

No. 2408-001



Fair Finance Thailand
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14 August 2024

Concerns re: potential shortfalls of Luang Prabang Hydro Power Plant vis-à-vis Equator Principles

Dear Chief Executive Officer, Siam Commercial Bank Public Company Limited

Reference is made to the disclosure of Luang Prabang Hydro Power Plant (hereinafter called “LPB” or “the project company”) name as a project financed by Siam Commercial Bank on the Equator Principles website for the 2023 reporting period,¹ SCBx 2023 Sustainability Report,² Equator Principles EP4 (2020),³ Environmental Safeguard section on LPB project website,⁴ Fair Finance Thailand case study “Time to Walk the Talk on “Responsible Lending”: the Case of Luang Prabang Hydropower Project” (2022),⁵ and various Fair Finance Thailand correspondence to you regarding LPB between 2021 and 2023, including our open letter on 9 February 2021⁶ and our letter querying the status of project finance approval process on 13 July 2023.

Firstly, we would like to express our regret that Siam Commercial Bank (hereinafter “SCB”) has never responded to our queries and concerns regarding material ESG risks of LPB project and confirmation of SCB funding to the project, since 2021; and that we had to find out that SCB is

¹ Accessed 6 August 2024 from <https://equator-principles.com/report/siam-commercial-bank-2023/>

² Accessed 6 August 2024 from https://www.scbx.com/wp-content/uploads/2024/03/scbx-sustainability-report-2023-en_0b4594.pdf

³ Accessed 6 August 2024 from https://equator-principles.com/app/uploads/The-Equator-Principles_EP4_July2020.pdf

⁴ Accessed 6 August 2024 from https://equator-principles.com/app/uploads/The-Equator-Principles_EP4_July2020.pdf

⁵ Accessible from Fair Finance Thailand, <https://fairfinancethailand.org/media/aagi201n/the-case-of-luang-prabang-hydropower-project.pdf>

⁶ Accessible from Fair Finance Thailand, <https://fairfinancethailand.org/article/2021/letter-for-thai-bank-on-luang-prabang-dam/>

lending to the project only from public disclosure the bank has to make as a signatory to the Equator Principles.

Secondly, we would like to raise the following questions and concerns regarding the potential shortfalls of LPB project vis-a-vis Equator Principles (under which LPB qualifies as “Category A”) as follows (all principles refer to Equator Principles EP4) –

1. Principle 2: Environmental and Social Assessment and Principle 3: Applicable Environmental and Social Standards

- a. Did the project company submit “assessments of potential adverse Human Rights impacts and climate change risks as part of the ESIA or other Assessment” in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs) as this Principle advises? The project’s environmental and social impact assessment reports, dated 2021, include sections on “International Policies, Guidelines and Standards.” While these sections reference related international guidelines and standards, such as the IFC Performance Standards, the World Bank Environmental and Social Framework, the World Commission on Dams, IHA, etc., there are no references to the UNGPs or the TCFD.⁷
- b. LPB project company has published a Human Rights Risk and Impact Assessment Report, dated July 2023, on their website.⁸ However, the only salient risks and mitigation measures identified relate to suppliers’ and employees’ health and safety. Given the type of project as well as nature of risks, including their materiality and severity, which has been well-documented through, for example, the 2022 World Heritage Committee/ICOMOS Monitoring mission report and recommendations, and the MRC-facilitated PNPCA process (such as Technical Review Report and Joint Action Plan), there are many salient human rights risks which are inadequately assessed and addressed.⁹ What measures did SCB take as

⁷ Accessed 6 August. Environmental Impact Assessment:

<https://www.luangprabangpower.com/en/flipbook/17/environmental-impact-assessment>

Social Impact Assessment: <https://www.luangprabangpower.com/en/flipbook/18/social-impact-assessment>

⁸ Accessed 6 August 2024 from <https://www.luangprabangpower.com/en/flipbook/29/human-rights-risk-and-impact-assessment>

⁹ Report on the Joint World Heritage Centre/ICOMOS Mission to the “Town of Luang Prabang” (Lao PDR), available through: <https://whc.unesco.org/en/list/479/documents/>

part of its human rights due diligence to ensure measures to avoid, minimize, and mitigate Human Rights risks and impacts were in line with UNGPs and other relevant standards and guidelines? Did the project company submit Climate Risk Assessment report as required by this Principle? We could not find this report on the LPB company website.

- c. What measures did SCB take to ensure that key actions in the LPB Joint Action Plan (2020) were addressed prior to approving finance for the project, which is relevant not only for EP2, but also for EP3 on applicable environmental and social standards?
- d. We note that the transboundary and cumulative impact assessment on the project company website is dated 2021 i.e. after the conclusion of the MRC PNPCA process for Luang Prabang dam (2020). What measures did SCB undertake to ensure the updated assessment addressed key recommendations from the MRC Technical Review Report and measures identified in the Joint Action Plan, and were in line with applicable standards?

2. Principle 4: Environmental and Social Management System and Equator Principles Action Plan

- a. We note that the environmental and social monitoring and management plans, as well as the Resettlement Action Plan, dated 2021, are available on the project company website. However, these are only available in English. Given the project is located on the Mekong mainstream, with potential transboundary impacts, what assurances did SCB seek as part of its due diligence that the plans were commensurate with risks, and importantly, demonstrated effective and on-going stakeholder engagement, including ensuring information is made available to affected communities and relevant stakeholders in local languages and culturally appropriate manner, as per EP5.
- b. Given UNESCO's explicit concerns regarding the project's potential impact on the World Heritage site of Luang Prabang and recommendations from the 2022 monitoring mission report to relocate the project,¹⁰ what measures did SCB take

¹⁰ The report recommended to "take the precautionary approach not to pursuing the LPHPP and relocate the project and other future and similar projects to where there is no suspected causality

to assess the risks the dam posed on the World Heritage status of Luang Prabang? We would also like to draw attention to the recent draft decision from the July 2024 World Heritage Committee meeting, which among other things, urged the Lao government “to revise the January 2024 HIA in accordance with the findings and recommendations of the ICOMOS Technical Review dated March 2024 and the comments of the World Heritage Centre.”¹¹

3. Principle 5: Stakeholder Engagement

- a. Noting that this principle requires “the client to demonstrate effective Stakeholder Engagement, as an ongoing process...”; and calls for the client to document results of engagement process, including agreed actions, what evidence has the project company submitted to SCB to demonstrate ongoing and effective engagement, particularly since the conclusion of the MRC PNPCA process in June 2020? While the Social Impact Assessment and Resettlement Action Plan (RAP) are dated 2021 (i.e. after the conclusion of PNPCA), the sections on consultations only reference consultation activities conducted in 2019.¹²

4. Principle 6: Grievance Mechanism

- a. How did SCB ensure that LPB project company has established an “effective grievance mechanism, specifically designed for affected communities” as per the requirement of this principle and that these were aligned with the 8 criteria of “effective grievance mechanism” under the UNGPs¹³, which both SCB and the parent company LPB project company have publicly endorsed.

for the World Heritage properties, their associated values or their environmental setting” p.8

Accessed 6 August 2024 from <https://whc.unesco.org/en/soc/4612>

¹¹ See Draft Decision 46 COM 7B.34 (para 8), available at: <https://whc.unesco.org/en/soc/4612>

¹² E.g. see the Public Disclosure and Consultation section of the Social Impact Assessment, available at:

<https://www.luangprabangpower.com/en/flipbook/18/social-impact-assessment> and the Stakeholder Involvement section of the Resettlement Action Plan: <https://www.luangprabangpower.com/en/flipbook/18/social-impact-assessment>

¹³ Accessed 6 August 2024 from <https://www.ohchr.org/sites/default/files/2022-01/arp-note-meeting-effectiveness-criteria.pdf>

5. **Principle 7: Independent Review and Principle 9: Independent Monitoring and Reporting**

- a. SCB report to Equator Principles indicates that an independent review assessing compliance with EP was conducted for two projects - Monsoon and LPB dam. Can the bank share key findings from the independent review process for LPB with us?
- b. We would also appreciate clarification of when the independent review and decision/approval by SCB to lend to the project were conducted and made in 2023?
- c. What is the frequency and format of continuing independent monitoring and reporting under Equator Principles during the construction period, as required by Principle 9?

6. **Principle 10: Reporting and Transparency**

- a. We would like to raise concern that SCBx, the parent company of SCB, did not report summary information on the application of Equator Principles to LPB project in its 2023 Sustainability Report. SCBx only provides summary information for 3 other projects for which Equator Principles were applied, even though all of which are of much smaller size than LPB.
- b. Noting questions and comments above, we would like to reiterate that public disclosure on LPB project company website falls short of meeting requirements under Eps 5 and 10.

In closing, Fair Finance Thailand would like to reiterate our concerns regarding material ESG risks of LPB, as we have done since 2021. We offer to assist SCB in strengthening its compliance with the Equator Principles. We would greatly appreciate it if SCB can answer the above queries in writing by **30 August 2024**.

For response or further information, please contact Mr. Ponpakin Phruttiwongwanit, Project Coordinator, at (+66) 086-424-9514.

Sincerely Yours,

Fair Finance Thailand