 <p>CDM: FORM FOR SUBMISSION OF A “LETTER TO THE BOARD” (Version 01.2)</p> <p>This form should be used only by project participants and other stakeholders for submitting a “Letter to the Board” in accordance with the latest version of the <i>Modalities and procedures for direct communication with stakeholders</i></p>	
Name of the stakeholder ¹ submitting this form (individual/organization):	Ame Trandem International Rivers
Address and contact details of the individual submitting this form:	Address: 2150 Allston Way, Suite 300 Telephone number: +1 510 848 1155 E-mail address: ame@internationalrivers.org
Title/Subject (give a short title or specify the subject of your submission)	Request for the CDM Executive Board to review the Project 8761: Stung Tatay Hydroelectric Project (Cambodia)
Please mention whether the submitter of the form is:	<input type="checkbox"/> Project participant <input checked="" type="checkbox"/> Other stakeholder, please specify International NGO
Specify whether you want the letter to be treated as confidential ² :	<input type="checkbox"/> To be treated as confidential <input checked="" type="checkbox"/> To be publicly available (UNFCCC CDM web site)
Please choose any of the type(s) below ³ to describe the purpose of this submission.	
<input type="checkbox"/> Type I: <input type="checkbox"/> Request for clarification <input type="checkbox"/> Revision of existing rules <input type="checkbox"/> Standards. Please specify reference <input type="checkbox"/> Procedures. Please specify reference <input type="checkbox"/> Guidance. Please specify reference <input type="checkbox"/> Forms. Please specify reference <input type="checkbox"/> Others. Please specify reference <input type="checkbox"/> Type II: Request for Introduction of new rules <input checked="" type="checkbox"/> Type III: Provision of information and suggestions on policy issues	
Please describe in detail the issue on which you request a response from the Board, including the exact reference source and version (if applicable).	

¹ DNAs and DOEs shall use the respective DNA/DOE forms for communication with the Board.

² As per the applicable modalities and procedures, the Board may make its response publicly available.

³ Latest CDM regulatory documents and information are available at: <http://cdm.unfccc.int/Reference/index.html> .

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Dear Mr. Duan and the CDM Executive Board,

We are writing to express our serious concern about the proposed CDM Project 8761: Stung Tatay Hydroelectric Project in Cambodia. Registration has been requested following a validation report by Bureau Veritas Certification Holding SAS (Report No. BVC/CHINA-VAL/6203/2011), which recommends approval. As a decision is expected to be made soon by the Executive Board, we trust that you will take our concerns seriously and carry out an immediate review of the project, and on the basis of the project's problems, reject its request for registration.


The 246 MW Stung Tatay Hydroelectric Project is located on the Tatay River in the Southern Cardamom Mountain Tropical Forest in Koh Kong Province, Cambodia. The project is being built by China National Heavy Machinery Corporation, under the company name of Cambodian Tatay Hydropower Limited, and has been under construction since March 2010. The dam's feasibility study was first completed in December 2007 and its Environmental Impact Assessment was approved in January 2011. The dam's PDD was done by Gazprom Marketing & Trading Singapore Pte. Ltd and submitted to the UNFCCC on 26 November 2012.

Due to inconsistencies between the project information reported in the Validation Report and Project Design Document (PDD), and the information provided by official news sources, the project's feasibility studies and reports by environmental organizations, we believe that the project requires urgent review of the following issues, which make the project's request for registration highly questionable:

- The validation report lacks accuracy and proof of additionality;
- The project may have violated numerous Cambodian laws;
- Insufficient community consultation;
- The validation report and PDD omit mention of the serious impacts the project will have on biodiversity and the protected Central Cardamom Mountain.

Based on these concerns, we respectfully request the CDM Executive Board to conduct an immediate review of the project and examine the reasons we have identified as a basis for a rejection of the project.

Sincerely,



Ame Trandem
Southeast Asia Program Director
E: ame@internationalrivers.org

Please provide any specific suggestions or further information which would address the issue raised in the previous section, including the exact reference source and version (if applicable).

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The validation report lacks accuracy and proof of additionality

The Stung Tatay Dam's Validation report lacks accuracy and provides insufficient and non-rigorous information on a number of issues. Most importantly, the Validation report incorrectly states on page 14 that as the main construction contract was signed on 22 May 2010, no construction on the project began before this date. However, this information is incorrect. The dam's ground-breaking ceremony was held on 29 March 2010, which marked the real start of construction.⁴ This is the same month that the Board of the Cambodian Tatay Hydropower Limited met and decided to develop the CDM project as evidenced in the project's PDD and Validation report. Had the project developer seriously considered CDM revenue as a necessary part of project construction, construction would not have likely started the same month due to the expenses required to prepare the site in advance, bring in equipment and allow for construction to start.

Cambodian laws that may have been violated

Since the Stung Tatay Dam's construction began, it appears the project may have violated some of Cambodia's laws including its 1996 Environmental Protection and Natural Resource Management Law and its 2008 Protected Area Law. For example, the dam's Environmental Impact Assessment (EIA) report was only approved in January 2011, as evidenced in the project's PDD and Validation report, which was after the project was first approved by the Cambodian government in 2009 and construction began in 2010.

According to Article 6 of Cambodia's Law on Environmental Protection and Natural Resource Management (1996), the approval of the EIA report is required before a project may be submitted to the government for decision on whether or not to approve the project. The Stung Tatay Dam failed to comply with this law. Furthermore, it failed to meet international standards, which specifies that agreements should not be signed until the EIA report has been completed, publicly reviewed, and approved.

In addition, the project's construction now appears to be violating Cambodia's Protected Area Law as witnessed in communication between Cambodian parliamentarian from the SRP Party to the Prime Minister Hun Sen, in which he raises concern over the illegal rosewood and timber logging and wildlife poaching occurring in Thmabang District due to the construction of the Stung Tatay Dam. In the 27 February 2007 letter, Son Chhay states that the proposed nearby Cheay Areng Dam, is likely to follow the footsteps of the Tatay Dam, as the project "will cause anarchic logging of timber and poaching of wildlife inside the Central Cardamoms (Protected Forest), just as it is (currently) happening with the Ta Tay (dam)."⁵

Insufficient community consultation

The Stung Tatay Dam's PDD and Validation report mention two local consultations taking place for the project in 2009. As these consultations were only conducted with a handful of affected community members and took place before the project's EIA was prepared and the full extent of the impacts were known, these meetings were insufficient and should not be considered as fulfilling the requirements for public consultations. The dam's EIA report was first made public only in November 2010, when the Cambodian Ministry of Environment held a meeting with the inter-ministerial committee and concerned stakeholders including NGOs to review the EIA report of Stung Tatay Hydropower. As affected communities had not had the opportunity to review the project's EIA report prior to the dam's construction, it is clear that the consultations that took place were inadequate and in violation with international standards.

Project's severe impacts to biodiversity and wildlife have not been considered

While the Stung Tatay Dam's PDD and Validation report states that the environmental impacts are not considered significant, these reports have failed to mention or consider the significant adverse impact the project is expected to have on Cambodia's biodiversity, as the dam site is located in a the middle of a protected area of national and international significance. Since 2001, the Southern Cardamom Mountain Tropical Forest, where the Tatay River is located, has been recognized by the international community as one of 34 biodiversity hotspots in the world. The area has subsequently been under the protection of the Cambodian government since 2004 as *Protected Forest for Biodiversity Conservation, Elephant Corridor Protection and Wildlife Rehabilitation Center, Koh Kohn Province* (Sub-Decree 65).

As the project is located in an area of pristine and distinct evergreen forest and will inundate over 2,800 ha of the protected forest, dozens of wildlife species located in the area have been assessed as at risk of extinction either nationally or globally. These include the Asian Elephant, the Asiatic Black Bear, the Siamese Crocodile, and the Asian Arowana (or Dragonfish). In a survey carried out by Wildlife Alliance in 2009, they stated that more than half of the impacts on biodiversity have been forgotten by the Tatay Dam's impact assessment, including the dam's impacts on the migration movements of the Asian Elephant (which is one of only seven remaining elephant corridors in Asia), along with the project's encroachment into animal habitat, and the strong impacts expected to reptiles and fisheries in the Koh Kong Estuary.⁶ These impacts have not been adequately considered within the project's process or application for CDM registration, and demonstrate why this project should not be considered sustainable development.

⁴ Cambodia Daily, "Work will start on Koh Kong Dams this week," 1 April 2010. BusinessWeek via Associate Press, "Work begins on Cambodian hydropower project," 30 March 2012.

<i>If necessary, list attached files containing relevant information (if any)</i>	<ul style="list-style-type: none"> CDM Letter on Tatay Dam 28.01.13
Section below to be filled in by UNFCCC secretariat	
Date when the form was received at UNFCCC secretariat	15 February 2013
Reference number	2013-228-S

History of document

Version	Date	Nature of revision
01.2	08 February 2012	Editorial revision.
01.1	09 August 2011	Editorial revision.
01	04 August 2011	Initial publication date.
Decision Class: Regulatory Document Type: Form Business Function: Governance		

⁵ Letter delivered through Somdach Heng Somrin, Chairman of the National Assembly to Somdach Akea Moha Sena Patey Decho Hun Sen by Son Chhay, Member of Parliament for Phnom Penh and President of all Parliamentarians of the Sam Rainsy Party, dated 27 February 2012. See also: Cambodia Daily, "Opposition Party Highlights Illegal Logging Near Dam Site," 28 February 2012.

⁶ Tatai Hydroelectric Dam Wildlife Assessment, Koh Kong Province. Wildlife Alliance, Phnom Penh, Cambodia, May 2009.

28 January 2013

CDM Executive Board
UNFCCC Secretariat
Martin Luther King Strasse 8
P.O. Box 260124
D-53153 Germany

Subject: Request for the CDM Executive Board to review the Project 8761: Stung Tatay Hydroelectric Project (Cambodia)

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Conclusion

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Sincerely,



Ame Trandem
Southeast Asia Program Director
E: ame@internationalrivers.org

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