水坝对当地社区的影响，包括对收入、土地和其他资产损失的补偿，对生计和食物、饮水取用的一般性影响，以及各社区获取有关拆迁与补偿程序信息的情况。我们在2019年对受到拆迁影响的社区实施了两次实地考察。我们访谈了数十位来自不同村落受到拆迁影响的居民—包括因该项目被迁移的居民以及受该项目影响生计的上游居民。我们也访谈了数名地区领袖、公民社会组织、记者和其他该项目知情人士。

正如本函附件列出的研究发现摘要，我们查出了数项严重问题，包括该项目规划内容，以及华能集团及其子公司对受影响社区就拆迁补偿方案进行的谘询过程。特别是，我们记录到有关该公司在决定补偿对象和金额方面的一些重大问题，已经导致成千上万民众的收入和生计严重恶化。在此与您分享我们的发现，以便您有机会说明国资委对桑河二级水电项目的看法，并答复我们在下文提出的几个问题。

我们愿致上万分谢忱，请您检阅我们的各项发现，并在4月15日前就下列问题作出回应：

6. 国资委官员有没有参与审查或监督中国华能集团或其子公司有关桑河二级项目的规划，包括拆迁与补偿方案？
7. 若有，国资委采取何种措施评估该项目对水坝位址附近社区的影响，例如通过实地访问，项目文件审查，或者会见负责监督拆迁作业的企业主管与柬埔寨政府官员？

8. 国资委以何种标准评估拆迁补偿方案及其执行情况？国资委如何将该等标准应用于桑河二级项目的个案，或依据该等标准评估拆迁补偿方案的质量？
9. 我们了解到，国资委曾在 2017 年颁布《中央企业境外投资监督管理办法》，明订中央国有企业在境外运营的指导原则。²第 6 条规定，中央企业境外投资应遵守所在国的“法律法规、商业规则和文化习俗”。国资委如何执行这条规定，又曾在桑河二级项目的个案上采取何种措施以确保华能遵守此项规定？
10. 国资委是否曾就桑河二级水坝项目的拆迁补偿过程撰写任何报告或实施任何书面审查，若有，相关书面材料是否公开？相关审查材料能否提供我们参考？

我们预定在 2020 年年中发表有关桑河二级水坝居民拆迁补偿过程的报告。为确保报告周延客观，敬请答复我们提出的各项问题，以便在报告中加以反映。为确保有充分时间将您的答复纳入报告，我们必须在 2020 年 4 月 15 日前收到您对以上各项问题的书面答复。

若您愿意进一步讨论相关事宜，欢迎与我们进行视频通话。安排会谈或有任何疑问，请以电邮 siftonj@hrw.org 与本人即亚洲区倡导主任约翰·席夫顿（John Sifton）联系。

人权观察感谢您拨冗关注。

期待您的回复。



人权观察亚洲区倡导主任
约翰·席夫顿
谨上

²中央企业境外投资监督管理办法, 国务院国有资产监督管理委员会主任, 2017 年 1 月 7 日, <http://www.sasac.gov.cn/n2588035/n2588320/n2588335/c4258448/content.html>.

附件：初步研究发现摘要

人权观察组织对桑河二级项目的研究表明，公司人员和柬埔寨政府官员在 2012 年至 2019 年之间进行的咨询和补偿程序存在严重问题，在此过程中，数千人被强迫搬离大坝淹没的私有土地，迁往安置地点或自己选择的地点。我们发现，协商过程通常是强制推动的，村民通常被告知补偿方案不容讨价还价，或者拒绝照价接受补偿便将一无所获。向受影响家庭提供的具体补偿金大都不足够或带有问题。尽管一般预料大坝可能影响渔业收入（不仅在大坝的上游和下游，也包括整个湄公河水系），对于水坝淹没区以外的受影响家庭——即上、下游社区靠河中鱼类与沉积物增产创收的家庭——却没有提供任何补偿。

在我们即将发布的报告中将详细介绍的具体问题如下：

- 华能集团提供用于建筑新居的资金不足，而且预建房屋的条件不及村民现有房屋。
- 提供给拆迁户的新土地不如村民以前的土地肥沃、易耕，但多出的开垦和施肥成本却不予补偿。
- 果树和其他农作物的损失补偿远远低于合理价值。
- 渔业收入损失的补偿仅以一年计算，无法解决渔获量降低导致村民今后数十年的收入损失。
- 采集森林产品的收入损失不予补偿。
- 多属文盲的户长们表示，他们在不了解补偿内容又没有第三方协助的情况下签署补偿文件。
- 虽然该项目以粮食和现金等形式为被拆迁民众提供了部分过渡期援助，以支付搬迁费用和 basic 生活必需品，但许多村民表示所获数额不敷所需。
- 对破坏村民祖坟的赔偿计算方式不当，且赔偿办法未能顾及土葬在原住民信仰体系中的特殊地位。（如下文所述，磋商过程一般而言并未遵循原住民族应适用的国际标准。）
- 许多村民表示，他们已就拆迁补偿程序向公司代表或当地政府官员提出申诉，但通常不是毫无回应就是虚应故事。
- 受影响社区不知道桑河二级水电公司，或其所有者，为解决居民疑虑建立了任何正式申诉机制。
- 社区还表示，由于缺乏有关拆迁安置程序的信息，因此难以做出决定和提出申诉。公民社会团体指出，主要项目文件的内容，包括项目计划、拆迁过程中该公司和政府的义务以及最新版本的影响评估，都没有让社区便于取得或对其详细说明。
- 中国华能集团或其任何商业伙伴，或柬埔寨有关政府官员似乎都没有采取任何措施确保受影响地区原住民的权利，或确保影响他们的安排依照国际标准所要求的取得他们自由、事前和知情的同意。
- 水坝上下游社区因鱼群迁徙受阻和沉积物减少，导致渔获量以及沿河种植的农作物产量急剧下降，因此可能造成的收入损失完全没有加以咨询或提供补偿。
- 中国华能集团或其子公司、金融机构，乃至任何商业伙伴或柬埔寨相关政府官员，显然都没有采取任何措施来估计该项目在水坝工程直接影响区域及其建成后水库淹

没范围以外的社会、经济或环境影响——即柬埔寨成千上万甚至数百万人将来可能感受到的更大影响。