



Monitoring and Oversight in Finance Documents for Laos Hydro Power Projects

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ALLEN & OVERY

Equator Principles

- Self regulating industry approach – but strong wording –
“We will not provide loans where the borrower will not or can not comply with our environmental and social policies and processes.”
- Closely follows the IFC Performance Standards on Social and Environmental Sustainability
- Reflects a recognition that environmental liability a credit risk
- Since June 2003
 - Wide spread adoption by lenders
 - Development of independent EP functions at lenders
- June 2006 revisions
 - Project advisory activities
 - Project upgrades and extensions
 - Tougher requirements – public consultation

Other E&S Guidelines/Concession Agreement

Other environmental and social safeguard policies

- ADB safeguard policies
- ECA guidelines
- World Bank safeguard policies

Concession Agreement

- Applies applicable legal and regulatory standards
- WREA approval of environmental and resettlement plans
- Establishes oversight structure
 - Environmental Management Units for WREA
 - Environmental and Social Department for Project Company
 - Livelihood Restoration and Development Unit for GOL
- Details E&S requirements/objectives in schedule
 - Obligations limited by cost
 - Obligations limited by scope

Finance Documents – Conditions Precedent

- Social and Environmental Impact Assessment (prepared by Project Company approved by WREA)
- Environmental and Social Implementation Plans
- First Annual Implementation Plan
- Contractors – Site Specific Environmental Management Plans
- Advice/report from Technical Advisor
- Institutional sign off
- Legal opinions – consistency with Laos law and licences

Finance Documents - Representations

- Compliance with applicable laws/ obtaining of permits/ E&S Documents and Standards
- Correctness of information – Project Company/third party/ projections
- Confirmation that E&S Implementation Plan reflects CA requirements
- Annual Implementation consistent with CA and E&S Implementation Plan
- Project and E&S plans consistent with Equator Principles and other E&S safeguard policies
- No (material) E&S claims

Finance Documents - Undertakings

- Compliance with all applicable E&S requirements
- Project to be constructed, operated and developed in accordance with E&S requirements and E&S Implementation Plan
- Submission of Annual Implementation Plans and reports for review by LTA and Lender approval
- Regular E&S reporting during construction and operational phases
- E&S claims
- Unanticipated Project Impacts
- Additional Plans

E&S Monitoring

- WREA oversight through EMU under CA
- Additional independent oversight for GOL under CA during construction and a period (e.g. first four years) of operations
- Monitoring by Technical Advisor during construction and operations
- Dam Safety Review Panel
- E&S Panel of Experts
- Specific Institutional monitoring

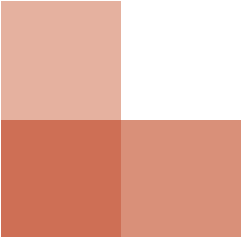
Events of Default

- Breach of E&S representations
- Non-compliance with E&S undertakings
- E&S Claims that are material in the context of the project or implementation in accordance with Equator Principles
- May have different levels of E&S Default with various consequences



Questions?

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