

## **APPENDIX E**

### **IAG AND POE COMMENTS ON THE RAP**

#### **Table of Contents**

<b>E-1</b>	<b>INTERNATIONAL ADVISORY GROUP (IAG)</b> .....	<b>1</b>
<b>E-2</b>	<b>INTRODUCING NEW LIVELIHOOD MODELS</b> .....	<b>1</b>
<b>E-3</b>	<b>RESETTLEMENT</b> .....	<b>1</b>
<b>E-4</b>	<b>POST-RAP PERIOD</b> .....	<b>2</b>
<b>E-5</b>	<b>THIRD IAG REPORT – APRIL 2001</b> .....	<b>2</b>
<b>E-6</b>	<b>PANEL OF EXPERTS (POE)</b> .....	<b>3</b>
<b>E-7</b>	<b>POE – FOURTH REPORT JANUARY 1999</b> .....	<b>3</b>
<b>E-8</b>	<b>POE – FIFTH REPORT JANUARY 2001</b> .....	<b>6</b>
<b>E-9</b>	<b>POE – SIXTH REPORT, MARCH 2003</b> .....	<b>6</b>
<b>E-10</b>	<b>POE – SEVENTH REPORT, MARCH 2004</b> .....	<b>8</b>

## **E-1 INTERNATIONAL ADVISORY GROUP (IAG)**

The purpose of the 5-person IAG is to “provide an independent assessment of the World Bank’s handling of environmental and social issues in NT2 and of the risks involved for the Bank.” The IAG first visited Lao PDR in May-June 1997, visited for the second time in November 1998, and for a third time in March 2001. During its second visit, the IAG reviewed the July 1998 Resettlement Action Plan. In this respect, the IAG underlined three points. Sub-sections are J-2, J-3 and J-4 are quoted from the IAG December 1998 Report.

## **E-2 INTRODUCING NEW LIVELIHOOD MODELS**

The IAG was pleased with the progress achieved in the Plateau area and in the watershed village of Ban Mak Feuang on developing new livelihood options.

The work being undertaken in developing new techniques (wetland rice, agro-forestry) and new crops and varieties, testing the husbandry practices required and measuring the acceptability of new products among the villagers is an impressive start in the key exercise of weaning the people away from destructive practices and achieving food security. The demonstration farms are an effective way of showing people that new techniques work.

The work must be maintained without a break, for experience suggests that the building of trust and credibility is an essential element of livelihood change activities.

This work will be fundamental to the success of the project in conservation terms and is a contribution to alleviating poverty. A parallel exercise must be the promotion of social development work in the areas of health and education.

If there are to be delays in implementing the Nam Theun 2 Project, it is all the more important to use the extra time available to test and introduce new livelihood options and to start meeting some of the raised expectations of the villagers for better social services.

NTEC Comment: NTEC encourages new livelihood options and techniques for the Nakai-Nam Theun NBCA Plateau.

## **E-3 RESETTLEMENT**

The IAG’s view in 1997 was that despite the sorry record of most resettlements elsewhere, the Resettlement Action Plan (RAP) for Nam Theun 2 appears to provide a sound basis for achieving a successful resettlement. This remains the Group’s view.

The IAG monitored resettlement work and comments as follows:

- The IAG welcomes the fact that the time frame for implementation of the RAP has now been increased from five to eight years;
- The IAG notes that the high expectations of villagers awaiting resettlement continues and that there is the added element of frustration at the delays in implementation of resettlement;
- The GOL’s policy is clear with regard to compensatory issues for resettled families. Only those families registered as residents on the Plateau will receive compensation;
- The IAG notes the work of the PCPP on the Nakai Plateau (April-May 1998) and the contribution of villagers to the process. The IAG takes note that the major issues identified are

food security, the importance of a diversified livelihood model, detailed modifications to house design proposals, village layout and the importance of appropriate gender-sensitive training;

- The IAG notes the structure adopted in the RAP for the Nam Theun 2 resettlement organization. Administrative responsibility for resettlement has been transferred from the central Government to provincial and district institutions;
- The IAG proposes that serious consideration be now given to resettling an entire village at a very early date. The IAG believes that such a visible and tangible model will have a greater impact on communities preparing for resettlement and both positive and negative experiences can be utilized by communities and implementing agencies.

NTEC Comment: The IAG’s proposal – the early resettlement of a pilot village – has been agreed to by NTEC. See Appendix B on Pilot Village progress.

#### **E-4 POST-RAP PERIOD**

The IAG looks beyond the RAP implementation time period, and is concerned that at a time when the private sector withdraws from Nam Theun 2, there is a danger that insufficient capital will have been set aside to maintain services, nor sufficient invested in the development of human resources necessary for delivery of services to communities. Social disruption may follow.

The IAG sounds this cautionary note in order to underline the importance of ensuring:

- That transfer of skills and information from NTPC to GOL personnel occurs at provincial, district and local level;
- That revenues generated from Nam Theun 2 are invested in sustainable activities involving resettled communities;
- That sufficient revenues from the Project are set aside for long term maintenance of roads, schools and hospitals for resettled communities.

NTEC Comment:

- Transfer of skills from NTPC to GOL will take place at all levels of government and at all phases of the Project.
- Revenues generated from the Project will pay for the operation and maintenance costs of the community water and irrigation systems, as well as GOL-owned assets provided, budgeted at \$300,000 per year for 25 years. The smooth functioning of these systems and facilities will contribute to sustainable agricultural activities as well as food security by way of paddy production. GOL revenues generated by the Project will be used by GOL in support of its overall socio-economic development programmes.
- While the RAP provides for the construction of all physical community infrastructure, the responsibility for the operation of schools, clinics, village roads, etc. rests with GOL.

#### **E-5 THIRD IAG REPORT – APRIL 2001**

The IAG concluded that the July 1998 Resettlement Action Plan “if faithfully and yet flexibly carried out provides a sound basis for successful resettlement”

The IAG also reviewed the section of the draft Concession Agreement dealing with resettlement and concluded that “this is an extremely comprehensive and binding document.....representing a huge step forward in spelling out the respective obligations of the parties, and especially the company, for achieving successful resettlement.”

Then the report goes on to say that “it (the RAP) does not appear to envisage the signature by government and the developer of performance contracts with individual families and the community, specifying entitlements, delivery schedule and recourse procedures. “

NTEC Comment: Households have signed survey booklets that record their assets. Their entitlements are contractually laid down in the Concession Agreement, and in the NT2 Resettlement Policy as adopted by GOL and NTPC.

The IAG questioned if future household incomes targeted to be above the rural poverty level would be measures on an average village-by-village basis, or would reflect individual households.

NTEC Comment: The NT2 Resettlement Policy is clear on this point. Article 1.5 states that “individual household incomes should be above the national poverty line within four years after physical relocation and should be supported in the interim.” The Concession Agreement details two targets: The household target, as mentioned above, and the village target to be attained at the end of the resettlement period. See Section 8.9.2 of the RAP.

The IAG wondered why electrical service was to be brought to the exterior of the houses, but not inside.

NTEC Comment: This must be a misunderstanding: the RAP cost estimates show that interior service will also be provided, including basic outlets and basic fixtures fitted with light tubes. However, the cost of the energy is to be borne by the consumers, on a basis to be determined by EdL. An affordability analysis has been carried out.

On the downstream areas, the IAG concluded that “downstream of the power station there will be some negative impacts of the inter-basin transfer of Nam Theun waters, most notably on riverside gardens and (probably) on fisheries. There will also be substantial benefits in the potential for stimulating dry season rice and other production through irrigation.”

NTEC Comment: Appendix I shows the results of Downstream Surveys undertaken to shed more light on the downstream conditions.

## **E-6 PANEL OF EXPERTS (POE)**

The purpose of the three member POE is “to provide (on behalf of GOL) independent review of and guidance on the treatment of environmental and social issues associated with the NT2 Project”. The POE has visited the Project five times: in January and July 1997, and in January 1998, 1999 and 2001.

## **E-7 POE – FOURTH REPORT JANUARY 1999**

The following comments / conclusions / recommendations are extracted from the fourth POE report to GOL (January 24, 1999) reflecting the Panel’s review of the RAP, their attendance at the RAP National Public Consultation Workshop, and their visit to the Project Area.

### **The Nakai Plateau**

“The Resettlement Action Plan (RAP) continues to evolve as a world class document. While the POE was in the field it was reviewed first with district and then with provincial officials.

A major change in regard to resettlement with development activities has been the increasing incorporation of district personnel from five districts covering three provinces into their planning and implementation. The POE recommends that this effort be accelerated to the extent possible, with the major qualification that more emphasis be placed on district planning “with” the villagers as opposed to planning “for” the villagers.”

NTEC Comment: A review of the extensive PCPP activities undertaken by GOL and NTEC clearly shows that planning “with” villagers has been very much the philosophy of the Project over the years. With the core of the RC now in the Provinces, there is added assurance that provincial, district and village staff and the villagers themselves will play an increasingly larger role.

“Other important developments include increasing the resettlement period from five to eight years starting in 1999 and the September-October 1998 village notification and registration survey. The current RAP livelihood model is more diversified, with a better balance and more flexibility between the major components. The range of options appears feasible.

The greatest risk continues to be associated with the forestry component. The POE is pleased to note that the revised RAP contains considerably more detail than earlier versions on the forestry component. It was informed that district forest officials will be available to assist implementation.

Especially important, in the POE’s opinion, has been the decision to proceed with the selection of a pilot resettlement village. As emphasized in the December 1998 report of the IAG, the high expectations that villagers have for the NT2 Project require prompt initiation of key development activities. A pilot resettlement village is such an activity.

The POE visited one of the villages that district personnel have selected for probable incorporation within the Pilot Village. Though the district’s intention was to commence pilot activities within the next few weeks by allowing villagers to prepare and plant fields in rice at the new village site during the 1999 rainy season, those villagers have already begun to clear new swiddens at their current sites. They also remain unaware of their possible pilot status.

While emphasizing the importance of initiating pilot activities as soon as possible, the POE recommends that district personnel further incorporate villages within the decision-making process as to Pilot Village selection and the timing and nature of Pilot Village activities.”

NTEC Comment: The development of the Pilot Village is being carried out on a consultative basis - see Appendix B.

“Of special concern to the POE was the apparent district emphasis on consolidating a number of small villages into units of at least 50 households – that figure being related to the provision of primary schooling. Universal primary education is, of course, essential. However, the POE recommends that the primary reasons for determining the size of resettlement villages must be the preference of the villagers themselves linked to the capacity of the resettlement sites to provide the necessary economic opportunities.”

NTEC Comment: NTEC agrees with this POE recommendation; its PCPP and site planning activities have and will be based on the villagers’ own preferences.

### **Additional Comments for POE**

#### **1. The need for benchmark (pre-resettlement) nutritional surveys.**

“The need for further nutritional surveys is for two major reasons. First, there is an inadequate profile of the pre-project health status of the population to be resettled. In the latest and most comprehensive health status report important indicators such as height, weight and skin folds were not measured. The

initial benchmark surveys should be completed before relocation. The second reason relates to the importance of benchmark nutritional surveys for monitoring health status following removal.”

NTEC Comment: NTEC recognizes the need for information on nutritional status of the plateau population and has included collection of this information as part of further survey work on the Plateau.

**2. Ensuring that the pre-resettlement demographic and socio-economic surveys are adequate benchmarks for monitoring post-resettlement project impacts on living standards.**

“The NTPC will not be able to prove that a majority of resettling households have benefited from the project unless they can convincingly show with internationally acceptable indicators (including health indicators) that conditions have indeed improved since before the project.”

NTEC Comment: A census and socio-economic Plateau survey was carried out in October 1998 in accordance with the methodology outlined in Appendix G. Health and nutritional status of a significant sample of the Resettler population will be established by surveys well before actual resettlement. Monitoring of resettlement outcomes will be an aid to any policy or implementation adjustments required. Target incomes have been set and will be monitored. The 1998 baseline incomes of the 319 sample households are presented in Appendix G.

**3. Length of the monitoring period.**

“Although it is too early to recommend a time span, monitoring must extend well beyond the end of the eight year resettlement period.”

NTEC Comment: The length of the monitoring period will extend until it can be unquestionably demonstrated that the objectives set out in the NT2 Resettlement Policy have been achieved. The livelihood projections show that the area should reach full development by year nine or ten.

**4. Departees**

“If one-time payments are given for those wishing to leave the district, there is always the danger that the head of the household will use the cash at the expense of other family members. To protect against this both spouses should have access to a bank account in which the money is held, and both must sign for withdrawals over a certain amount.”

NTEC Comment: This suggestion has been brought to the attention of the Resettlement Committee which has approved covering regulations.

**5. Relationship to the Nakai-Nam Theun NCBA**

“The RAP states “No establishment of households other than bona fide relocatees should be permitted in the Resettlement Area”.

“Some flexibility is needed here to allow for relatives to return, for example, female headed households following a divorce or death in the Nakai-Nam Theun NBCA where the household is a daughter, sister, etc. of resettling households.”

NTEC Comment: NTEC agrees that some flexibility is required in the implementation of this principle.

**6. Capacity Building**

“While the RAP makes frequent reference to the importance of capacity building, more concise attention is needed to chart current staffing for various RAP activities versus required staffing.”

NTEC Comment: The suggested activity will be carried out as part of implementation planning, in advance of actual implementation. Chapter 14 of the RAP deals with the capacity issue.

### **E-8 POE – FIFTH REPORT JANUARY 2001**

The fifth report makes a number of specific recommendations relative to the RAP.

"Because of risks associated with each component of the livelihood model, an implementation period of up to ten years should be considered essential".

NTEC Comment: According to the CA, the Resettlement Implementative Period is 9 years, starting from the Financial Closure Date. The POE, under the CA, will have an opportunity to advise GOL on any extension of the Period in the event objectives have not been met.

"Implementation of the resettlement program should expand the number of livelihood options available to each household and village to the greatest extent possible".

NTEC Comment: The preparation of specific forestry, livestock, agriculture and fisheries development plans, as scheduled, should provide additional suggestions for livelihood options.

"Adequately funded fishery surveys should commence this year and continue until the NT2 projects is operational. Thereafter they should continue once every two years for a 7-8 year period".

NTEC Comment: NTEC has engaged a fisheries consultant for the downstream area to carry out a 5-year monitoring program of the existing situation, starting in 2001.

"The extend and importance of river bank gardens to the households involved should be surveyed along the entire length of the XBF"

NTEC Comment: The results of the 2001 survey of the downstream villages are reported on in Appendix I.

### **E-9 POE – SIXTH REPORT, MARCH 2003**

The sixth report makes a number of specific recommendations relative to the SDP, including the following.

"Where village consolidation is under RAP consideration, priority should be given to the linkage between resettler preferences and the availability of arable land and other natural resources as opposed to government and Company preferences."

NTPC Comment: The SDP now includes ( a modified form of) participatory land and forest use planning as an integral part of resettlement site selection, and then development of land based livelihoods. Thus, villagers preferences and resource availability are the primary parameters. The few instances where village consolidation is a possible will be fully studies with villages before a decision is made. Where consolidation is required is in order to make development more effective and sustainable, which is only in the interests of the Resettlers.

"Priority is required for UXO removal throughout the 22,000 ha resettlement zone and for the completion of detailed soil surveys for agricultural purposes.

NTPC Comment: UXO cannot be cleared throughout the whole Resettlement Area, but only in the agriculture and housing areas, and along roads.

"Ongoing efforts to reduce the risks associated with each livelihood option must continue to receive priority attention. Prior decisions such as those allocating timber rights to the Nakai Plateau Village Forestry Association and restricting the NT2 reservoir fishery to resettlers must be implemented and enforced. Preference should also be given to Nakai Plateau residents as employees for NT2 Project construction and other activities."

NTPC Comment: Indeed, Provincial level legislation has been recently enacted to ensure exclusive rights of resettlers to forest and reservoir resources (See Volume 1, Chapter 3). The use of Plateau Resettlers as construction workforce employees is beyond the control of the SDP and the RO/RMU

" With donor assistance, and based on opportunities provided by increased flows of turbined waters, the Government of Laos should pursue a major irrigation program for the benefit of communities along the Xe Bang Fai. In the case of the 27 km channel, turbined waters can be used for extending the area of the Gnommalath community irrigation project, for the first time, to its full extent of 2,500 hectares".

NTPC Comment: Volume 4 of the SDP presents an indicative plan and map for the development of various irrigation areas using water from the Regulating Pond and Downstream Channel. The Project lands compensation program will develop about 220 hectares, as compensation. The remaining irrigation hectares (more than 2,500 ha) requires donor or GOL support for its development. Ideally, this should be decided upon before the downstream channel is built, so that outlets of appropriate design and size can be included in the downstream channel

"One risk is that the fishery will not be restricted to the resettlers, a risk that will increase if productivity is as high as currently estimated. The other, as with the Nan Ngum reservoir, is that fish marketing is restricted to one or more government-selected concessionaires with adverse effects on prices paid to fishers. "

NTPC Comment: The Provincial level legislation specifies that not only the fishing effort but also the marketing must be undertaken, exclusively, by the Resettlers, for at least 10 years after COD.

"The main risks associated with the wage labor option are two. One is that estimates of job opportunities are too high, as has been the case with village forestry. The other is that available opportunities go disproportionately to immigrants. Because they tend to have more experience, skills and capital (as would be the case if Nan Ngum fishers were allowed to fish the NT2 reservoir), immigrants tend to out-compete resettlers for project opportunities unless appropriate policies are implemented and appropriate training and resources for resettlers are provided.

NTPC Comment: The amount of labour coming from the forestry program has been downwardly revised. Resources and training will be provided to Resettlers to develop their fishing skills and capacity.

"....the PoE favors, is to increase the size of the 0.5 ha garden plot to 0.65 ha so that each household can attempt to grow some rice in addition to the recommended fruit tree, vegetable and fodder crops".

NTPC Comment: The irrigated agricultural plots are now 0.66 ha in size.

"....Potential includes reservoir recession and reservoir rise (for floating rice) cultivation and grazing, optimization of which will require participatory zoning. The many small streams entering the reservoir create a opportunity to build simple weirs behind which ponds with aquaculture potential will be annually filled when reservoir levels rise. Complementing the various livelihood options, such uses are apt to have important risk reduction importance."



NTPC Comment: The use of the drawdown zone now gets more attention in the SDP, although it still does not figure in the prediction of income targets as its productivity is too difficult to predict..

#### **E-10 POE – SEVENTH REPORT, MARCH 2004**

The seventh Report makes a number of specific recommendations relative to the SDP, including the following.

".. special attention should be paid to incorporating the 17 resettled villages and Nakai District within the future management structure for the NT2 reservoir."

NTPC Comment: Villages representatives are now included as one of the stakeholders in the reservoir Management Coordinating Committee

".. Vietic speakers (should) have the option of their own Vietic Village. This recommendation applies especially to Ahoie living in Ban Sop Hia, Ban Nam Nian and Ban Nakai Tai who together constitute over 50 households.

NTPC Comment: This is being done

"Legal Protection for Resettler Village Control of Livelihood Options: The POE recommends

- that legal ownership documents for house plots and gardens contain appropriate restrictions on sale to either immigrants or other villagers and that further thought be given to enforceable mechanisms for protecting the use rights of all households to their livelihood components.
- that the Prime Minister's Degree on the Nakai Village Forest Association be strengthened to strengthen resettler rights in regard to possible joint ventures with private sector and other partners."

NTPC Comment:

1. A caveat on the land titles is recommended by the SDP, but not being agreed to by the GOL
2. Decision\PG.KM (9/2 2005)

".. the final selection of village sites for the remaining 14 villages (for two of the 17 Nakai Plateau villages do not require removal) NOT be made until after appropriate topographical surveys (including the necessary soil surveys) have been completed. Otherwise there is a risk that the desire to consolidate villages so as to improve social services will leave households without adequate garden land for themselves and their children."

NTPC Comment: Topographical surveys are a focus of the 2004/2005 dry season activities. Soil surveys are not a priority, because (i) topography and access to water are essential considerations that cannot be easily improved (ii) soil quality is basically similar in the whole area.

"..the POE recommends that the Company be prepared to implement a wider range of livelihood options at the community and household levels than is currently suggested in the XBF Strategy Paper - options that will need to include development to realize the Company's mitigation and compensation obligations. An example relates to households, currently estimated at nine, that must be physically relocated along the 27 km channel through the Gnommalath plain. To restore their livelihood it is not sufficient to merely compensate them in cash for loss of assets; otherwise they may end up worse off. An example of a developmental approach for meeting compensation obligations would be to ensure that those resettled would receive irrigated land within the Gnommalath community irrigation project which

can be extended with non-project donor assistance through the use of turbinated waters from the 27 km. channel."

NTPC Comment: The new Volume 4 of the SDP details the development land for land and livelihood for livelihood approach that is integral part of the Project Lands compensation program. Cash Compensation is only an options if (a) the impact is less than 10% of a PAPs livelihood or (b) and PAP requests cash and has a good plan on how to use the cash