

**MODERATOR'S REPORT**  
**INTERNATIONAL WORKSHOP: PROPOSED NAM THEUN 2**  
**HYDROELECTRIC PROJECT IN LAO PDR**  
**September 10, 2004, Washington, DC**

*Prepared by :*  
**David Hales, Counsel for Sustainability Policy, Worldwatch Institute**

**INTRODUCTION**

This Report is a summary of a Workshop conducted on September 10, 2004, in Washington D.C., as part of a series of Workshops on the proposed Nam Theun 2 Hydroelectric Project in Lao PDR. The Workshop was sponsored by the World Bank, the Asian Development Bank, the Government of Lao PDR (GoL) and the project developers, the Nam Theun Power Company (NTPC). Annex A includes the DC workshop agenda, and Annex B includes a list of the participants who attended. The workshop in Washington was one of a series of four international workshops that were held on the proposed project during August and September 2004 (the other venues were Bangkok, Tokyo and Paris, as well as a national workshop in Vientiane).

This Report is intended to give a sense of the issues and concerns raised by participants, and the nature of responses from the Project developers and International Financial Institutions that are considering support for the Project. This Report is not a formal record of the proceedings. It is not intended to fully represent the detail and content of presentations, interventions, or responses by participants, or to fully reflect positions of any entity or individual. Interventions by participants are characterized based on detailed notes taken by World Bank staff, and on more general reflections of the moderator. The entire proceedings of the Workshop will be made available in a transcript that will be posted on the web at [www.worldbank.org/laont2.i](http://www.worldbank.org/laont2.i).

Presentations made at the DC workshop are appended to this Report, as are comments and submissions from other participants submitted subsequent to the workshop. Submissions that were received by September 20, 2004 are included.

**BACKGROUND ON NAM THEUN 2**

The Nam Theun 2 (NT2) hydroelectric project has been under consideration by the GoL and various developers since the late 1980s. The proposed project would generate electricity mainly for export to Thailand, with most of the revenues accruing to Lao PDR to be used in Laos for poverty reduction and environmental protection activities. The World Bank and the Asian Development Bank (ADB) have asserted that “the project has the potential - if properly prepared, implemented and managed - to significantly benefit the Lao people.”<sup>1</sup>

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<sup>1</sup> The World Bank; Draft Terms of Reference for International Stakeholder Workshops (attached as Annex C of Report).

The World Bank and the ADB also have stated that they recognize that NT2, as proposed, “is a large and complex project and entails considerable risks, including environmental and social ones... NT2 triggers all of the safeguard policies of the World Bank and the Asian Development Bank which are designed to prevent and mitigate undue harm to people and their environment in the development process.”<sup>2</sup>

The safeguard policies require a series of studies and plans to assess and respond to any environmental, social, economic and financial impacts of the project. These safeguard documents were made public between May and August of 2004, and are now available on-line at [www.namtheun2.com](http://www.namtheun2.com). They include:

- ***Environmental Assessment and Management Plan (EAMP)***: assesses project impacts and plans to minimize, mitigate or compensate for these impacts;
- ***Social Development Plan (SDP)*** to manage social impacts including those related to resettlement, health and downstream impacts in the Xe Bang Fai and to manage special issues related to ethnic minorities;
- ***Social and Environment Management Framework and 1<sup>st</sup> Operational Plan (SEMFOF)*** to manage the Nakai-Nam Theun National Protected Area and its Corridors – the conservation of which is provided by the project as a compensation for a portion of the environmental impacts related to the project
- ***Summary Environmental and Social Impact Assessment (SESIA)***, which is a summary of the 3 safeguard documents and has been translated into Thai, Lao, Japanese, and French languages.

Additional background documents for the NT2 project are now available on the World Bank’s website at [www.worldbank.org/laont2](http://www.worldbank.org/laont2) . These include: the Economic Analysis of the project, Regional Economic Least Cost Analysis study; summary of the Sources of Growth Study for Laos; Lao Power System Development Plan; Report on the Quality of the Local Consultations; and Independent analysis by the International Advisory Group (IAG).

More information on NT2 can also be accessed by internet search for Nam Theun 2, and on the webpages of many of the organizations which were represented at the workshop.

## **WORKSHOP PURPOSE AND AGENDA**

The risks and mitigation plans outlined in these draft documents provide the basis for a series of required consultations with affected communities within Lao PDR and non-required workshops with international stakeholders recommended by the World Bank and ADB to supplement the local consultations with communities that would be affected by the proposed project.

The international stakeholder workshops -- in Bangkok, Tokyo, Paris, and Washington -- were organized by the World Bank and the ADB, and facilitated by independent moderators. The World Bank has described the purpose of these workshops as to ensure that the proposed

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<sup>2</sup> Ibid.

project's objectives, potential benefits and impacts are openly discussed and understood not only within Lao PDR, but also among the wider audience of international stakeholders.

The Washington D.C. workshop opened with the following characterization by the moderator:

*As for the nature and purpose of this meeting, it is a workshop designed to encourage the full and open discussion of issues and expressions of concern about the proposed project. Its purpose is to inform both project design and IFI decision-making, providing feedback to the proposers, and identifying issues which must be addressed by the IFIs in evaluating the proposal. Its purpose is to create a public record that fairly and objectively reflects the views of all participants, and which provides the basis for those who review that record to consider the costs and benefits, the risks, the advisability and appropriateness of IFI support for NT2, with special focus on the degree to which the proposal complies with policies of the World Bank.*

*This meeting is NOT a “consultation” in the formal sense that many of you are familiar with in other contexts, nor is it a “consultation” as that word is used in the terminology of the World Bank. (See Annex D for complete opening statement by moderator))*

The moderator clarified that presence and participation in the discussions did not imply support for the workshop process, or for the proposed project.

The moderator's introduction to the workshop emphasized the importance of openness, inclusiveness, and objectivity in consideration of the proposed Project and management of the workshop. The agenda for the workshop was structured for the purpose of creating opportunity to transfer information, raise questions and express views concerning all aspects of the NT2 proposal. All participants in the workshop had the opportunity to express views about any aspect of the proposed project, as well as to submit additional material to be incorporated into this Report.

The first 4 sessions of the Washington, DC workshop consisted of presentations by representatives of the World Bank, by the Lao Government, by the developers, and by experts who have investigated project related issues, including consultations with communities that would be affected by the proposed Project. These presentations addressed environmental and social safeguards, economic analysis and revenue management arrangements, the role of IFIs in consideration of the proposal, and the development context in Lao PDR. After each set of presentations, the floor was opened to interventions to raise issues and frame questions, and specific, to the point responses from Presenters were invited.

The remaining afternoon period focused more on interventions from all participants and on interactive and free flowing discussion.

In order to be sure that there was opportunity for all participants and for engagement of all issues, every presentation and intervention during the workshop was time-limited. The

moderator encouraged participants to engage each other in ways that allowed everyone who wanted to raise an issue or express a view to do so. There was no limit to the number of times that any participant could take the floor.

## **KEY ISSUES RAISED IN THE WORKSHOP AND RESPONSES FROM PANELISTS**

Issues and questions raised in the workshop clustered in several “families” or groupings:

- The Role of International Financial Institutions, the standards to guide the decision process and the Development Framework for Lao PDR
- Project Technical and Environmental and Social Safeguards;
- Local Consultations; and
- Economic Analysis and Revenue Management

Following is a summary of the presentations and responses made during the workshop. The complete presentations are attached in Annex E.

### **I. The Role of International Financial Institutions, standards to guide the decision process, and The Development Framework for Lao PDR**

The initial presentation on behalf of all IFIs by Mr. Christian Delvoie, Director of Infrastructure, East Asia and the Pacific, World Bank, addressed the decision framework in terms of “three pillars”, indicating that for the World Bank to consider its support, the NT2 project must be:

- *integrated into an overall development and poverty reduction framework for Lao PDR;*
- *be technically, financially and economically sound; and*
- *there must be international support for and understanding of NT2 as part of Lao PDR’s development framework. He noted that the third pillar, international support, was the most difficult to quantify, but underscored its importance, in part because of the governance climate and lack of capacity and independence of local civil society in Lao PDR.*

His presentation also emphasized that the IFIs were not yet at a decision point regarding the proposed Project, and he briefly outlined the steps that would lead to a decision, including the need for further analytic work and consultation, management review and project appraisal, and agreement on legal documents with sponsors, including GoL.

Next, Samboune Manolum, Permanent Secretary, Ministry of Industry and Handicrafts, GoL, provided an overview of the development challenges facing Lao PDR, a landlocked and mountainous Nation, where 70% of the population lives on less than \$2US per day, and where a high percentage of GDP derives from agriculture and natural resource extraction.

In response, workshop participants raised questions concerning the nature of policy and institutional reforms that would have to take place for the World Bank to support the project, the status and availability of the “safeguard documents”, and whether development options other than NT2 had been fully assessed.

With regard to desired reforms, World Bank representatives essentially restated the information presented in the IFI Presentation, emphasizing sound macro-economic policies, and public sector reform to improve budget planning and control, transparency and accountability, and oversight of State-Owned Enterprises. Also in response, Dr. Manolom mentioned ongoing reform of the banking sector and State-Owned Enterprises.

Panelists responded that most of the safeguard documents were now publicly available, acknowledging that some important documents had only been publicly posted recently. World Bank representatives indicated that all documents would be available in revised form by mid-November 2004.

Responses from Lao PDR and NTPC regarding analysis of alternatives indicated that no broad analysis was done prior to the initial emergence of NT2 as a project, and asserted that Laos, as a very poor country, had few options, especially on the Nakai Plateau. WB and ADB representatives indicated that NT2 was one of the best – if not the best – options available and that there was growing confidence among the IFIs that if properly implemented, NT2 could significantly reduce poverty in Laos.

Questions were also raised, and not specifically answered, regarding the content and disclosure of the Concession Agreement and the Power Purchase Agreement which underpin the project. IFI representatives indicated that they encouraged the developers to disclose these documents, and that the World Bank expected additional changes in the Concession Agreement.

## **II. Project Technical and Environmental and Social Safeguards**

The NTPC and the Lao PDR Watershed Management and Protection Authority provided an overview of the proposed project and the management Framework and Operational Plan for the NT2 Watershed.

Following the presentations, a wide range of issues and concerns were raised by the workshop participants.

Questions were raised concerning safeguarding the livelihoods of the affected populations, with participants expressing deep concern regarding the level of uncertainty still evidenced in project documentation, and in the workshop responses. Concern was expressed that NTPC continued to underestimate downstream impacts and the costs of livelihood options.

NTPC responded that they saw this as “a dynamic process”, a “dynamic open-ended approach” ... “not a fixed package”, but one that would be further refined. NTPC indicated that the developers’ commitment is to achieve livelihood restoration including the income target. NTPC said that it has a commitment to the target, but not necessarily to specific actions. World Bank and ADB representatives noted that there has been a consistent effort to remove the degree of uncertainty about the impacts of the project, but that in several areas, fisheries for example, impacts remained unknown, and therefore compensation packages could not be finalized, and acknowledged that significant risks remained. The World Bank also noted that NTPC is fully responsible for ensuring the success of this project and that NTPC is an entity that includes the

Lao government as a shareholder. In response to a query from a US Government representative, NTPC responded that NTPC was responsible “no matter what the cost is”, and that there is no contractual upper limit to NTPC’s liability.

On environmental issues, concerns regarding incomplete studies and levels of uncertainty were also expressed. Participants asserted that the project will have detrimental effect on 3 major freshwater ecosystems and noted the absence of a cost-benefit analysis on the damage to these eco-systems. Questions were raised regarding lack of data and studies on both aquatic and terrestrial systems, and about the likelihood that basic information regarding impacts and mitigation plans would not be available to inform decision processes.

NTPC and the World Bank responded by describing efforts that would be undertaken and entities that would be cooperating in the process, citing the International Union for the Conservation of Nature, the Wildlife Conservation Society, and the United States Fish and Wildlife Service. World Bank representatives noted that NTPC must provide a “credible, solid set of solutions to guide us on appraisal.” Several participants suggested that the NT2 Project not be submitted for decision until this information was publicly available.

### **III. Local Consultations**

Consultation with affected populations also received significant attention in the workshop. Three presentations were made regarding the status and effectiveness of local consultations. Stephen Sparks, a consultant with NTPC discussed the process of local consultations that took place in the mid-1990s. Then a Thai NGO consultant who was asked to organize the latest round of local consultations discussed his methodology and some of the main concerns raised by affected communities. Finally a social expert resident in Lao, hired by the World Bank to monitor and evaluate the consultations, provided his views on the process. Questions from participants primarily focused on two concerns: the possibility of meaningful local consultation in Lao PDR, given the political climate, and the scope of the consultations. Concerns regarding adequacy of the Lao judicial system and grievance procedures were also raised.

World Bank and NTPC representatives outlined the steps that have been taken to date in holding local consultations, the universal outreach to affected villages, and the commitment of NTPC and the Government to continue the engagement of civil society in monitoring the implementation of the project and in dealing with issues that arise.

### **IV. Economic Analysis and Revenue Management**

Presentations by the World Bank, the Lao PDR Ministry of Finance, and the Electricity Generating Authority of Thailand (EGAT) addressed the economic rationale for the proposed Project, the integration of all project costs, including environmental and social costs, into all economic analyses, the basis for projections of Thai power demands, and the emerging strategy for managing project revenues for use in poverty alleviation and environmental protection.

Questions and statements of concern from participants focused on the lack of disclosure or availability of information critical to analysis of the advisability of the project; uncertainties

regarding overall costs and plans for management and investment of project revenue; the capacity of GoL and NTPC to carry out obligations and commitments, and accountability mechanisms for the developers, including the GoL.

World Bank and ADB representatives responded that the IFIs' investment would significantly leverage financial resources that could be invested in poverty reduction, noting that additional measures will have to be detailed and agreed in order to ensure good management and accountability. World Bank representatives noted that the GoL has put forward a strategy to implement reform, but that there remain significant capacity constraints. ADB and the World Bank also indicated that they would be seeking more specificity regarding measures on how the revenues will be used and monitored in addition to overall revenue management. Specific "key success indicators" mentioned by the IFIs' representatives included: further progress on the reform program, the mobilization of domestic revenues, expanding the revenue base, increasing exports, and the development of other natural resource projects such as mining. Transparency and timeliness of reporting were also cited as issues to be emphasized in reviewing the adequacy of the Project proposal. Finally, the World Bank representatives indicated that the Bank will continue to have an ongoing external monitoring program, including regular Public Expenditure Reviews, expenditure tracking and service delivery surveys.

Representatives of the GoL indicated that the Project Revenue Management Committee was working on a "special company that would hold the government's share of the project so that the revenues would flow into the government budget", and that Lao PDR was "working to convert our anti-corruption subdecree into law".

Questions and comments regarding uncertainties touched on many areas where critical information is lacking, including the overall cost of the proposed Project and the costs of construction. World Bank and ADB representatives and developers indicated that the process for gathering information was ongoing. World Bank representatives asserted that in the decision process, "tolerance for uncertainty is zero" and that there must be mechanisms to compensate for those uncertainties. Bank representatives also stated that the developers are responsible for meeting all project costs (internalizing environmental and social costs) even if the costs are unanticipated, and that developers would have to demonstrate that they had the "financial envelope" to be able to account for these changes. A US Treasury representative asked if this meant that there was no "upper limit" to the developers contractual financial liability, and NTPC replied that indeed there was not.

An analysis of Thai power demands was presented, and questions were fielded regarding the Power Purchase Agreement, demand projections, and consideration of alternatives to NT2. Details of pricing mechanisms were also touched on, but not explored in depth.

Several participants brought statements for distribution at the workshop, and the moderator invited others who wished to submit statements or comments for the record to do so before September 20. Those received by the moderator before the deadline are included in Annex F.

## INDEPENDENT MODERATOR'S SUMMARY

The workshop provided an opportunity for raising issues and expressing concerns or support for the proposed NT2 Project. Although full discussion of complex issues was not possible within the time limits and format of the workshop, panelists and participants all seemed comfortable with openly raising and engaging on all issues.

While the discussion during the workshop was dominated by a few NGOs and IFI representatives and staff, the nature and scope of participant interventions hold the potential to inform both project design and IFI decision-making. Feedback to proposers was not uniformly negative, but literally all interventions underscored a desire for additional information to be developed and shared with civil society in a timely manner – before the Banks enter the Appraisal stage, and before the development of recommendations to their senior management and Boards of Directors. There was significant concern that information felt to be necessary to determine whether the Project was in compliance with Safeguard Policies had not yet been developed, and that critical information would not be available to inform final decisions by the Banks. The participants' desire for transparency with regard to the Power Purchase Agreement and the Concession Agreement was evident, especially with regard to changes that the Bank and or ADB may be discussing with developers.

For the most part, questions and comments from participants were detailed and specific. Responses from panelists were often less so. The developers and representatives of the GoL often had difficulty responding to questions and comments from participants, relying on World Bank and ADB representatives for more comprehensive and responsive answers to some inquiries.

The workshops provide a basis for additional detailed and transparent communication among representatives of civil society, government and private sector stakeholders and IFI decision-makers, and have provided additional information on what information is available, where there are major gaps, and the nature of various concerns regarding those gaps. This communication would be assisted by clear statements from IFIs on the guidelines they will employ to evaluate compliance with the “three pillars” of the Banks' Decision framework, as well as a pre-decisional publication of an analysis of the degree to which the Project proposal meets the guidelines.<sup>3</sup>

Participants also requested that project sponsors and the IFIs respond specifically to points raised in all the workshops, especially where changes in the proposed Project or in documentation have been made is response.

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<sup>3</sup> The World Bank's stated decision framework, agreed in 2001, has 3 pillars: 1) The project must be embedded in a development framework, characterized by concrete performance, that aims to reduce poverty and protect the environment; 2) The project must be technically, economically, and financially sound and adhere to the Bank's safeguard policies; And 3) The project and Lao PDR's overall development framework must have greater understanding and wider support within the international donor community and global and local civil society.

## **ANNEXES**

- A. DC Workshop Agenda
- B. List of Participants
- C. Workshop Terms of Reference
- D. Moderator's Opening Statement
- E. Workshop Presentations:
  
- F. Submissions from DC Workshop Participants:
  - 1. Probe International
  - 2. Probe International
  - 3. Open Letter from 16 North American Civil Society Organizations
  - 4. Environmental Defense
  - 5. World Resources Institute
  - 6. Chris Hermann
  - 7. Probe International/Friends of the Earth
  - 8. Probe International
- G. Follow-up Communication to Participants