



May 1, 2008

To: Equator Principles Financial Institutions: ANZ, Bank of Tokyo Mitsubishi UFJ, Calyon, Fortis, ING Group, KBC

CC: Bangkok Bank, BNP Paribas, Thai Exim Bank, Theun-Hinboun Power Company

ANZ Investment Bank
Mike Smith
CEO
100 Queen Street
Melbourne, Victoria 3000
Australia

Dear Mr. Smith,

Theun-Hinboun Expansion Project, Lao PDR

We are writing to you because your Bank has been listed as contributing to a US dollar loan to Laos' Theun-Hinboun Power Company for their Theun-Hinboun Expansion Project, which involves construction of a new dam and expansion of the existing power station.¹ The financing is being undertaken as project finance, and therefore the Equator Principles apply.

We are writing to you to express doubts about this project's compliance with the Equator Principles, and to ask you to share evidence that appropriate due diligence has been done by your Bank to verify whether the project does in fact comply with the Equator Principles.

The proposed Theun-Hinboun Expansion Project is a Category A hydropower project. The project involves a storage dam on the Nam Gnouang River and a doubling of capacity at the existing Theun-Hinboun power plant, resulting in a doubling of the amount of water diverted into the Hai and Hinboun Rivers. The project is located 50 kilometers downstream from the Nam Theun 2 Hydropower Project, which your Bank has also financed and which is still under construction.

The existing project diverts water from the Theun River into the Hai and Hinboun Rivers and has had a serious impact on the lives and livelihoods of around 30,000 people who have lost fish, rice fields, vegetables and drinking water as a result of the dam. This additional project will displace up to 4,800 mostly ethnic minority people in the reservoir area and negatively affect another 48,441 people living downstream, on project construction lands and in host

¹ "Laos promises deluge of offshore project financings" *International Financing Review Asia*, 2 February, 2008

villages. This includes an unknown number of people who will need to be relocated due to project-induced flooding.

International Rivers has been monitoring the original Theun-Hinboun Hydropower Project since 1998, and we have been closely following the development of the Theun-Hinboun Expansion Project (THXP). BankTrack, of which International Rivers is a member, is concerned about the involvement of Equator Banks in this project and has included the project in the "Dodgy Deals" section of the BankTrack website (www.banktrack.org).

International Rivers has recently published reviews of the Environmental Impact Assessment (EIA), Environmental Mitigation and Monitoring Plan (EMMP) and Resettlement Action Plan (RAP) for the Expansion Project, which are enclosed.²

The reviews find that the plans are of such poor quality that they have no hope of restoring livelihoods for people affected by the project or mitigating the impacts of the project. The plans do not even meet Lao regulatory requirements, let alone IFC Performance Standards, and contain many errors, omissions and biases. The plans are dated August 2007 but were not released until October 2007. As far as we are aware no Lao language translation of the plans has been provided to affected communities, in contravention of Equator Principle 5.

Summary of findings

The EIA fails to examine the impacts from the existing Theun-Hinboun Hydropower Project to any degree of diligence or discuss the extent to which mitigation and compensation measures implemented to date have dealt with the impacts. The proposed budget for the EMMP is clearly inadequate both for the scale and magnitude of the environmental impacts that will result from THXP and the length of time that the impacts will be felt.³ The Resettlement Action Plan (RAP) obfuscates and downplays project impacts and fails to present a viable plan for mitigating and compensating the very serious impacts that will result from the project.

The most fundamental problem with the RAP is the lack of productive agricultural land for the displaced population. As there is no commitment to provide land-for-land, many people will end up with cash compensation instead of land of equally productive value.

In contravention of IFC Performance Standard 5, the plan only provides for direct cash compensation for losses of fixed assets, such as land, fruit trees and housing. The plan fails

² The review of the RAP was conducted by Aviva Imhof of International Rivers and the review of the EIA was conducted by David Blake, an independent researcher who has visited the project area several times.

³ Pitifully little money is devoted to water quality monitoring (\$105,000), fishery monitoring and mitigation (\$99,000), and downstream "riverbed management" (\$100,000). The EMMP allocates a mere \$45,000 for downstream "bank protection and hydraulic works" and \$24,000 for unspecified fishery "compensatory works".

to quantify the damages that will be sustained from the loss of common property resources or to determine acceptable levels of compensation based on those losses. Instead, the plan proposes replacing losses with livelihood restoration measures that are unclear, under-funded and have already been tried with limited success at the existing project. As the RAP fails to draw lessons from the successes and failures of the mitigation and compensation program of the existing project, or from the experiences at the Nam Theun 2 Hydropower Project, THXP is poised to repeat past mistakes.

THXP's impacts on the Hai and the Hinboun rivers will be severe: the project will significantly increase the frequency and duration of flooding along the recipient rivers, will cause even greater erosion along the riverbanks, and will almost completely decimate fisheries in the Hinboun River. Yet the RAP proposes no direct compensation for these losses.

As a result of the additional flooding, the RAP admits that some villages or village households will need to be "relocated". However, in contravention of IFC Performance Standard 5, there is no indication of how many people will be required to relocate, which villages will be most affected, whether there is land available, and if not, where people will move. The plan fails entirely to consider and address the extra pressure on land and resources that will occur as a result of resettlement.

Between 1,000 and 2,000 ha of paddy land "have been or will need to be abandoned for wet season production in the Recipient River area" according to the RAP. There is no paddy land available in the Hinboun valley with which to replace the paddy land lost to flooding. Villagers will instead be increasingly forced to rely on irrigated dry season rice production or upland rice cultivation. The result of THXP will be even greater rice and protein deficiencies amongst households that are already suffering as a result of the existing Theun-Hinboun project, making life unbearable for many Hai and Hinboun residents.

Questions to Banks involved

More detailed information about the potential impacts of the THXP project is contained in the enclosed reviews. We encourage you to read these reviews carefully, as well as to look at a recent report published by Norwegian NGO FIVAS entitled *Ruined Rivers, Damaged Lives* that documents the impacts of the existing project and what can be expected from the Expansion Project.⁴

As you will understand from the findings above, our organizations are very concerned about your apparent willingness to engage in this controversial project. We would therefore appreciate a response to this letter by May 19th, indicating the following:

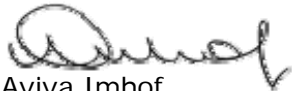
⁴ http://www.fivas.org/fivas/media/Ruined%20rivers,%20damaged%20lives_FIVAS%20final%20report.pdf

- Is the information in the *International Financing Review Asia* article of 2 February, 2008 regarding your Bank's possible involvement correct? If not, could you provide us with correct/updated/additional information?
- Assuming the information is correct, what due diligence has your Bank performed in assessing this project's compliance with the Equator Principles?
- Does your Bank consider this project to be in compliance with the Equator Principles? If so, please provide us with evidence of the risk assessment performed by your Bank that indicates compliance.
- If your Bank has not done the due diligence required of it under the Equator Principles, what is your process for completing this before financial close?

While the BankTrack and International Rivers websites now provide general information on the Theun-Hinboun Expansion Project, we have not yet gone public with our concerns about your Bank's involvement in the project. Whether we will do so depends partly on the information we will, or will not, receive from you.

Thank you for your attention, and we look forward to your response.

Sincerely,



Aviva Imhof

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