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July 9, 2021

Minister of Mines and Energy Suy Sem
Ministry of Mines and Energy
No. 79, 89 Pasteur Street (51)
Khan Daun Penh, Phnom Penh, Cambodia

By email: info@mme.gov.kh

Re: Lower Sesan 2 hydroelectric dam

We are writing to provide your ministry notice about an upcoming report by Human Rights Watch on the human rights impacts 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.

As you know, the Lower Sesan 2 dam project was completed in 2018, and operated by Hydropower Lower Sesan 2 Ltd. Co., which is majority owned and controlled by the China Huaneng Group, a Chinese state-owned enterprise.

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 their participation in decision-making.

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

Specifically, we documented problems with decisions about who would be compensated and how much compensation they would

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receive. Our research found that many, if not most, of the people displaced by the dam were not adequately compensated, and that many other people who were impacted outside of displacement areas 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, primarily due to massive decreases to their income from fishing. Our research also shows that the Cambodian government has done almost nothing to help impacted families secure alternative income generation, or obtain adequate compensation from China Huaneng.

These problems—and failures to address them—violate international human rights standards and Cambodian law.

We note that reporting commissioned by China Huaneng Group corroborates many of our findings. In May 2021, China Huaneng Group released a “Sustainability Report” on the dam prepared by a Cambodian group, Asian Vision Institute. The report downplays the severity of problems—and inexplicably concludes that the project improved the lives of persons displaced—yet notably, does not contradict or rebut the central complaints made by most people displaced by the dam. While noting that relocated villagers were given “new” houses and “5 hectares of land,” have a “new school,” access to “better roads,” and are closer to towns, the report in fact acknowledges that the income of most relocated villagers’ declined after resettlement, that most lack proper access to safe and clean drinking water, and that their previously “self-sufficient” communal lifestyle had been disrupted. As the report notes:

[A]fter having moved to a new village, they have found it hard for income generation, the forest they used to get benefit were flooded and the river is no longer convenient for fishing. The relocating villagers find that it is quite far from their new village to the river. Also, the villagers still have a major challenge with clean water access, and they still have to pay a high tariff for the water they purchased [for tanks].

The fish and forest products are harder to find, while the daily consumption expenses are increasingly higher over the years, as the result of spending for everything, including electricity, meat, vegetables, even water. Before, they do not spend any on these.

The report also contains language describing Indigenous and ethnic communities being forced to abandon their self-sufficient culture (which the report notes is “not that easy”), enduring economic “challenges” of their new lives, and the “shortcoming” of their lack of “access to affordable clean and safe water.” The report does not discuss the effects on other communities upstream and downstream of flooded areas.

The report ends with a short section with “suggestions,” including that China Huaneng Group and the Cambodian government “should continue with all available means and resources to effectively provide affordable solutions, including to the issues of clean water access, livelihood security, and food security, and to solve the outstanding issues and concerns of the local villagers.”

* * * * *

We wish to provide you with an opportunity to respond to questions we have posed below and will post your responses on our website and link to them from our report, which will be issued in August 2021. We would be very grateful if, having reviewed our findings in the appendix below, you can provide us responses by August 1, 2021 to the following questions, and provide any other comments you might want to add:

1. Background. Under international human rights law and Cambodian law, people subject to involuntary resettlements have the right to relevant information, full consultation, and participation throughout the entire process, as well as to just compensation in accordance with human rights standards. Compensation should at a minimum cover the loss of physical structures and land and those resettled should have access to the same or equivalent sources of livelihood and income, formal or informal, and compensation should also include the loss of any livelihood and income to the extent that is not replaced. Indigenous communities whose rights are impacted should be consulted to ensure that they are not deprived of rights without their free, prior, and informed consent.

Our research findings—as well as China Huaneng Group’s report cited above—indicate that many villagers were not given relevant information or fully consulted, that compensation given to impacted villagers was not adequate and did not meet these standards, and that non-displaced villagers upstream and downstream of the dam, who saw their fishing incomes severely degraded, were given no compensation at all.

- a) How much funding, as a whole amount in US dollars, was set aside for compensation and resettlement relating to this project? How did the Cambodian government and China Huaneng Group calculate that number?
- b) Can you provide Human Rights Watch with a final copy of all the project's Environmental Impact Assessments, other impact assessments, any baseline assessments conducted, and all versions of the project's resettlement and compensation plans?
- c) Can you explain why compensation for lost fishing income of displaced persons was calculated to cover only a single year of lost income?
- d) Can you explain why compensation for lost fishing income was limited only to persons displaced by the dam and not provided for other impacted communities upstream and downstream of the dam?
- e) Does the Cambodian government have plans to act on the recommendations or suggestions made by China Huaneng's sustainability report?
- f) Does the Cambodian government have any plans to address ongoing complaints by impacted people, including about water availability, compensation, social services, or land rights?
- g) What steps did the Cambodian government take to ensure impacted people were properly and inclusively consulted, and make relevant information available to communities?
- h) Why did government or project officials not consult communities upstream and downstream of the dam, whose fishing incomes were anticipated to be disrupted by the project?
- i) What steps did the Cambodia government take to ensure that affected Indigenous communities were adequately consulted and that their right to free, prior, and informed consent was respected? Please provide documentation of the consultation and processes followed.
- j) What transitional supports or new jobs skills trainings were provided for people who were resettled?
- k) What process did government and project officials use to determine compensation for graves of community members' ancestors that were in the submergence zone? Did officials consult with affected communities in making the compensation determination?
- l) Did the Cambodian government, in approving the Lower Sesan 2 dam project, consider alternative, less disruptive projects that would have lessened displacement, or other designs or operational strategies for the project to reduce impacts on fisheries?

- m) Will the Cambodian government commit to ordering China Huaneng Group to undertaking a new and more comprehensive assessment of harms caused by the project and to providing appropriate remediation as required under international, Cambodian, and Chinese law?
 - n) Will the Cambodian government commit to ordering China Huaneng Group to adopting a new plan for compensation for those displaced or otherwise impacted by the Lower Sesan 2 project, to remedy the issues identified here?
2. Many of the communities displaced by the Lower Sesan 2 dam have serious and ongoing complaints about their living situations and problems with social services and agricultural land provided to them.
- a) Did the Cambodian government or China Huaneng Group put in place accessible grievance mechanisms to address complaints? If so, what steps did the government take to inform affected communities of its existence and procedures for using those mechanisms?
 - b) If there were grievance mechanisms in place, how many complaints did the government or China Huaneng Group receive, what steps did you take to resolve complaints, and how many were successfully resolved? Please provide any available documentation and data from the grievance mechanisms.
 - c) Has the government or China Huaneng Group or its subsidiaries engaged in any consultations or communications with impacted communities since the completion of the dam? If yes, what has been the result?
 - d) Can the government commit to ordering China Huaneng to engage in new consultations to address ongoing complaints of impacted communities?
3. Many relocated villagers have complained that water from wells in resettlement areas is undrinkable, and report that they are now obliged to purchase water from trucks to fill cisterns. When Cambodia's Interior Minister Sar Kheng visited the resettlement site in February 2019, he was told of these problems and reportedly said he would work to address them.
- a) What, if anything, has the government or China Huaneng Group or its subsidiaries done to ensure that water in the resettlement areas for the project is safe?
 - b) Has the government or China Huaneng Group or its subsidiaries conducted any tests on the water in the resettlement sites for presence of contaminants?
 - c) If so, can you send us the official results?

4. Several villagers told Human Rights Watch that they were threatened by Cambodian government officials not to criticize the project or that they would not be eligible for compensation from China Huaneng Group.
 - a) Are you aware of these allegations and if so, how do you respond?
5. Our research was unable to determine what entities purchased the electricity produced by the Lower Sesan 2 dam and where it is consumed. We also have been unable to determine how much actual electricity the dam has produced, cumulatively, per month, year, or on an ongoing basis.
 - a) Over the last two years, how much electrical energy has the Lower Sesan 2 dam produced? Can you provide Human Rights Watch with data or information on the dam's electricity production in gigawatt-hour averages (month-by-month or week-by-week); in terms of daily, weekly, or monthly megawatt output; or in any other format available over the period 2019 to present.
 - b) Can you confirm whether Electricite du Cambodge is the purchaser of electricity produced by the Lower Sesan Dam, or if not, explain to which entity the power is sold, and how revenues are paid?
 - c) What are the fees, terms, or prices for electricity provided by Hydropower Lower Sesan 2 Ltd. Co. to the purchaser of the electricity it produces?
 - d) In 2019 and 2020, how much monthly or yearly net revenue or loss has China Huaneng Group or Hydropower Lower Sesan 2 Ltd. Co. incurred from operating and selling the electricity produced by the Lower Sesan 2 dam?
 - e) Can you provide any information or data on what consumers, customers, or beneficiaries benefit from electricity from the Lower Sesan 2 dam? Can you provide any information or data that breaks down where the electricity is currently used or sent to? In particular: how much electricity (as a monthly or weekly percentage of overall output) has been used by consumers in Stung Treng, Kratie, and Ratanakiri in 2019 and 2020, versus how much has been sent to other areas?
 - f) Can you state whether communities displaced or impacted by the dam are receiving electricity services, and if so, at what cost?
6. We wrote to China's State Assets Supervision and Administration Commission (SASAC) to request documentation of any reviews they conducted of this project.

- a) Did SASAC, any other Chinese government office, or the Industry and Commerce Bank of China, exercise any oversight, write any reports, or conducted any written reviews about this project's resettlement or compensation policies or processes?
- b) If so, can you send any such reviews to us?
- c) Did China Huaneng Group engage in any reviews or processes involving the SASAC or the Chinese Ministry of Commerce, connected to the project being part of the Belt and Road Initiative?

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', with a stylized flourish at the end.

John Sifton
Asia Advocacy Director
Human Rights Watch

Cc: Mr. Ith Praing, Secretary

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.