

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 24, 2021

Zhong Shan
Minister of Commerce
Ministry of Commerce
People's Republic of China
No.2 Dong Chang'an Avenue
Beijing 100731
Fax: +86-10-53771311

Re: Lower Sesan 2 hydroelectric dam in Cambodia

Dear Mr. Zhong Shan,

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, completed in 2018. Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally.

The Lower Sesan 2 dam is a Belt and Road Initiative project. According to public and company records, the 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 has carried out extensive research on the Lower Sesan 2 project since 2019, examining the impacts of the dam on the rights of local communities, their income, livelihood, land, access to food and water, and participation in decision-making. We conducted site visits to communities impacted by the resettlement process, and interviewed dozens of residents displaced by the project and others upstream of the project who have seen their livelihoods affected by it.

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We also interviewed local leaders, civil society organizations, journalists, and other persons familiar with the project.

As outlined in the attached appendix, our research identified several problems with how the project was planned, and how China Huaneng Group and its subsidiary companies, working with Cambodian officials, carried out consultations with impacted communities on resettlement and compensation plans.

Specifically, we documented problems with decisions about who would be compensated and how much they would receive. Our research found that many, if not most, of the people displaced by the dam were not adequately compensated, and that many others who were impacted were not compensated at all. Our research indicates that possibly tens of thousands of people are now suffering severe deteriorations in their income and livelihoods because of the project. These problems—and failures to address them—violate international human rights standards and may violate Cambodian law.

We believe these problems raise serious questions about how human rights are protected—or not protected—in the context of Belt and Road Initiative Projects. We are sharing our findings with you and wish to provide you with an opportunity to provide the Ministry of Commerce’s perspectives on the Lower Sesan 2 project and answer questions we have posed below.

We would be very grateful if, after reviewing our findings, you can provide responses by April 15, 2021 to the following questions:

1. The Ministry of Commerce must approve investments by central state-owned enterprises: according to its 2014 Measures for the Administration of Outbound Investment, companies with investments in overseas firms should “comply with investment destination laws and local customs, social responsibility, environment and labor protection.” What reviews did the Ministry of Commerce conduct to ensure that China Huaneng Group met these standards?
2. Did the Ministry of Commerce formally approve the Lower Sesan 2 project? Please send us any materials or documents relating to that approval.

3. How does the Ministry of Commerce ensure that relevant Chinese government bodies and state-owned companies follow the above provisions and standards?
4. Does the Ministry of Commerce have any other standards or mechanisms to prevent or mitigate human rights abuses like the ones allegedly committed in this project?
5. Were any Chinese government 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? If so, what steps did those officials 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?
6. To your knowledge, has China Huaneng Group carried out any risk assessment beyond the area immediately affected by construction and flooding to communities living upstream and downstream from the dam?
7. Did the Chinese government require or oversee any consultation project by China Huaneng Group with people impacted by the project? If so, what kind of information did the company provide to people, and how did they ensure it was accessible? Did the company include people who lived up- and downstream from the project in consultations?
8. Does the Chinese government require the establishment of any grievance mechanisms for projects supported by government financing or support? If so, what measures do you take to ensure that such mechanisms are effective and that communities are told such mechanisms exist?
9. Did the Ministry of Commerce engage in any other reviews or processes involving this project in relation to it being part of the Belt and Road Initiative?
10. What does it mean that this project is considered part of the Belt and Road Initiative? What characteristics or criteria, exactly, make this a Belt and Road Initiative project?

In the interest of ensuring our research findings are comprehensive and objective, we are requesting your responses to these questions so that they can be reflected in our reporting. 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 26, 2021.

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'.

John Sifton
Asia Advocacy Director
Human Rights Watch

Appendix: 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.

Human Rights Watch 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). No families impacted by the dam were offered any trainings of other job development in alternative income generation activities.

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

- Funding offered by China Huaneng Group to build new homes was inadequate, and pre-built homes were in poorer conditions than those 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 actual 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.
- Indigenous people, comprising a majority of those displaced, were permanently deprived of many of their rights as Indigenous people, including access to their communal lands and forests. No compensation was offered for loss of income from gathering of forest products. 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.)

- Several 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.
- Many villagers said they complained to company representatives or local government officials about the resettlement and compensation processes, but typically received no response or responses that did not address concerns.
- Affected communities did not know of any formal grievance mechanisms set up by China Huaneng Group 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 that we interviewed 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 in the past.
- 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.

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2021年3月26日

钟山
商务部部长
中华人民共和国商务部
北京市东长安街2号，邮编：100731
传真：+86-10-53771311

主旨：关于柬埔寨桑河二级水电站项目

尊敬的钟山先生：

我们谨代表人权观察向您致函，关于我们自2019年1月起针对2018年建成的柬埔寨东北部桑河二级水电站工程影响社区安置与补偿问题的研究。人权观察是独立的国际非政府组织，监测报导全球近100个国家的人权状况。

桑河二级水电站是一带一路倡议项目之一。根据政府和企业纪录，该项目由桑河二级水电有限公司规划执行，该公司多数股权及控制权属于中国华能集团，后者是国有资产监督管理委员会（国资委）监管下的中央企业。

人权观察自2019年起密切研究桑河二级水电项目，探讨水电站对当地社群的影响，包括他们的权利以及收入、生计、土地、粮食与净水来源和决策参与。我们曾实地走访受安置过程影响的社区，访问到数十位因该项目被迁移的居民，以及生计受该项目影响的上游居民。我们也访问了当地领导人、公民社会组织、记者和其他熟知该项目人士。

如附录所示，我们的研究指出多方面问题，包括项目如何规划、中国华能集团及其子公司一在柬方官员协同下一如何就安置与补偿方案咨询受影响社区的意见等等。

具体而言，我们记录到有关补偿对象与金额的决定存在许多问题。我们的研究发现，许多水电项目被拆迁居民（如果不是绝大多数）没有得到足够补偿，还有许多受影响人员完全没有得到补偿。我们的研究指出，可能有数万人的收入与生计受该项目影响而严重恶化。这些问题一及其迟迟无法解决一违反国际人权标准，也可能违反柬埔寨国内法。

我们相信这些问题将令各界对一带一路项目语境下人权如何受到保护—或不受保护—产生严重质疑。谨与您分享我们的研究发现，我们也愿意给您一个机会表达商务部对桑河二级水电项目的观点，答复我们提出的下列问题。

我们盼望您能审视我们的发现，并在 2021 年 4 月 26 日前针对下列问题给予答复，也欢迎您提供其他任何意见：

1. 商务部必须审核中央企业投资：根据该部 2014 年《境外投资管理办法》，境外投资企业应当“遵守投资目的地法律法规、尊重当地风俗习惯，履行社会责任，做好环境、劳工保护”。商务部做过何种审核，确保中国华能集团符合上述标准？
2. 商务部是否正式批准桑河二级项目？请将有关该案审批的任何材料或文件寄给我们。
3. 商务部如何确保相关中国政府机构和国有企业遵守前述条款和标准？
4. 商务部有无任何其他标准或机制，防范或减轻类似本项目被指控的人权侵害？
5. 有无任何中国政府官员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过程，包括安置与补偿方案？若有，这些官员采取何种措施评估该项目对水电站邻近社区的影响，例如通过实地访问、审查项目文件以及会见企业高管和监督安置程序的柬埔寨政府官员？
6. 就您所知，中国华能集团是否曾针对直接遭受工程与淹没影响区域以外，即居住在水坝上游和下游的社区实施任何风险评估？
7. 中国政府是否要求或监督中国华能集团与本项目受影响民众之间进行任何谘询计划？若有，该公司给民众提供什么信息，如何确保其易读性？该公司是否将本项目上游及下游居民纳入谘询对象？
8. 中国政府是否要求政府出资或支持的项目必须设立任何申诉机制？若是，您采取何种措施确保这种机制有效，且相关社群被告知有这种机制存在？
9. 商务部是否曾参与关于一带一路而与本项目有关的任何审查或程序？
10. 本项目被视为一带一路倡议的一部分意味什么？具体是何种特色或标准使它成为一带一路项目？

为了确保我们关于桑河二级水电站的报告内容周延、客观，请您就以上各项问题给予答复，以便反映在我们的报告当中。为确保有足够时间将其纳入，我们必须在 2021 年 4 月 26 日前收到您的答复。

若您希望就此议题作更深入讨论，我们也很乐意用视讯方式对话。安排会谈或有任何疑问，请与本人即亚洲区倡议主任约翰·席夫顿联络，电邮：siftonj@hrw.org。

人权观察感谢你拨冗关注。

期待您的回复。

谨此，

A handwritten signature in black ink, appearing to be 'John Sifton'.

约翰·席夫顿 (John Sifton)
亚洲区倡议主任
人权观察

附录：研究发现摘要

人权观察对桑河二级项目的研究表明，该公司人员与柬埔寨政府官员于 2012 到 2019 年进行的谘询和补偿程序存在严重问题，在此期间有数千人被迫离开遭水电站淹没的财产，迁往安置点或其自择地点。

人权观察发现，谘询过程的动力通常来自胁迫，村民通常被告知整套补偿方案不容协商，或者若拒绝建议就什么也得不到。提供给受影响家户的具体补偿金几乎全都是不足够或有问题的。尽管预期水电站将影响渔业所得（不只是水电站上下游，还包括整个湄公河流域），但水电站淹没区以外的受影响家户——住在上游和下游依靠河中鱼类和沉积物获取作物和收入的社区——却没有得到任何补偿。所有受水电站影响的家户都没有得到任何职业培训，以便他们发展其他替代创收活动。

根据我们报告中的详细说明，具体问题包括下列各项：

- 中国华能集团提供建造新居的基金不足；村民原本住房质量不佳，但重建的住房更差。
- 相较于村民原有土地，分配给安置家庭的新土地肥沃度较低，耕作较困难，因此提高的耕作和施肥成本却没有得到补偿。
- 对果树和其他作物损失的补偿远低于实际价值。
- 对渔业所得损失的补偿仅以一年计算，没有考虑未来几十年村民因为渔获量降低而损失的收入。
- 占移民大部分的原住民永久失去其作为原住民的各项权利，包括共有土地和林地的使用权。森林产物采集收入的损失没有得到任何补偿。对村民祖坟损毁的补偿计算方式不当，补偿的实行也没有考虑到原住民社区信仰体系下坟地的特殊地位。（如下文所述，谘询过程一般没有遵循原住民适用的国际标准。）
- 多位户长（部分不识字）表示，他们签署补偿文件时并不了解内容，也无法获得独立意见。
- 本项目虽为移民提供某些跨国援助，以食物和现金补贴搬迁费用和必需品，但许多村民指出，这些援助的额度不能满足需求。
- 许多村民表示，他们曾向公司代表或地方政府官员投诉安置和补偿相关问题，但总是得不到答复或所得到的答复无法解决疑难。
- 受影响社区不知道中国华能集团有任何解决疑难的正式申诉机制。
- 各社区并表示，因为缺乏有关安置程序的信息，他们很难做决定或提出申诉。公民社会团体表示，有关本项目的立案、该公司与政府的安置义务以及项目影响评估的最新版本等关键文件都没有随时向社区公开，也没有向社区充分说明。
- 无论中国华能集团或其事业伙伴，或者相关的柬埔寨政府官员，显然都没有采取任何措施保障受影响地区原住民的权利，或确保对他们有影响的各种安排得到国际标准所要求的自由、事先和知情的同意。

- 我们访问过的水电站上下游社区全都没有受到谘询，也没有补偿预期收入损失，包括鱼群受扰迁徙以及沉积物减少，这些因素过去曾造成河川沿岸渔获量和农作物产量降低。
- 中国华能集团或其子公司、融资方或任何商业伙伴，以及相关的柬埔寨政府官员，显然都没有采取任何措施以估算本项目在水坝工程及其建成后淹没区直接影响范围以外的社会、经济或环境冲击—这些更大范围的影响可能触及数十万甚至数百万柬埔寨民众。