

**EVALUATING THE IMPLEMENTATION OF EGAT INTERNATIONAL'S
CORPORATE SOCIAL RESPONSIBILITY POLICY FOR THE HAT GYI
DAM PROJECT ON THE SALWEEN RIVER, MYANMAR**

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บทคัดย่อและแฟ้มข้อมูลฉบับเต็มของวิทยานิพนธ์ตั้งแต่ปีการศึกษา 2554 ที่ให้บริการในคลังปัญญาจุฬาฯ (CUIR)
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ความต้องการพลังงานไฟฟ้าที่สูงขึ้นในประเทศไทยเป็นแรงขับเคลื่อนสำคัญในการสร้างโครงการพลังงานใหม่ๆ ในประเทศไทย
เจกเช่นเดียวกับการนำไฟฟ้าจากประเทศเพื่อนบ้าน หนึ่งในโครงการพลังงานที่ได้รับการเสนอไว้ในแผนพัฒนาพลังงานแห่งประเทศไทย
พ.ศ. 2553 – 2573 คือ เขื่อนฮัตจี ซึ่งอยู่บนแม่น้ำสาละวินสายหลักใกล้ชายแดนไทย-พม่า ในรัฐกะเหรี่ยง ประเทศพม่า แม่น้ำสาละวิน มีความ
ยาวประมาณ 2,400 กิโลเมตร และนับเป็นแม่น้ำที่ไหลอย่างอิสระสายยาวที่สุดในเอเชียตะวันออกเฉียงใต้ มีต้นกำเนิดบนที่ราบสูงทิเบต ไหล
ผ่านประเทศจีน, ไทย และพม่า โครงการเขื่อนฮัตจีเป็นการร่วมลงทุนระหว่างบริษัทการไฟฟ้าฝ่ายผลิตแห่งประเทศไทย อินเทอร์เน็ต
(กฟผ. อินเทอร์เน็ตเนชั่นแนล), บริษัทซิโนไฮโดร (Sinohydro Corporation), กรมแผนงานด้านพลังงานไฟฟ้าทางน้ำแห่งรัฐบาลพม่า (the
Department of Hydroelectric Power Plan of Myanmar) และนักลงทุนเอกชนท้องถิ่นในพม่า คือ บริษัทอินเทอร์เน็ตเนชั่นแนลกรุปออฟแอนเทอร์
เพรอนอร์ (International Group of Entrepreneur Company)

เนื่องด้วย กฟผ. อินเทอร์เน็ตเนชั่นแนล เป็นผู้ถือหุ้นรายใหญ่ งานวิจัยชิ้นนี้จึงค้นหาคำว่า กฟผ. อินเทอร์เน็ตเนชั่นแนล ได้ดำเนินงานด้าน
นโยบายความรับผิดชอบต่อสังคมขององค์กรในระหว่างการวางแผนโครงการจนกระทั่งปัจจุบันอย่างไร คำถามหลักของงานวิจัยชิ้นนี้คือ
“กฟผ. อินเทอร์เน็ตเนชั่นแนล ได้ดำเนินการปฏิบัตินโยบายด้านความรับผิดชอบต่อสังคมขององค์กร และการกำกับดูแลกิจการขององค์กร ต่อ
ชุมชนต่างๆ ในประเทศไทย ในขั้นตอนการเตรียมโครงการเสนอสร้างเขื่อนฮัตจีบนแม่น้ำสาละวิน รัฐกะเหรี่ยง ประเทศพม่าหรือไม่?”

วิธีการปฏิบัติงานวิจัยเชิงคุณภาพได้นำมาใช้ในการศึกษานี้ โดยการสัมภาษณ์เชิงลึกกับชาวบ้าน, การสัมภาษณ์แบบกึ่งโครงสร้าง
กับผู้ให้ข้อมูลหลัก และการวิจัยค้นคว้าจากฐานข้อมูลทุติยภูมิ พื้นที่การวิจัย คือ พื้นที่ชุมชนที่อาศัยอยู่ริมฝั่งแม่น้ำสาละวินบนฝั่งไทยที่คาดว่าจะ
จะได้รับผลกระทบ ได้แก่ บ้านแม่สามแลบ, บ้านท่าต่าฝั่ง และบ้านสบเมย จ.แม่ฮ่องสอน

นโยบายด้านความรับผิดชอบต่อสังคมของ กฟผ. อินเทอร์เน็ตเนชั่นแนล มีองค์ประกอบสามส่วน: การมีส่วนร่วมของสาธารณะและการ
เปิดเผยข้อมูล, ความรับผิดชอบต่อสังคม, และ ความรับผิดชอบต่อสิ่งแวดล้อม เมื่อกกล่าวถึง “การมีส่วนร่วมของสาธารณะและการเปิดเผย
ข้อมูล” ข้อค้นพบแสดงให้เห็นว่า กฟผ. อินเทอร์เน็ตเนชั่นแนล ไม่ได้เปิดเผยข้อมูลโครงการอย่างครบถ้วนตามระยะเวลาที่เหมาะสม ในลักษณะที่
ข้อมูลนั้นถูกต้อง เพียงพอ และโปร่งใส ยกตัวอย่างเช่น รายงานการประเมินผลกระทบด้านสิ่งแวดล้อม (EIA) ในฝั่งพม่า ทำแล้วเสร็จในปี 2551
แต่ยังไม่ถูกเปิดเผยต่อสาธารณะ นอกจากนี้ กฟผ. อินเทอร์เน็ตเนชั่นแนล ยังไม่ได้มีการจัดตั้งคณะกรรมการร่วมสามฝ่าย เพียงแต่สนับสนุนอย่าง
เล็กน้อยให้ชุมชนต่างๆ และสาธารณะในวงกว้างเข้าร่วมกิจกรรมของ กฟผ. อินเทอร์เน็ตเนชั่นแนล ในกรณี “ความรับผิดชอบต่อสังคม” กฟผ.
อินเทอร์เน็ตเนชั่นแนล ยังล้มเหลวที่จะสร้างความเข้าใจและความเชื่อถือในระหว่างกันร่วมกับชุมชนต่างๆ ในด้าน “ความรับผิดชอบต่อ
สิ่งแวดล้อม” ในขณะที่ กฟผ. ได้จัดทำรายงานการประเมินผลกระทบด้านสิ่งแวดล้อม รายงานดังกล่าวกลับไม่ได้ครอบคลุมขอบเขตไปตลอดถึง
พื้นที่ที่คาดว่าจะได้รับผลกระทบทั้งในประเทศพม่าและประเทศไทย ภาคประชาสังคมไทยได้เรียกร้องให้ กฟผ. อินเทอร์เน็ตเนชั่นแนล จัดทำ
รายงานการประเมินผลกระทบด้านสิ่งแวดล้อมฉบับใหม่ ที่ครอบคลุมโดยตลอดของพื้นที่ผลกระทบ ถึงแม้ว่าคณะอนุกรรมการของ
รัฐบาลได้ดำเนินการเรียกร้องให้ กฟผ. เพียงแค่รับผิดชอบในการทำการประเมินผลกระทบด้านสิ่งแวดล้อม ที่ไม่ได้มาตรฐานที่สมบูรณ
ในการประเมินผลกระทบสิ่งแวดล้อมตามกฎหมายไทย ความคลุมเครือด้านกฎหมายทำให้ กฟผ. อินเทอร์เน็ตเนชั่นแนล กล่าวอ้างว่า ได้ดำเนินการ
ตามนโยบายความรับผิดชอบต่อสังคมขององค์กรในด้านความรับผิดชอบต่อสิ่งแวดล้อมแล้ว

ในขณะที่ความรับผิดชอบต่อสังคมของ กฟผ. อินเทอร์เน็ตเนชั่นแนล เป็นความสมัครใจโดยสูงสุด งานวิจัยชิ้นนี้ได้แย้งว่า กฟผ.
อินเทอร์เน็ตเนชั่นแนล ไม่ได้ปฏิบัติตามนโยบายความรับผิดชอบต่อสังคมขององค์กร ในกรณีเขื่อนฮัตจี ด้วยเหตุผลหลายประการ ซึ่งรวมถึง เหตุผล
ที่มีความคลุมเครือของกฎหมายต่างๆ สำหรับโครงการพัฒนาข้ามพรมแดน และความล้มเหลวของ กฟผ. ที่ไม่ได้รับความเชื่อถือและความ
ร่วมมือจากชุมชนต่างๆ ในท้องถิ่น ในทางกลับกัน ชุมชนต่างๆ คัดค้านเขื่อนฮัตจี เนื่องจากชุมชนให้คุณค่าของวิถีชีวิตและสิ่งแวดล้อม ความ
กังวลของพวกเขาเกี่ยวข้องกับสถานะบุคคลที่ไม่มีสัญชาติไทย, บทบาทขององค์กรพัฒนาเอกชนที่มีอิทธิพลในชุมชนต่างๆ, และความเชื่ออัน
หนักแน่นของชุมชนที่ว่า การที่รัฐบาลประเทศพม่าสนับสนุนเขื่อนเป็นการขจัดกวาดล้างชนเผ่ากลุ่มต่างๆ ออกจากพื้นที่ด้วยเช่นกัน

สาขาวิชา การพัฒนาระหว่างประเทศ..... ลายมือชื่อนิสิต.....

ปีการศึกษา 2554 ลายมือชื่อ อ. ที่ปรึกษาวิทยานิพนธ์หลัก.....

5381030824: MAJOR: INTERNATIONAL DEVELOPMENT STUDIES
KEYWORDS: CORPORATE SOCIAL RESPONSIBILITY, EGATi, HAT GYI DAM, SALWEEN RIVER, TRANS-BOUNDARY PROJECT

NANG SHINING: EVALUATING THE IMPLEMENTATION OF EGAT INTERNATIONAL'S CORPORATE SOCIAL RESPONSIBILITY POLICY FOR THE HATGYI DAM PROJECT ON THE SALWEEN RIVER, MYANMAR
ADVISOR: CARL MIDDLETON, Ph.D., 133 pp.

Rising electricity demand in Thailand is a key driving force for building new power projects in Thailand, as well as importing electricity from neighboring countries. One of the proposed projects in Thailand's 2010-2030 Power Development Plan is the Hat Gyi Dam, which is located on the mainstream Salween River near the Thailand-Myanmar border in Karen State, Myanmar. The Salween River is approximately 2,400 km long and is regarded as the longest free-flowing international river in Southeast Asia, originating on the Tibetan Plateau and flowing through China, Thailand and Myanmar. The Hat Gyi Dam project is a joint venture cooperation between EGAT International (EGATi), Sinohydro Corporation, the Department of Hydroelectric Power Plan (DHPP) of Myanmar government, and a local Myanmar private investor named International Group of Entrepreneur Company.

As EGATi is a major shareholder, this thesis seeks to assess how EGATi has implemented its Corporate Social Responsibility (CSR) policy during planning of the project to date. The thesis main research question is "Has EGATi implemented its Corporate Social Responsibility and Corporate Governance policies for communities in Thailand in preparing the proposed Hat Gyi Dam project on the Salween River, Karen State, Myanmar"?

Qualitative research methods have been applied in this study through a combination of in-depth interviews with villagers, semi-structured interviews with key informants and secondary database research. The research sites are the potentially affected communities living along the Salween River on the Thai side, namely Ban Mae Sam Laep, Ban Tha Ta Fang, and Ban Sob Moei, Mae Hong Son Province.

EGATi CSR policy has three key components: Public Participation and Information Disclosure; Social Responsibility; and Environmental Responsibility. Regarding "Public Participation and Information Disclosure", the findings reveal that EGATi has not disclosed complete project information in a timely, accurate, sufficient and transparent manner; for example, the project's Environmental Impact Assessment (EIA) report for the Myanmar side, completed in 2008, has not been made available to the public. Also, EGATi has yet to form a Tripartite Committee and has only weakly encouraged the communities and wider public to participate in its activities. Regarding "Social Responsibility," EGATi has failed to build mutual understanding and trust with the communities. Regarding "Environmental Responsibility", whilst EGAT has conducted an EIA report, it does not cover the scope of the entire potentially impacted areas in Myanmar and Thailand. Thai civil society have called on EGATi to conduct a new EIA which covers the entire scope of affected area, although a government subcommittee subsequently required EGATi to only undertake an Environmental Assessment that is not equivalent to Thailand's full-EIA legal standards. This legal ambiguity allows EGATi to claim that it has followed its CSR policy on Environmental Responsibility.

Whilst EGATi's CSR is ultimately voluntary, this thesis argues that EGATi has not followed its CSR policy in the case of the Hat Gyi Dam for a number of reasons, including because of the ambiguous laws for the trans-boundary project and its failure to gain the trust and cooperation of the local communities. In turn, communities oppose the Hat Gyi dam due to the value that the communities place on their livelihood and environment, their concerns with regard to their legal status as non-Thai citizens, the influential role of NGOs in the communities, and the strong belief of the communities that the Myanmar government supports the dam so as to clear ethnic groups from the area.

Field of Study: International Development Studies.....Student's Signature:

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I have had the great opportunity to learn about the connection between people and nature, the politics of trans-boundary issues, the importance of being recognized as a legal citizen, and the impact of policy, regulation and law upon the livelihood and environment while conducting my field research. Thus, I would like to express my appreciation to the people who have helped me during this process.

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CONTENTS

	Page
ABSTRACT (THAI).....	iv
ABSTRACT (ENGLISH).....	v
ACKNOWLEDGEMENTS.....	vi
CONTENTS.....	vii
LIST OF TABLES.....	x
LIST OF FIGURES.....	xi
LIST OF PICTURES.....	xii
LIST OF ABBREVIATIONS.....	xiii
CHAPTER I INTRODUCTION.....	1
1.1 Statement of the Problem.....	1
1.2 Research Questions.....	5
1.3 Research Objectives.....	5
1.4 Conceptual Framework.....	6
1.5 Research Methodology.....	6
1.6 Ethical Consideration.....	17
1.7 Significance of the Study.....	18
1.8 Organization of Chapters.....	19
CHAPTER II BACKGROUND OF THE HAT GYI DAM AND EGAT’S CSR.....	20
2.1 Background of the Hat Gyi Dam.....	20
2.1.1 The Relationship of Myanmar Government and Karen Ethnic Group.....	20
2.1.2 The Emergence of Proposed Hat Gyi Dam.....	22
2.1.3 Hat Gyi Dam Project Overview.....	22
2.1.4 Chronology of Hat Gyi Dam Plans on the Salween River.....	25
2.1.5 The Emergence of a Sub-Committee on the Hat Gyi Dam.....	30
2.2 Corporate Social Responsibility Concept Overview.....	32

2.3 EGAT's CSR Policy and Corporate Governance.....	38
2.3.1 EGAT's Policy on Stakeholder Participation and Information Disclosure.....	40
2.3.2 EGAT's Policy on Social Responsibility.....	42
2.3.3 EGAT's Policy on Environmental Responsibility.....	43
2.3.4 EGATi's Mitigation Plan.....	44
2.4 Knowledge Gaps.....	46
CHAPTER III FINDINGS AND ANALYSIS: PUBLIC PARTICIPATION AND RIGHTS TO ACCESS TO INFORMATION.....	47
3.1 The Relevant EGAT's Policy on Public Participation and Information Disclosure and Legal Basis.....	47
3.2 Public Participation and Information Disclosure as Practiced by EGATi.....	49
3.2.1 Public Information Forum in 2009.....	49
3.2.2 Public Information Disclosure Conducted in 2011.....	50
3.2.3 EIA and Information Disclosure.....	54
3.3 Other Sources of Information Received by Communities from Different Acting Parties.....	57
3.4 Access of Information and Public Participation- A Reality Check.....	58
3.5 Conclusion.....	62
CHAPTER IV FINDINGS AND ANALYSIS: EGAT'S AND ITS SOCIAL RESPONSIBILITY.....	65
4.1 EGATi and its Social Responsibility.....	66
4.2 The Implementation of EGAT and EGATi's Social Responsibility.....	66
4.3 Social Responsibility and the Project Mitigation Plan.....	68
4.4 Analyzing EGATi's Social Responsibility.....	73
4.5 Conclusion.....	77

CHAPTER V FINDINGS AND ANALYSIS: ASSESSMENT OF ENVIRONMENTAL RESPONSIBILITY OF EGAT.....	79
5.1 The Expectation of the Law with Regard to an EIA in Thailand and Myanmar.....	79
5.2 EGAT’s Environmental Responsibility and the EIA.....	82
5.3 Implementation of Environmental Responsibility.....	82
5.3.1 EGATi’s Activities in Regard to the Environmental Responsibility.....	82
5.3.2 Assessing the Weakness of the EIA report.....	84
5.4 Challenges in Implementing Environmental Responsibility.....	86
5.4.1 The Ambiguous Law and the Sophisticated of EIA in Hat Gyi Dam.....	86
5.4.2 The Sub-Committee of “Information Disclosure Subcommittee on Hutgyi Hydropower Project on the Salween River” and its Deliberation on the Requirement for EIA.....	86
5.5 Conclusion.....	89
CHAPTER VI CONCLUSION.....	91
6.1 Evaluating EGATi’s CSR Implementation.....	87
6.1.1 Information Disclosure and Public Participation.....	87
6.1.2 Social Responsibilities.....	89
6.1.3 Environmental Responsibility.....	91
6.2 Insights into CSR in Thailand from the Case of Hat Gyi Dam.....	92
6.3 Why EGAT doesn't follow its CSR Policy?	93
6.4 Emergent Security Issues arising from the Hat Gyi.....	95
6.5 Proposals for Further Studies.....	97
REFERENCES.....	99
APPENDICES.....	111
BIOGRAPHY.....	133

LIST OF TABLES

Table	Page
1.1 Stakeholder Interviewees.....	11
2.1 List of Key Informants.....	127
3.1 The List of Quote from the Interviewee and the Interviewing Date.....	130

LIST OF FIGURES

Figure	Page
1.1: The Location of Hat Gyi Dam and Three Selected Communities.....	7
1.2: Map of Three Research Communities.....	14
2.1: Map of the Proposed Dams on the Salween River.....	24

LIST OF PICTURE

PICTURE	Page
1.1: Ban Mae Sam Leap (BMSL).....	8
1.2: Ban Tha Ta Fang (BTTF) Villagers.....	9
1.3: The Entrance of Ban Sob Moei (BSM)	10
2.1: Demonstration in Bangkok.....	28
3.1: The Public Forum Conducted in Ban Sob Moei on 13 July 2009.....	50
3.2: The Location of the Public Information Disclosure Meeting in BSM.....	51
3.3: The location of the Public Information Disclosure in BMSL.....	51
3.4: The Booklet Distributed at the Public Information Disclosure Meeting.....	52
3.5: The Leaflet Distributed at Ban Sob Moei.....	53
3. 6: Affected Areas Research Conducted by Local Communities.....	60
4.1: The Confluence of Moei and Salween River 47 Km Far from Dam Site.....	69
4.2: Water Level and the Paddy Field at Ban Sop Moei in Rainy Season.....	70

LIST OF ABBREVIATIONS

- BEWG:** Burma Environmental Working Group
- BMSL:** Ban Mae Sam Leap
- BGF:** Border Guard Force
- BRN:** Burma Rivers Network
- BSM:** Ban Sob Moei
- BTTF:** Ban Tha Ta Fang
- CBD:** Convention on Biological Diversity
- CCMHSR-BMN:** Coordinating Center for Mae Hong Son's River Basins
Management Network
- CGP:** Corporate Governance Policy
- CoKoT:** Constitution of Kingdom of Thailand
- CSR:** Corporate Social Responsibility
- DCAP:** District Cooling System and Power Plant Co.,Ltd
- DCCN:** Development Center for Children and Community Network
- DKBA:** Democratic Karen Buddhist Army
- ECOT:** Employer's Confederation of Thailand
- EGAT:** Electricity Generating Authority of Thailand
- EGATi:** Electricity Generating Authority of Thailand International
- EM:** The Energy Ministry
- ERCT:** The Energy Regulatory Commission of Thailand
- EIA:** Environmental Impact Assessment
- ERI:** Earthrights International
- EU:** European Union
- FER:** Foundation of Ecological Recovery
- GDP:** Gross Domestic Product
- HDPP:** Department of Hydroelectric Power Plan
- HGD:** Hat Gyi Dam/ Hut Gyi Dam/ Huygyi Dam
- HIA:** Health Impact Assessment
- HR:** Human Rights
- ICJ:** International Court of Justice

IDP: Internal Displacement People
IGOEC: International Group of Entrepreneur Company
IR: International River
ISO: International Standard Organization
JWH: Joke Waller-Hunter
KESAN: Karen Environmental and Social Action Network
KNLA: Karen National Liberation Army
KNU: Karen National Union
LRS: Living River Siam
MAIDS: Master of Arts in International Development Studies
MEE.NET: Mekong Energy and Ecology Network
MNC: Multi-National Cooperation
MOA: Memorandum of Agreement
NCEA: National Commission for Environmental Affairs
NCEP: The National Commission on Energy Policy
NGOs: Non-Governmental Organizations
NGOs-CORD North: NGOs Coordinating Committee on Rural Development-North
PDP: Power Development Plan
PR: Public Relationship
SASAC: State-Owned Assets Supervision and Administration Committee
SEARIN: Southeast Asia Rivers Network
SIA: Social Impact Assessment
SGPA: Supplementary Grant Program: Asia
SPDC: State Peace and Development Council
SWR: Salween River
TBBC: Thailand Burma Border Consortium
TERRA: Toward Ecological Recovery and Regional Alliance
TNHRC: Thai National Human Rights Commission
WCD: World Commission on Dam
WBCSD: World Business Council for Sustainable Development
WFF: World Wildlife Fund
WRI: Water Resources Institute

CHAPTER I

INTRODUCTION

1.1 Statement of the Problem

In Thailand, rising domestic energy demand is the key driving force fueling the construction of new power generation and transmission infrastructure, as well as the importation of electricity from neighboring countries. Regarding the latter, a leading controversial project is the proposed Hat Gyi Dam¹, which has been included in Thailand's 2010-2030 Power Development Plan (PDP)² (EGAT, 2010a). Hat Gyi is slated to be built on a section of the Salween River located inside Karen State, Myanmar³, relatively close to the Thailand-Myanmar border.

The Hat Gyi Dam⁴ project is a joint venture, including numerous public and private stakeholders from Thailand, China, and Myanmar. Involved parties include the state-owned enterprise Electricity Generation Authority of Thailand International (EGATi⁵), the Chinese Sinohydro Corporation, the Myanmar government-controlled Department of Hydroelectric Power Planning (HDPP), and the Myanmar private investment entity International Group of Entrepreneur Company (IGOEC). According to a Memorandum of Agreement (MOA) signed April 24, 2010, the investment shares of each of the four consortium partners are as follows: EGATi with 36 percent, Sinohydro 50%, HDPP 10% and IGOEC 4% respectively. Hat Gyi Dam's projected electrical generating capacity is 1,360 megawatts (MW). While ten percent of the

¹Hat Gyi is also commonly spelled Hut Gyi, Hutgyi, and Hatgyi.

²Thailand's 2010-2030 Power Development Plan (PDP) is designed to respond to the country's energy needs. The master plan projects anticipated energy needs 20 years into the future and specifies the diversification of power resources. It seeks to improve electricity capacity systems to respond to the growing energy demands.

³The country was known as Burma until 1989, when the ruling military regime changed the name to Myanmar.

⁴Currently Hat Gyi dam is in the phase of signing the Memorandum of Understanding between four investors to further development.

⁵On 26 June 2008, EGAT transferred the entire obligation to EGATi for the Hat Gyi dam project. Count from after the date mentioned, EGAT will be refer to EGATi which is now the main project developer. However, the main CSR policy still will be used as EGAT CSR policy.

energy produced is proposed for allocation that will meet domestic need inside Myanmar, the rest is to be sold to Thailand and sent via a high voltage 500 kilovolt trans-boundary transmission line that would connect with Thailand's Phitsanulok Power Station 3 (EGAT 2010a).

“Addressing Corporate Social Responsibility⁶ (CSR),” EGAT’s 2009 Annual Report states “EGAT has conducted [an] Environmental Impact Assessment (EIA) and has prepared EIA reports for all of its power development projects and associated facilities, giving particular importance to [a] Health Impact Assessment (HIA)” (EGAT 2009, p.76). The Report further indicates EGAT’s commitment to environmental sustainability and implementing operational safeguards that protect and maintain the quality of life for local communities in project zones. Referring to its efforts to minimize environmental impacts, EGAT touts that it has adopted a public participatory approach to involve affected communities and stakeholders in all steps of its project development. In addition, the state-owned company has issued numerous overtures claiming its activities will provide optimum benefits for the community in the long run.

EGAT also notes that the “best practice environmental management system ISO 14001⁷ has been adopted organization wide to ensure its complete compliance with relevant environmental legislation and regulatory standards while building up community trust and confidence in [the company’s] operation” (EGAT 2009, p.76). However, Energy Permanent Secretary Pornchai Rujiprapa noted a shortcoming of EGAT’s process, commenting that “the EIA could extend to cover the human rights issue.” Rujiprapa was echoing the concerns of numerous human rights monitoring bodies over the well-documented history of human rights violations commonly

⁶CSR is voluntary based commitment going beyond legal obligations, to share the benefit from the profit to the social and environment and relevant stakeholders.

⁷ISO 14001 deals with environmental management systems. An organization meeting the requirements of ISO14001 identifies and controls the environmental impact of its activities, improves its environmental performance, and implements a systematic approach to setting environmental objectives (ISO, 2004).

accompanying state development and resource extraction projects in Myanmar (The Nation, 2010).

EGATi states that in its role as a dam developer, it guarantees to support communities that are directly impacted by the Hat Gyi Dam project (See more detail in 2.3.4.3) (EGATi, 2010b). Furthermore, EGATi also affirms that it has detailed long-term plans to mitigate any and all project impacts, such as potential flooding or the possible extinction of local fish species. The dam investor also promises to ensure an adequate and stable water level for the river to allow communities to cultivate crops along the river bank. Additionally, EGATi assures the public that it will compensate villagers from six villages inside Myanmar who are directly affected by the dam project, find appropriate resettlement accommodations for displaced communities, support ancillary community development programs along the Thailand-Myanmar border, and implement a social welfare system (EGATi, 2010b).

However, despite all of EGATi's statements espousing environmental and protection regulations and policies, a number of ecological and social challenges identified by the dam's feasibility study are cause for concern. Environmental groups such as Salween Watch have critiqued that these could worsen further if the Hat Gyi Dam is built under present circumstances. EGATi held numerous public disclosure sessions in Ban Sob Moei, Ban Mae Sam Leap, and Sob Moi district in early February 2011. In these meetings, EGATi⁸ publicly affirmed that although Hat Gyi is located in Myanmar, impacts will not only affect citizens living inside Myanmar, but also the communities living inside Thailand as well. According to a survey conducted by the EGAT and its agencies, inside Myanmar the six ethnic Karen villages of Klodeta, Shwe, U Wei, Jawburu, Zazerk, Yunmata and Pawtalaw along the Salween River will be directly impacted of being flood by the dam (EGAT, 2010b). On the Thai side, Mae Sam Lab, Ban Tha Ta Fang and Ban Sob Moei will receive indirect impacts such

⁸On June 26, 2008, EGAT transferred the entire obligation to EGATi for the Hat Gyi dam project. Count from after the date mentioned, EGAT will be refer to EGATi which is now the main project developer. However, the main CSR policy still will be used as EGAT CSR policy.

as the decline of fish species, river bank agriculture from the scheme (EGATi, 2010b).

NGO-CORD North, an umbrella group of NGOs in Northeast Thailand, argues that despite Thailand's 2007's constitutional articles 56 and 67 requiring full disclosure of data about the Hat Gyi Dam, information has not been forthcoming nor readily available to the Thai public (Montree, 2011). Neither EGATi nor the chairperson of the Information Disclosure Subcommittee on the Hat Gyi Hydropower Project on the Salween River has released all technical data and EIA results to all stakeholders, including academics, local NGOs, and potentially affected communities in Thailand, While only fleetingly mentioned in information booklets distributed by EGATi in February 2011, comprehensive details regarding resettlement and compensation arrangements have not been released to potentially affected communities in Thai site. (Montree, 2011)

Reflecting on the contesting claims of the Hat Gyi Dam's impacts by the project developers, NGOs, and many others, my research seeks to assess the experience of communities on the Thai side of the Salween River. Specifically, my paper seeks to evaluate whether in the case of the Hat Gyi Dam, EGATi actually implemented practices for indirectly affected communities in Thailand that are consistent with its published CSR policies. My thesis will examine EGATi's CSR implementation model and process at three of the affected Thai communities living along the Salween River Ban Mae Sam Leap and Ban Sob Moei in Sob Moei District and BanTha Ta Fang in Mae Sariang District. All three are located in Mae Hong Son Province.

In its annual report, EGAT gives considerable emphasis to incorporating Corporate Social Responsibility (CSR) elements of stakeholder participation, social responsibility, and environmentally responsibility into its activities within the country. I seek to assess how exactly EGATi has ensured these CSR protections for trans-boundary issues that will impact Thai communities. Throughout my thesis I will look at the particular policy of EGAT's CSR in three communities living along the Salween

River inside Thailand. The key elements of EGAT's CSR policies are 1) Stakeholder Participation 2) Social Responsibilities and 3) Environmental Responsibility.

1.2 Research Questions

My overarching research question is, “Has EGATi implemented its Corporate Social Responsibility and Corporate Governance Policies for communities in Thailand in preparing the proposed Hat Gyi Dam project on the Salween River, Karen State, Myanmar?”

This question will be answered by the following sub-investigations;

1. Has EGATi’s policy on stakeholder participation been successfully implemented for the potentially affected communities on the Thai side of the Salween River and other stakeholders in Thailand?
2. Has EGATi implemented “social responsibility” development projects in communities on the Thai side of the Salween River?
3. Have EGATi’s policy on environmental responsibility and the preparation of the Hat Gyi Dam Environmental Impact Assessment Report been successfully implemented in accordance with relevant laws and regulations?

1.3 Research Objectives

1. To examine whether EGATi’s policy on stakeholder participation has been applied to potentially affected communities on the Thai side of Salween River and other stakeholders in Thailand.
2. To assess if EGATi’s policies on Environmental and Social Responsibility have been adopted in observance of relevant laws and regulations.
3. To evaluate potential gaps between policy and practice on the ground.

1.4 Conceptual Framework

While Corporate Social Responsibility has no definite international standard, there is an emerging universal recognition that businesses should commit to following certain social norms in their practices. To date, the development of CSR policies has been led mainly by western transnational corporations. Although Thailand has experienced a marked rise in transnational enterprise presence, no proportional growth or commitment to western CSR guidelines or practices has taken place domestically. My thesis is framed by the advancing discourse and development of CSR policy in Thailand (See Section 2.6 for details of EGAT's CSR policy).

EGAT has had a form of CSR policy since 2007 and started publishing CSR Reports in 2009. Of relevance to the Hat Gyi Dam project are EGAT's commitments to Environmental Responsibility, Stakeholder Participation and Information Disclosure, and Social Responsibility. These commitments are detailed in EGAT's 2009 Annual Report.

The need for CSR in Thailand is gradually gaining recognition among the government, businesses, and the public. The Hat Gyi dam presents a special case, as it is located in Myanmar, invested in by a state-owned Thai entity and shareholder, and a prospective source of electricity for Thai consumers. Therefore, this thesis will consider how CSR performs under these trans-boundary investment conditions, in addition to evaluating the applications of CSR in Thailand itself.

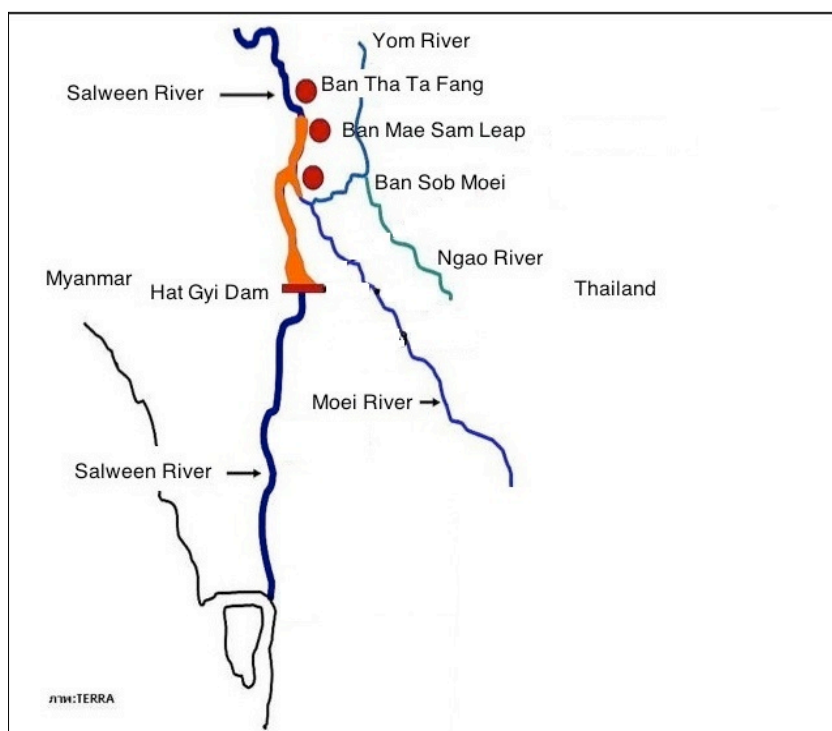
1.5 Research Methodology

1.5.1 Research Sites

My research sites are the communities living in Mae Hong Song Province on the Thai side of the Salween River that are expected to be affected by the Hat Gyi Dam. These include Ban Mae Sam Leap and Ban Sob Moei in Sob Moei District and Ban Tha Ta Fang in Mae Sariang District. The selection of research sites is based on

the criteria of the villagers who are considered as the most affected communities in Thailand.

Figure 1.1 : The Location of Hat Gyi Dam and Three Selected Communities



(Adapted from TERRA, 2010)

Background of the Three Potentially Affected Thai Communities

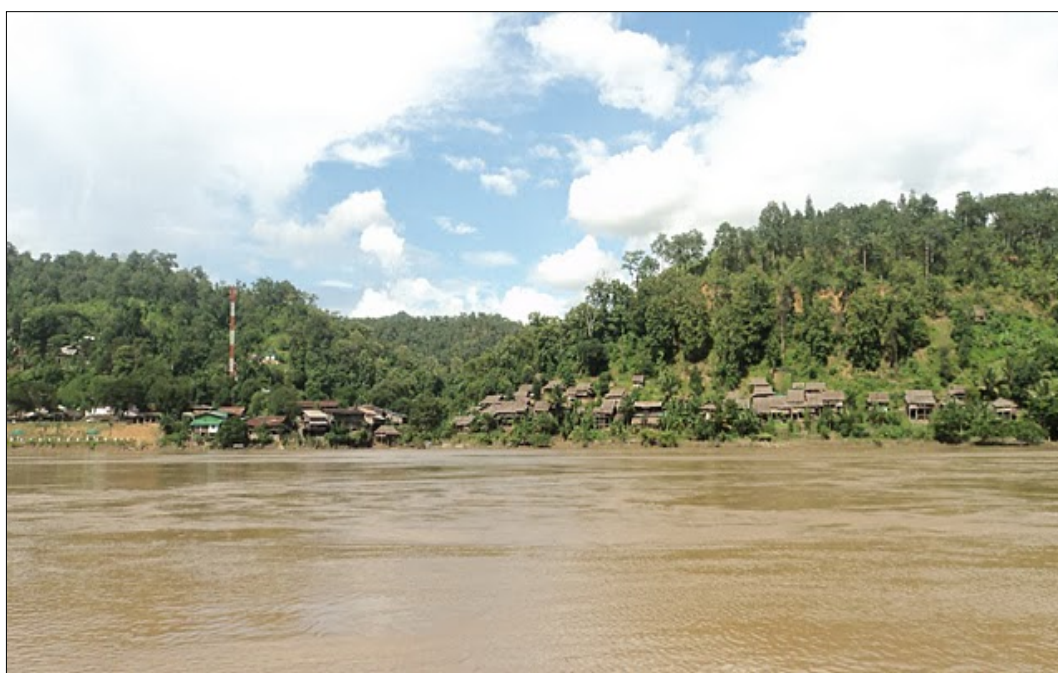
Ban⁹ Mae Sam Leap

Ban Mae Sam Leap (BMSL) is located on Moo (Thai for group) 1, Mae Sam Leap Sub-District, Sob Moei District, Mae Hong Son Province. In the ethnic Karen language, Ban Mae Sam Leap is known as *Saw Lae Ta*. The village was founded in 1971 originally by three households. Conveniently located for commerce and river transportation, numerous families were drawn to settle at the BMSL location. At the time of field data collection, BMSL's registered population in BMSL was 1706,

⁹ Village is translated as Ban in Thai.

comprised of 291 households. The village is formed from diverse ethnicities, including the Karen, Maung¹⁰, Shan, and Burmese. BMSL has 138 Karen households, 77 Shan families, and 77 Muslim homes. Main occupations include trading, general labor, fishing, boating, and seasonal riverbank agriculture. (NGO1, Interview, 19-20.7.11). The Salween forms the geographic border between Thailand and Myanmar, and on the opposite side from BMSL is a Myanmar military outpost.

Photo 1.1: Ban Mae Sam Leap (BMSL)



Ban Tha Ta Fang

Located upstream of Mae Sam Leap, Ban Tha Ta Fang (BTTF) is situated off Moo 7 in Mae Yom Sub-District, Mae Sariang District, Mae Hong Son Province. The community has had four different names before settling on the present one in 1968. Although the predominantly Karen village has 218 registered households, actual existing households number 96, with a population of 708. 690 residents possess Thai identity cards, more than 100 hold hill-tribe (pink/blue) ID cards, and more than 200 people have no form of identification at all. After a “Naraeson Camp” border guard

¹⁰ Maung are also known as Lanna people, the ethnic majority in Northern Thailand.

police station was established at the locale in 1961, cross-border trade in goods began in BTTF. But after the police station relocated to Mae Sariang District in 1984, Thai-Myanmar business at BTTF stopped. Since that time the village was named Ban Tha Ta Fang, which was originally taken from the camp nearby the village. (BTTF 2, Interview, 25.7.11) The main occupations in BTTF village are lowland and highland farming, fishing, boating, weaving, as well as seasonal riverbank agriculture.

Photo 1.2: Ban Tha Ta Fang (BTTF) Villagers



Ban Sob Moei

Ban Sob Moei (BSM), also known as *Zhumaeta* in the Karen language, is located 25 kilometers downstream of Ban Mae Sam Leap on Moo 4, Mae Sam Leap Sub-District, Sob Moei District, Mae Hong Son Province. It is situated 45 kilometers from the proposed Hat Gyi Dam project at the confluence of the Salween and one of its tributaries, the Moei. These two rivers separate Thailand and Myanmar. Opposite BSM there once was a Myanmar soldier camp belonging to the Karen National Union (KNU), an ethnic group that until signing a recent cease-fire agreement, was fighting the Myanmar government for an independent Karen State, and gained control of the area on January 8, 2010. Ban Sob Moei is comprised of two hamlets, with 172

households for an estimated population of 1,300 people. (BSM 3, Interview, 26.7.11). Like Ban Mae Sam Laep and Ban Tha Ta Fang, most villagers are ethnic Karen, and more than 80 percent of residents hold Thai citizenship. Leading occupations are fishing, lowland and highland agriculture, river bank agriculture, weaving, and boating.

Photo 1.3: The Entrance of Ban Sob Moei (BSM)



1.5.2 Data Resources and Data Collection

Key stakeholder interviewees are residents from Thai communities that will potentially be impacted by the Hat Gyi Dam. Relevant main informants include teachers and scholars, public health workers temporarily residing in the above mentioned three Thai communities along the Salween River, lawyers familiar with the principles and legal ramifications of CSR, and NGOs working on CSR from different approaches. Field interviews were conducted with a total of 96 respondents from July 15 to September 20, 2011.

Table 1.1: Stakeholder Interviewees

Interviewees selected to evaluate EGAT's CSR Policy in the Case that Hat Gyi Hydropower Project early stage of agreement for construction on the Salween	Places	Male	Female	Total
Villagers from potentially affected Thai communities along the Salween River	Ban Mae Sam Laep	14	13	27
Community representatives who have been involved with the issue (Teachers, Health Officials and NGOs and soldiers)	Ban Mae Sam Laep	5	1	6
Villagers from potentially affected Thai communities along the Salween River	Ban Tha Ta Fang	13	8	21
Community representatives who have been involved with the issue (Teachers, Health Officials)	Ban Tha Ta Fang	1	3	4
Villagers from potentially affected Thai communities along the Salween River	Sob Moei Village	12	12	24
Community representatives who have been involved with the issue (Teachers, Health Officials)	Sob Moei Village	2	2	4
Lawyers working on issues such as rights of stateless individuals and Corporate Social Responsibility (CSR)	New York, Chiang Mai, Mae Sariang	4		4

Lecturer	Mae Fah Luang University Lecturer, Chiang Rai Province, Thailand	1		1
NGOs	NGO Coordinating Committee on Rural Development North (NGO-CORD North) in Chiang Mai/ Toward Ecological Recovery and Regional Alliance (TERRA) in Bangkok	1		1
	EarthRights International (ERI)	1		1
	Karen Environmental and Social Action Network (KESAN)	1		1
	International Rivers (IR)	1		1
	World Resources Institute (WRI)	1		1

This research uses both primary and secondary sources of information. Overall, the study is based on analysis using qualitative research methods, with a combination of focus group discussions with communities inside Thailand, in-depth interviews with potentially affected community members, interviews with key informants, and secondary database research.

Field research was conducted by interviewing diverse key informants, including three Thai communities likely to be affected by construction of the Hat Gyi Dam, local civil society groups, NGOs, lawyers and scholars. A list of actors can be found in Table 1.1, above. Those interviewed were selected based on their knowledge and relevance to the study.

In addition, to corroborate the reliability and validity of primary research data and findings, secondary research was conducted using academic literature, government documents, EGAT publications, NGO reports, and websites, and while attending seminars and conferences.

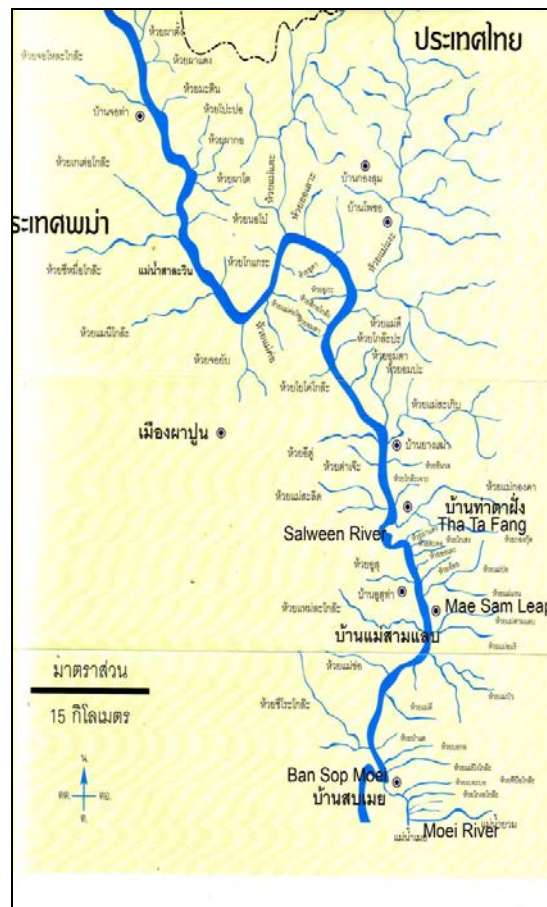
Field interviews were conducted in the Shan, Burmese, English, and Thai languages. As the majority of the communities living at the proposed dam site in Thailand are ethnic Karen and many local residents speak only Karen, in some cases the researcher used a translator. All information collected from the field was transcribed into English.

1.5.3 Community-Based Research

Community-based research was conducted in Mae Sariang and Sob Moei Districts in Mae Hong Son Province, Thailand. Preliminary interviews were undertaken from July 15 to 30, 2011. Follow-up interviews were carried out from September 23 to 25, 2011. These were conducted in three aforementioned Thai villages located upstream of the Hat Gyi Dam along the Salween River. Village

interviewees were selected randomly. Respondents cover a wide range of demographics, such as ethnic identity, citizenship, and gender identification.

Figure: 1.2 Map of Three Research Communities



Community interviews took many forms: focus group discussions, individual interviews, and key informant interviews. The focus group discussions were set up in different forms in each village. In Mae Sam Leap, the group discussion was differentiated by the religious group and the ethnic group. In Tha Ta Fang, the group discussion was done during the funeral ceremony and at the Church where most people gathering. In Ban Sob Moei, the group discussion was set up with the

assistance of a translator. The focus group discussions consisted of participants of various ages, citizenship statuses, religious belief, and gender.

The opening guideline question was framed and elaborated within the concepts of public participation and social and environmental responsibility. Significantly, the experience of selected interviewees has formed their levels of participation in the proposed Hat Gyi Dam project and their perceptions of EGAT's social project and environmental protection activities. (See sample interview questions in Appendix A).

1.5.4 Key Informant Interviews

Numerous stakeholders working on the promotion of public participation and EIA law and regulation and CSR initiatives were selected in order to gauge their views on EGAT's CSR policy and implementation on the ground. Individual interviews and literature and document reviews were performed.

All individual interviews with external stakeholders were conducted from August 15 to September 20 2011 using prepared question guidelines, with the exception of an interview with the director of Development Center for Children and Community Network (DCCN), which was conducted on July 14. The interviews were conducted largely in four places; Mae Hong Son Province, Chiang Mai, Chiang Rai Province, and Bangkok city in Thailand. All the interviews were carried out in person except for correspondence with a New York-based biodiversity attorney with expert knowledge on the EIA process, particularly in regards to the Hat Gyi Dam. Communication with the lawyer took the form of emails and talks facilitated through the computer-to-computer Skype software.

The perspectives and experiences of lawyers and NGOs are crucial to assess the strengths and weaknesses of EGAT's CSR implementation. This researcher has interviewed NGO networks including the NGO Coordinating Committee on Rural Development (NGO-CORD North), Towards Ecological Recovery and Regional

Alliance/Foundation for Ecological Recovery (TERRA/FER), and relevant lawyers and academics.

Interviews were guided by open-ended questions that focus on the process of public participation, EIA, EGAT's CSR policy, as well as respondents' views on EGATi's CSR implementation and impacts on communities. (See sample interview questions in Appendices B-D).

Formal interviews with selected NGOs provide additional information on how effectively EGATi has applied public participation and information disclosure mechanisms for potentially affected communities. Formal interviews with lawyers also assisted in analyzing EGATi's CSR policy and EIA process. Overall, interviews with the external key stakeholders helped to determine and understand the EGATi's CSR policy implementation at the community level. The details of selected external stakeholders can be seen in Table 1.1.

The researcher sought interviews with a representative of EGATi Board and the Energy Regulatory Commission, but was unable to secure an interview.

1.5.5 Data Analysis

Interviews with key informants help assess how EGAT has complied with relevant Thai laws and the company's own CSR policy and Corporate Governance guidelines. The researcher investigated to what extent EGAT's CSR mandate—broadly provided in Chapter Two—has been fulfilled. The three research focal points were Public Participation and Information Disclosure, Social Responsibility, and Environmental Responsibility. The key indicators to measure EGATi's Public Participation and Information Disclosure are: forming a tripartite committee to encourage public participation; respecting human rights; disclosing relevant information in an accurate, reliable, sufficient, timely, and transparent manner; and ensuring legal rights and stakeholders' protection. The key elements to assess the Social Responsibility of EGATi are fostering open communication with and full

accountability to local communities, treating all involved parties with dignity, and implementing socially beneficial development programs. In regard to Environmental Responsibility, this thesis will analyze the level of EGAT's EIA compliance to relevant laws.

1.5.6 Limitations

Myanmar's political context and security concerns in the Hat Gyi dam vicinity made it impossible for this researcher to visit the project site and collect information from potentially affected communities inside Myanmar. For this reason, this research only focuses on the potentially affected communities inside Thailand. In addition, access to official information is also limited, so the scope of this thesis emphasizes the experience to date of potentially affected Thai communities.

Since field sites are in remote areas, managing field collection trips proved difficult. A considerable challenge to conducting field research was the occurrence of a large flood on the Salween that impeded travel from one village to another. Traveling alone during heavy rains and rising water levels on the Salween poses significant safety concerns to the research while moving from site to site. In addition, interviews in Ban Sab Moei were substantially more constrained than the other two villages as locals there speak only Karen, necessitating the use of a translator. The researcher speaks Thai, Shan, Burmese, and English.

1.6 Ethical Consideration

Ethical considerations are a very important to consider when conducting research to ensure that data collection does not put interviewees at risk. Before conducting interviews, the researcher first gained the consent of respondents. To protect the privacy and security of the interviewees, names have been changed. The researcher was strictly cognizant of ensuring interviewee confidentiality by not revealing personal profiles. When conducting face-to-face interviews, the researcher avoided interrupting the interviewees. The researcher also ensured that the findings of

the research will not be used against public interests. The researcher respected the key informants and did not judge their answers. Moreover, this author has conducted research in a way which does not diminish the potential for conducting follow-up research in the future.

1.7 Significance of the Study

Much research conducted by Thai-based NGOs on the Hat Gyi Hydropower Project exists. However, most of this information is in the form of short articles. In addition, there is limited academic research that analyzes EGAT's CSR policy particularly in the context of trans-boundary projects. This thesis is mainly focused on evaluating the implementation of the EGAT's CSR policy for the Hat Gyi Dam Project. A highlighted aim of this research is to assess any differentiation in how EGAT will implement its CSR considerations for affected but unrecognized stateless villagers versus those with Thai citizenship. The main contribution of this research is enabling society to better understand EGAT's CSR policy in Thailand and more importantly, how well EGAT is implementing its CSR policy for the trans-boundary Hat Gyi project.

The findings of this research help identify the gaps between the CSR policy on paper and its implementation in practice. These results can assist related institutions and stakeholders broaden their understanding and foster alternative CSR approaches that may address any deficiencies in EGAT's policy. Finally, this research can create awareness among policy makers on the issues faced by inadequate implementation of the existing policy and emphasize the need for creating supportive structures and policies on the ground level, particularly those supporting people participation's in project development and effective ways of disclosing information to the public. As well as the reorganization of the Social and Environmental ethic, this research also will highlight findings to be taken account of by policy makers and implementer.

1.8 Organization of Chapters

The thesis is structured as follows: The second chapter presents the Hat Gyi Dam's background and chronology, and reviews concepts of CSR and EGAT's CSR policy. The third chapter presents the results and analysis of EGAT's existing policy on Public Participation and Information Disclosure. The policy as practiced by EGAT will also be presented. Next will come the findings from primary field research conducted in three communities. The fourth chapter will analyze EGAT's CSR policy on Social Responsibility in accordance with its existing policy and practices. The fifth chapter discusses EGAT's CSR policy on Environmental Responsibility. Due to the ambiguity of existing laws, the challenges in implementing Environmental Responsibility will be discussed. Chapter six concludes the thesis by summarizing key findings and proposing possible avenues for follow-up study.

CHAPTER II

BACKGROUND OF THE HAT GYI DAM AND EGAT'S CSR

This chapter aims to provide a comprehensive framework for understanding the Hat Gyi Dam project. The chapter is divided into four sections: First, it provides context for the Hat Gyi Dam project by detailing the relationship between the Myanmar government and the Karen ethnic group, as well as the background of the proposed Hat Gyi Dam. This section will also include a thorough history of the project, including a timeline charting the plans for the dam, starting from their inception. The second section includes an overview of the concept of Corporate Social Responsibility (CSR), as well as the interpretation of CSR in Thailand, specifically. In section three, the EGAT's CSR and Corporate Governance policies, as mentioned in EGAT's Annual Report 2009, will be presented. The last section identifies knowledge gaps that the thesis will contribute towards.

2.1 Background of the Hat Gyi Dam

2.1.1 The Relationship of the Myanmar Government and the Karen Ethnic Group

Myanmar gained independence from the British in 1948; afterward, uprisings and ethnic conflicts arose in various townships, continuing into 1949. The situation worsened when Buddhism was declared the official religion, with disregard to the rights of other religions, and further exacerbated by clauses in the constitution "that granted nominal rights to secession to some groups" (Marie, 2009). In 1962, a coup saw the rise of the military, which took governmental control and have ruled the country ever since. The military have stifled pro-democracy movements and also engaged in a counterinsurgency campaign known as "Four Cuts," denying rebel forces of food, funding, information, and recruits. Since the 1970s, in order to maintain power, the military government has increasingly attacked civilians in ethnic minority areas.

The Karen ethnic group resides primarily in southern and southeastern Myanmar. The Karen account for approximately seven percent of the total Burmese population, currently figured at an estimated 50 million people (Louise, 2008). It is regarded as the third biggest ethnic population in Myanmar, after the Burmese and Shan. A large number of Karen also resides in Thailand, mostly on the Thai-Myanmar border.

The Karen National Union (KNU) is a democratic insurgent organization representing the Karen people of Myanmar and retaining control of its own liberated zones. However, up to this day, a large area of Karen State is under the administrative control of the Myanmar government. At first the KNU—led pre-dominantly by Christian Karen—were fighting for independence, but since 1976, the armed group has called for a country-wide federal system rather than an independent Karen State in the eastern part of the country. The KNU has not agreed to submit to the junta; thus, in 1990 the government launched a systematic offensive against the Karen (World without Genocide, 2010)¹¹

In the 1990s, armed groups have seceded from the KNU or forged their separate identities. Known as the armed wing of the KNU, the Karen National Liberation Army (KNLA) is one of the larger insurgent armies in Myanmar. It is not to be confused with the Democratic Karen Buddhist Army (DKBA), a breakaway faction of Buddhists, mainly former soldiers and officers of the Karen National Liberation Army. After their split from the KNU in 1994, the DKBA entered into a ceasefire agreement with the Myanmar army. Since that time, amongst those in Karen State, the DKBA has been perceived as closely allied with the Myanmar Army and in opposition to the KNU and KNLA.

¹¹On 12 January 2012, KNU and Myanmar Government peace delegation signed a cease fire agreement in Hpaan, Karen State, Myanmar.

The government uses a military strategy aimed at decreasing the insurgency in the ethnic areas. The military government ordered the Democratic Karen Buddhist Army to work as Border Guard Forces under direct Myanmar Army control. Since then, the Thailand-Myanmar border areas have seen conflict and fighting since late 2010 (South, 2011).

2.1.2 The Emergence of Proposed Hat Gyi Dam

The areas in which the Hat Gyi Dam construction is proposed are precisely the areas saddled with the most conflict. NGOs have seen the plans for the Dam as part of the military government's strategy to gain foreign support, particularly from cross-border investment from neighboring countries such as Thailand, China and India. The foreign investment is applied to its ongoing war effort, as well as efforts to increase and maintain control over areas of ethnic land after many decades of conflict (Salween Watch, 2011).

The Myanmar government is proposing the development project as part of a strategy to remove ethnic groups, particularly the armed group from the dam site (Salween Watch, 2011). David Scott Mathieson, a senior researcher from Human Rights Watch, claimed that the construction of the dam are not the only reason for the offensives, but one of many including cutting off civilian support for Karen insurgents, a strategy which is systematically destroying the infrastructure of Karen rebellion (Baxter, 2006). In addition, the Myanmar government is able to pursue road construction and other economic ventures such as mining and logging going together with the dam project where the project passing through where the Karen people live. (Baxter, 2006).

2.1.3 Hat Gyi Dam Project Overview

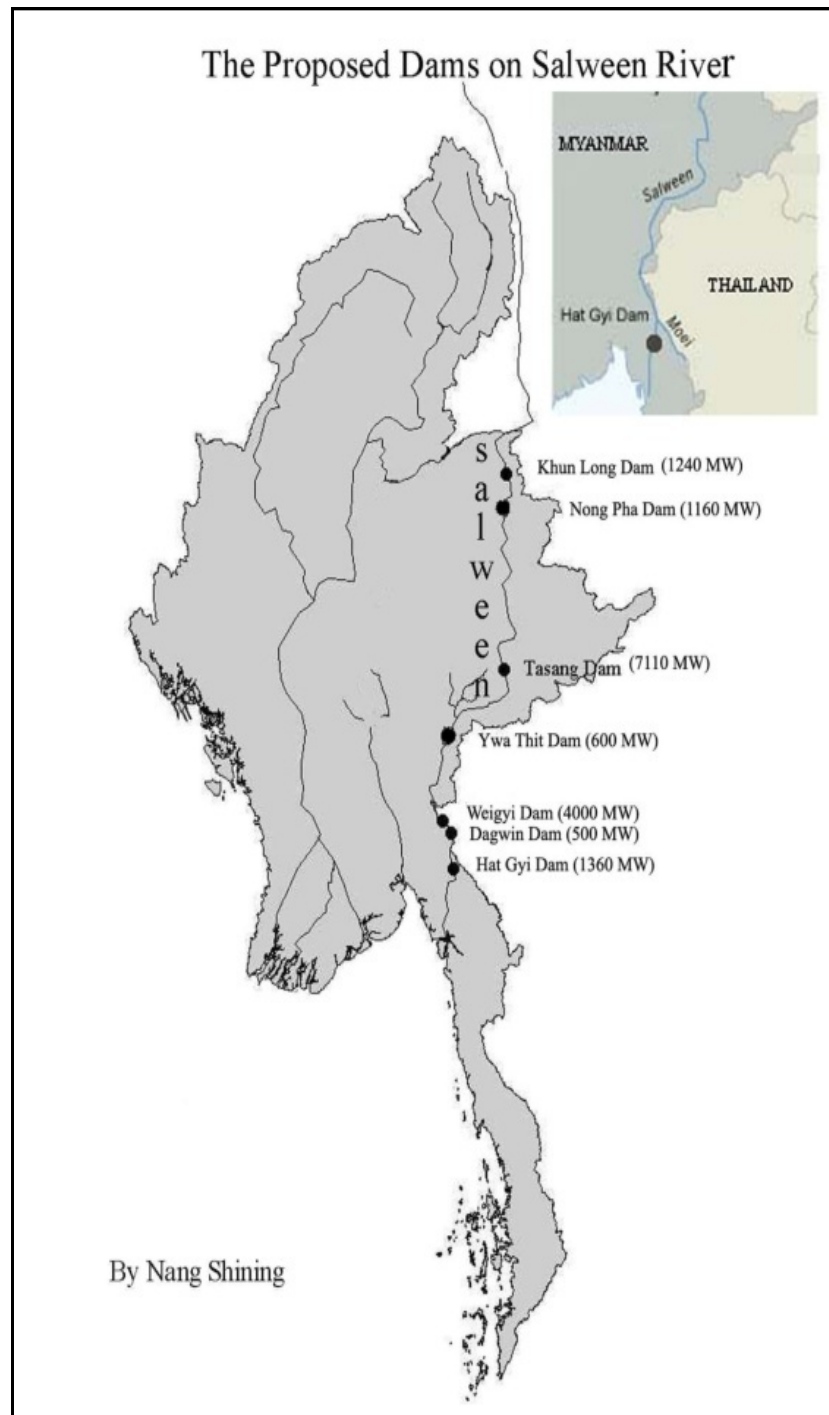
The Salween River originates in the high plains of the Tibetan Plateau and flows through Thailand and Myanmar before opening into the Andaman Sea. An international river, it is called by many names: *Nu Jiang* in Chinese, *Nam Khone* in

Shan, *Than Lwin* in Burmese, and *Salween* in Thai. The Salween Basin covers 320,000 square kilometers, and 53 percent of the watershed area is located in China, with 42% in Myanmar and 5% in Thailand (Salween Watch, 2011a). The Salween River is approximately 2400 kilometers long and regarded as the longest free-flowing international river in Southeast Asia. About 320 km from the source, the river forms a 120 km-long boundary between Myanmar and Thailand before meeting the dually-named Moei (Thai) or Thaungyin River (Myanmar), a major tributary of the Salween that divides the two countries (Salween Watch, 2011a). In Myanmar, the river runs through Mon, Karen, and Shan States, where it is vital to the livelihood of ethnic minority groups. It is responsible for fertilizing the land and feeding the ethnic groups by providing water, fish and opportunities for river bank agriculture to those living along its banks.

Twenty dam projects in total are planned for construction on the mainstream river; with seven dams slated for construction in Myanmar, and 13 proposed in China. The Hat Gyi Dam is only one of the seven intended dams in Myanmar on the Salween River, and is located inside Karen State, about 33 km downstream of the Salween-Moei River convergence. It is the smallest of the seven, and expected to be the first built on the Salween River. The project is a joint enterprise between Thailand, China and Myanmar through EGAT International (EGATi), Sinohydro Corporation, Myanmar's Department of Hydroelectric Power Plan (HDPP), and local Myanmar private investor International Group of Entrepreneur Company (IGOEC). It is planned to be a 33 meter high "Run-of-River"¹² dam. It is expected to have an annual electricity production of 7335 Gigawatt/hour, at an estimated cost of one billion USD (Burma River Network, 2006). According to the Memorandum of Agreement (MOA) signed on 24 April 2010 between the four parties, the project aims to ensure energy security and economic growth in both Myanmar and Thailand, and also improve international relations as well as the living standards of people in Myanmar (EGAT, 2010b).

¹² A run-of-river is the dam that does not have a large storage reservoir, and is often interpreted as not having a lesser impact to the environment and ecosystems, although whether this is the case depends on the particularities of the project.

Figure 2.1: Map of the Proposed Dams on the Salween River



2.1.4 Chronology of Hat Gyi Dam plans on the Salween River

Project Preparation Chronology

Recognizing the many possibilities for development—particularly in energy sources—several contingents have conducted studies since 1998, assessing hydropower potential on the Salween River. In 1998, the preliminary feasibility study for Hat Gyi Dam was completed by the Japanese development consultant NEWJEC INC., claiming that a potential 300 MW could be produced on the Salween, with a low height, run-of-river dam (MEPE, 1998). On 14 November 2005, a new feasibility study was conducted by the Thai Energy Ministry, which found that “electricity production could be increased to 1,200 megawatts.” (Salween Watch, 2011).

Due to conflicting political interests, the construction of the Hat Gyi Dam has been delayed for more than two decades. Local people and many NGOs oppose the Hat Gyi project because of the many risks and human rights violations that are expected to be seen related to the dam project. Because of growing social movements and based on the recommendation of the Thai National Human Rights Commission, Prime Minister Abhisit Vejjajiva's government recommended the project be halted for 90 days, starting 6 May 2009. Subsequently, in May 2009, the Committee Studying Human Rights Violations was assigned to the project by Prime Minister Abhisit Vejjajiva. (For more details, see section 2.1.5)

Key players involved with the Hat Gyi Dam project include the project developer, the relevant government sector, non-governmental organizations, and affected communities. Further details are provided in Appendix E.

Timeline: The Development Process of the Hat Gyi Dam

- △ In 1979, Electricity Generating Authority of Thailand (EGAT) announced that it would conduct 14 feasibility studies for water diversions from the tributaries of the Salween and Mekong Rivers (Newton & Wolf 2007).
- △ In the early 1980s, both the Thai and Myanmar governments were engaged in various negotiations to build large dams on the lower part of the Salween (Burma River Network, 2011).
- △ In August 1998, the pre-feasibility study was conducted by Japanese development consultant NEWJEC, which recommended “a low height, run-of-river dam having a capacity of 300 MW” (cited by MEPE, 1998).
- △ In August 2004, Thailand and Myanmar agreed to establish a Joint Committee on Hydropower Development; and proceeded with the development of four hydroelectric dams, including the Tasang Dam (with a potential capacity of 7000 MW), Hat Gyi Dam (an initial plan of 600 MW capacity), Upper Salween Dam (5,600 MW) and Lower Salween Dam (900 MW) (TERRA, 2006).
- △ On 9 August 2005, EGAT and Myanmar’s Department of Hydroelectric Power Planning signed a pre-Memorandum of Agreement for further development of the Hat Gyi Dam (EGAT, 2010).
- △ On 14 November 2005, the Thai Ministry of Energy completed a new feasibility study that found “electricity production could be increased to 1,200 megawatts”. Based on the Ministry’s findings, the dam would be substantially higher and have a much larger reservoir (Salween Watch, 2011).
- △ In December 2005, EGAT signed a Memorandum of Agreement (MOA) with the DHPP with regard to the Hat Gyi Dam. According to the MOA, all project-

related information will be “treated as strictly confidential” and will not be disclosed “without prior written consent of all Parties” (TERRA, 2006).

- △ In May 2006, during the feasibility survey at the Hat Gyi Dam site in Karen State, one EGAT surveyor lost his leg from a landmine explosion and later died (The Nation, 2007).
- △ From July to September 2007, a feasibility study was conducted by the Environmental Research Institution at Chulalongkorn University (Mizzima News, 2007).
- △ In September 2007, after a second worker was killed due to violent conflict around the dam site, survey work on the Hat Gyi Dam was suspended (TERRA, 2006).
- △ On 26 June 2008, with the consent of the DHPP, EGAT transferred the entire obligation to EGAT International to carry on the Hat Gyi Dam project (EGAT, 2010).
- △ In July 2008, the Environmental Impact Assessment study of the Hat Gyi Dam Project was completed (Cherid, 2010).
- △ In 2008, EGATi resumed survey activities in Karen State and has been conducting public relations activities promoting the dam with affected villagers on both sides of the border. EGAT has announced that energy from the dam will be fed into the Thai Power grid by 2019 (cited in TERRA, 2006).
- △ On 24 April, 2010, EGATi, Sinohydro, HDPP, and IGOEC signed a new MOA clearly detailing responsibilities and plans for the Hat Gyi Dam. (EGAT, 2010b).

Timeline: Civil Society Movement on the Hat Gyi Dam

- ⤴ In November 2005, 15,000 members of the Karen ethnic group living on the Thai side of proposed dam sites signed a petition opposing the Salween River dam projects and urged regional and international communities to join their protest (TERRA, 2006).

Photo 2.1: Demonstration in Bangkok



(Source: TERRA)

- ⤴ In November 2006, the Thai National Human Rights Commission and leading scholars appealed to the Thai government to abandon dam plans on the Mekong and Salween Rivers. The petition letter was signed by 200 individuals and claimed that the project should not be decided on solely by decision-makers without the participation of local people (TERRA, 2006).

- △ On 28 February 2007, a global campaign was staged to oppose the five dams planned for construction on the Salween River. A press conference was held at the Office of the National Human Rights Commission and the Salween Basin representatives then submitted a petition letter to Thai National Human Rights Commissioners Sunee Chairot and Wasant Panich. Concurrently, the coalition submitted the letter to the Minister of Energy. On the same day in Tokyo, Washington D.C., Sydney, New Delhi, Berlin, and Paris, protests were staged outside of Thai Embassies and Consulates to bring awareness to the potential affected people and environmental cost of the proposed dams. The petition letter was signed by 124 Thai organizations and 56 Burmese organizations, and endorsed by 52 additional organizations and 1,473 individuals (Bangkok Post, 2007).
- △ On 23 November 2008, a signature campaign was conducted by NGO-CORD North and won the support of 82 organizations from Northern Thailand, 28 organizations from Northeastern Thailand, 51 organizations from Central Thailand, 16 organizations from Southern Thailand, and 12 organizations from Western and Eastern Thailand. Their signatures were sent to H.E Abhisit Vejjajiva, Prime Minister of Thailand, requesting the cancellation of the Hat Gyi Hydropower Dam Project (NGOs-CORD North, 2008).
- △ On 4 August 2009, a coalition of NGOs including Towards Ecological Recovery and Regional Alliance (TERRA), NGO-CORD North, Salween Watch and Living River Siam (SEARIN), organized a forum on “The Salween Hydropower Project in a Human Rights Context” at the Student Christian Center in Bangkok.
- △ On 23 November 2009, the Thai National Human Rights Commission proposed to the Thai government that it order EGAT to abandon plans to build the Hat Gyi Dam (NGO-CORD North, 2011).

- △ On 4 February 2011, the Mae Hong Son’s River Basins Management Network—consisting of 21 sub-networks of river basin management organizations across seven districts in Mae Hong Son Province and Tha Song Yang District, Tak Province—gave a recommendation to Papiphan Sariwatana, the Chairman of the Information Disclosure Subcommittee of the Hat Gyi Hydropower Project on the Salween River. The Network recommended that he allow for the disclosure of information relating to the Hat Gyi Project (Thongplaew, 2011).
- △ On 7 February 2011, the NGO Coordinating Committee on Development submitted a letter to H.E. Satit Wongnontae, Minister to the Office of the Prime Minister and Chairman of the Committee for the Investigation of Human Rights Violations, in regards to the conduct Information Disclosure and Public Hearing meeting for the Hat Gyi Dam (NGO-CORD North, 2011). That same day, the coalition of organizations representing communities living along the Salween River in Myanmar and Thailand also “call[ed] for the Hat Gyi Dam to be stopped immediately”. The letter was submitted to H.E. Abhisit Vejjajiva, Prime Minister of Thailand (Salween Watch Coalition, 2011).

2.1.5 Timeline: The Emergence of a Sub-Committee on the Hat Gyi Dam

On 9 August 2005, EGAT (Thailand) and DHPP (Myanmar) signed a pre-Memorandum of Agreement (MOA) for further development of the Hat Gyi Dam. In response to the EGAT signed MOA with Myanmar government, on 28 April 2009 the Thai National Human Rights Commission submitted letters to the PM office with the concern that continuous fighting between the Burmese soldiers and KNU at the upper part of the dam location could create a burden to Thailand due to the close border. Because of the consideration of the importance of river, which has remained a free flowing international river and rich in biodiversity, TNHRC urged the government to halt the dam project for 90 days from the date the government received the 6 May 2009 recommendation letters.

In May 2009, the Committee studying Human Rights Violations was formed with the order of Prime Minister Abhisit Vejjajiva. Mr. Satit Wongnongtaey, Minister to the Office of the Prime Minister was assigned to be a chairman of the Committee studying Human Rights violations. Then the committee was asked to monitor and requested to find a way to solve the problems of human rights and environmental violations associated with the proposed Hat Gyi dam.

At the second Human Rights Studying (HRS) committee meeting on 2 June 2009, the HRS committee stated that due to contested information from the Thai National Human Rights Commission and the Electricity Generating Authority of Thailand, another sub-committee should be formed named the “Information Disclosure Subcommittee on Hutgyi Hydropower Project on the Salween River” in order to evaluate the information, and to come up with the reliable information with the recommendation to the Prime Minister in order to finalize the decision making in a quick manner. Mr. Rapihan Sariwatana was assigned as the chairman of the subcommittee and the committee members are representatives from different sectors including civil society groups, academics and the Ministry of Energy.

The sub-committee “Information Disclosure Subcommittee on Hutgyi Hydropower Project on the Salween River” had conducted meetings five times (from June 2009 to August 2009). The meetings were to find out reliable and truthful information from both sides (TNHRC and EGAT) and had the possibility to adapt the current situation, with the agreement from every stakeholder. The suggestions were to be submitted to the Committee studying Human Rights Violations for further analysis before submitting to the Prime Minister.

Meanwhile, HE Prime Minister Abhisit’s instruction on 25th January 2010 (ref: Document ๓๕ 0110/168 dated 11 January 2010), section 3.3 requires “to set up a neutral body responsible for complete information disclosure based on objective and accurate evidences to ensure that all stakeholders get access to accurate information and facts. Relevant agencies will cooperate to work out the procedures to establish the

neutral body.” This instruction leads to a public information disclosure meeting by EGATi in 2011 following the recommendation of Thai National Human Rights Commission (TNHRC). (See section 3.2)

When Prime Minister Yingluck Shinawatra came to power in 2011, thirty five new cabinet members were sworn in on 9 August 2011. (CSIC, 2011) Due to the change of government, the sub-committee which was established under former PM Abhisit Vejjajiva disbanded and terminated their work with the political change.

2.2 Corporate Social Responsibility Concept Overview

This section focuses on Corporate Social Responsibility (CSR), providing a general overview of the concept, and will also delve specifically into Thailand’s existing practice and understanding of CSR.

2.2.1 Definition of CSR and Brief Discussion on CSR in General

Despite “Corporate Social Responsibility” becoming a popular term, there has been no consistent definition of the concept itself, nor its operationalization and evaluation, as pointed out by Rodríguez, Siegel, Hillman, and Eden, (2006) and McWilliams, Siegel, and Wright (2006). Naturally, the term encompasses a wide range of issues. The existing definitions of CSR can be seen as ranging from simplistic to complex, with a variety of associated terms and ideas. In accordance with the different and varied interpretations of the term, several additional expressions have been used to appropriate “CSR” for various functions and purposes. Where the CSR apply to community investment and community involvement, “Corporate or Business Responsibility, Corporate or Business Citizenship, Community Relations and Social Responsibility and Corporate Citizenships” (Pareena & Olsen, 2009) are a few examples of the type of language that has been adopted. For that reason, different companies use their individual definitions and adaptations of the term. It goes without saying that the lack of universal agreement regarding the definition of CSR makes it harder to evaluate and compare the findings of different studies, because fundamentally they usually refer to different components of CSR.

The European Union defines CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” The World Business Council for Sustainable Development (WBCSD) also defines the term as the “continuing commitment by [a] business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.” Chandler (2001) states that “since there is no universal definition of Corporate Social Responsibility, basically it refers to transparent business practices that are based on ethical values, compliance with legal requirements and respect for people, communities and the environment.” Henderson (2001) also presents the idea of a triple bottom line, whereby companies measure their success by their performance in regard to economics, social conditions, and environment. Based on these differing definitions, CSR is integrated into three areas that often refer to a triple bottom line: namely, people (society), planet (environment), and profit (economics).

Baker (2011) states that traditionally in the United States, CSR has been defined in terms of a philanthropic model; In Europe, however, corporations focus on a model that suggests they operate the core business in a way that is socially responsible, and invest in communities for solely business reasons. He assumes that the former model is not effective, as companies earn profits and pay taxes to the government, while donating a certain share of the profits to charitable causes. But the latter he claimed as more sustainable, due to the fact that CSR has become an integral part of the wealth-creation process, which maximizes the value of wealth-creation to society.

Carroll (1979) and Visser (2008) both contend that businesses prioritize the bottom line of economic contributions to their own economy. While businesses in developed countries focus upon legal compliance, it is the last priority for corporations in developing countries, which choose instead to concentrate on philanthropy. Yet, for those firms based in developed countries, philanthropy is ranked

last order of business. (Pareena & Olsen, 2009). It is clear that both CSR and philanthropy occupy two different spheres, and Dr. Richard Welford believes that Asian stakeholders are also becoming more sophisticated, as well as increasingly impressed by strategic approaches to the former rather than the latter. "We've asked companies in Asia what CSR is. The problem is there is confusion because some believe that philanthropy is CSR." (Bangkok Post, 26.3.10).

Corporate Social Responsibility is one step towards recognizing sustainable practices towards society and the environment. However, CSR alone is not sufficient, because the primary goal of business is to maximize profit. Robinson (2002) states that it is very crucial that the business community not only focus on policies of good corporate citizenship but also strictly manage their implementation in practice.

Porter (1990) writes that though Multi-National Corporations (MNCs) now compete globally, they remain rooted in their home country's economic system and culture. Governments still have local power, and therefore must be the basis for any kind of regulation. Conversely, Henderson (2001) states that many MNCs have become even more powerful than governments, and with power comes responsibility. However, giving MNCs responsibility for the world's well-being is extremely dangerous, he contends, and only gives them even more power than they already retain.

Henderson (2001) has promoted the idea of a triple bottom line, while also maintaining that the secret of success for businesses includes applying CSR, for "profits depend on reputation, which in turn depends increasingly on being seen to act in a socially responsible way." Yet Henderson believes that CSR is a flawed model, based on "dubious or false assumptions," and will have long-term damaging consequences. (Henderson 2001, p.196). He believes that the "effects of CSR will tend to make people in general poor" (2001, p. 197).

The central aspect of Corporate Social Responsibility is the willingness and initiative of an organization to take responsibility and be held accountable for the impacts of its activities and their contribution to society and the environment. Generally speaking, many would assume that CSR involves taking responsibility in regard to social and environmental matters beyond legal compliance—however; these matters depend on how companies identify their regulations and priorities, which are based upon their individual business objectives.

Sarinee, an independent academic and lecturer at Thammasat University, writes, “It cannot be disputed that CSR is often used to build [a] better image for a company or a brand. But if it can be proved to the society that these activities are really worthwhile for not only the organization but also the community itself, such programmes will be more welcomed and supported by non-stakeholders” (Bangkok Post, 12.3.09). She also added that a company must look at sustainable development as a way to reduce risk factors and as an opportunity amid the ongoing crisis, as it helps to create business value through brand-building. “If you see the risk, you'll be able to get to the right management, which is good in [the] long term,” she said. “It's now therefore a good opportunity for businesses to pick up the triple bottom line (TBL) framework covering people, planet and profit.” (Bangkok Post, 12.3.09)

Applying CSR components into their business model would provide companies with a net gain by reducing risks, enhancing their reputation and ensuring more productivity and efficiency. Those benefits enable the firms to achieve three bottom lines; improving their own economics, as well as society and the environment. To achieve these triple bottom lines depends on whether companies succeed in understanding, developing, and integrating CSR policy into their business models. While the term “CSR” is simple enough to understand, to translate it into solid and measurable results is not always easy. Measuring the effectiveness of CSR is dependent on each individual company's industry, objectives and goals.

2.2.2 The Context of CSR in Thailand

The concept of Corporate Social Responsibility has been introduced to Thailand over the past ten years, though it is unclear as to how the topic was broached. The perception of CSR has gradually evolved ever since the World Trade Organization ministerial meeting on 30 November 1999, which discussed crucial steps towards realizing its commitment to not only economics, but also the social and environment sectors (Pareena & Olsen, 2009).

According to Pareena & Olsen (2009), the concept of global CSR was introduced by Social Venture Network Asia, Thailand, and in particular by Prida Tiasuwan and his business network members. Referring to the network's vision and mission, they contended that the business' concern was to take responsibility not only for their enterprises, but also for the social and environmental consequences of these enterprises, with respect to fair trade. The UN Global Compact was introduced and the Employer's Confederation of Thailand (ECOT) was selected to facilitate the promotion of the Compact's ten principles. Ever since, "there have been about 30 Thai companies (SMEs, local business associations, companies and a foundation) listed in the UN Global Compact" (Pareena & Olsen, 2009). In late 2006, the Securities and Exchange Commission set up a CSR working committee to encourage listed companies to focus more attention towards social responsibility (The Nation, 26.1.09).

According to the survey of CSR Asia Center, "Corporate Social Responsibility is taking a fast hold in Thailand with many companies possessing CSR policies[,] though implementation remains weak" (Bangkok Post, 26.3.10). Richard Welford, Founder and Chairman of CSR Asia observed that "Thailand's lagging CSR implementation may be due to the fact that CSR is still a relatively new concept for Thai businesses." He contended that "[t]here should be better progress in the future. Thai companies need to move from policies to actions" (Bangkok Post, 26.3.10).

According to Dr. Welford, “Thailand may be missing out on global opportunities due to its relatively poor approach to value-chain issues” (Bangkok Post, 26.3.10). In this era of globalization, the world is increasingly interconnected and the role businesses play depends very much on the international market. Today, more and more companies are realizing that in order to stay productive and competitive in the market and to adapt in the rapidly changing business world, they have to expand their concerns to fit a more international scale, and maintain awareness of environmental and ethical issues. Due to the escalating relevance of global concern in the context of business, companies must adapt to a changing corporate environment in order to protect their reputation and increase their ability to manage their profits and risks.

Globalization has changed the role of the state in the market and consequently the very conditions upon which private enterprise operates. According to a recent study carried out by the Faculty of Economics at Chulalongkorn University, exports account for 65 percent of Thailand's GDP (Rojanayol, 2007). Thailand's economic growth is dependent on the export-oriented industry and trade; in order to maintain its competitiveness in the global markets it is essential to comply with international standards, which are driven by global market pressures and individual buyers.

Because of Thailand's position as an export-oriented country, its economic activities are subject to CSR pressure through numerous international regulations and standard requirements. In order to maintain economic growth, corporations are required to conduct their business in an ethically sound manner toward environment and society. Nevertheless, since there is no definite standard for CSR, each stakeholder maintains the freedom to abide by his own criterion. In this thesis, EGAT is not featured as export-oriented, as it imports electricity from a neighboring country, Myanmar. As a state-owned enterprise, EGAT has its own CSR policy. While EGAT may not be concerned about international pressure, it still needs to be concerned about its ethical code and reputation, as well as the driving pressures from civil society and its buyers.

Reflecting on the discussions of different scholars, it is clear that CSR has different definitions and is composed of many elements. The spectrum of CSR's possible meanings wholly depends on how the specific company chooses to define it. In the opinion of the researcher, CSR is a voluntary commitment beyond legal obligations, which extends the benefits of its profit to society, the environment, and relevant stakeholders. Although, CSR may seem an endeavor imbued with the spirit of ethical consideration, it should be more than mere philanthropy. Still, though CSR always appears good on paper, to implement it well is still a challenge. This and other challenges may also have several exacerbating factors: CSR might be a new and untested concept for the company; and there may be a limited importance placed on actually having a CSR, or the company may have limited resources to implement it, with no definite guidelines to follow. In the term CSR, "Responsibility" refers to making contributions to a party in return for the benefits and profits a company receives, sometimes at the detriment of the former. Despite CSR's status as a non-legal obligation, if a company is committed to CSR, it must follow and comply to what it has committed.

2.3 EGAT's CSR Policy and Corporate Governance

This section aims to examine EGAT's CSR and Corporate Governance policies. Due to the limitations in accessing the EGAT's CSR Policy Guidelines, this thesis will analyze the CSR and Corporate Governance policies based on the company's 2009 annual report. Three regulations will be focused on, consisting of the policies regarding stakeholder participation and information disclosure, social responsibility, and environmental responsibility.

First, it is important to distinguish CSR from Corporate Governance. Corporate Social Responsibility is a self-regulating function integrated into a business model that aims to ensure its active compliance with the spirit of the law, ethical standards, and international norms. Fundamentally, the goal of CSR is to embrace responsibility for the company's activities and encourage a positive impact through its

activities on the environment, customers, employees, communities, and the relevant stakeholders. Corporate Governance, on the other hand, is a set of processes, policies, and laws that affect the way in which a company is run. Basically, the important elements of Corporate Governance are the scope of accountability of particular individuals in the organization, and the mechanisms that try to eliminate the “principal-agent problem¹³”. Corporate Governance also alludes to the company’s relationship with the many stakeholders involved and the goals for which the corporation is governed. The stakeholders are made up of external stakeholder groups such as suppliers, customers, and communities affected by the corporation's activities, and internal stakeholders including the Board of Directors, executives, shareholders, and other employees.

EGAT’s annual reports (2009, p. 76) state that “EGAT has been constantly committed to carrying out its entrusted mission with due care and accountability to environment, communities, and society”. The company also claims to make an effort to operate across the country with a socially and environmentally responsible approach in order to promote better quality of life and improve the environment. EGAT states that it has considered Stakeholder Participation through all processes of the project development and operation (EGAT 2009, p.77).

EGAT affirms that it is greatly aware of the importance of good corporate governance for sustainable growth. While "safeguarding the interests of all stakeholders and taking care of environment and society”, it also “has continuously developed its corporate governance systems to be consistent with international standards and practices to further enhance efficiency, transparency and integrity of its operations” (EGAT 2009, p.62). Consistently, EGAT also asserts that it makes efforts to promote “mutual understanding with communities and society at large, treat all people with dignity and respect, and run its operation and activities in a socially and

¹³ The issue of motivating a party to act on behalf of another is known as ‘the principal–agent problem’.

environmentally responsible way” (EGAT 2009, p.62).

To summarize both EGAT's CSR and Corporate Governance policies, the company seeks to properly care for and be held accountable to the environment, communities and society by the responsible implementation of its projects and encouraging public participation. To accomplish these goals, EGAT claims to make efforts to develop relationships with the local community and society by building on mutual understanding and respect, and treating all people with dignity where its projects operate. The details of its policy are provided below.

2.3.1 EGAT Policy on Stakeholder Participation and Information Disclosure

EGAT CSR Policy on Stakeholder Participation and Information Disclosure

According to EGAT's 2009 annual report, it states that: “*EGAT has emphasized Public Participation in all phases of its project development. A tripartite committee representing local community, local administration, and concerned government agencies has been set up for each project to monitor and ensure sound practices and implementation through all processes of the project development and operation. In addition, participatory programs have been implemented to involve local communities in its power project development.*” (EGAT 2009, p.78).

EGAT states that public participation is highly encouraged throughout all stages of its projects, which aim to view and address the concerns of the local people and public (EGAT 2009, p.78). The annual report states that the company establishes a tripartite committee for each project, which represents the local community, local administration, and concerned government agencies. In addition, the participatory program is also implemented to encourage local communities to become involved in EGAT's power project development. For instance, in the Bang Pakong combined cycle power plant project in Chachoengsao Province in Thailand, the local communities participated in environmental quality monitoring activities such as on-

site sampling and testing of air quality, water quality, and noise measurement. (EGAT 2009, p.78)

Corporate Governance Policy on Customers and Stakeholders

According to EGAT's Corporate Governance Policy on Customers and Stakeholders, EGAT says it commits to “*disclosing relevant information in an accurate, reliable and timely manner*” to relevant stakeholders. Importantly, EGAT “*respects the human rights of all stakeholders in the way its services and products are delivered*” (EGAT 2009, p. 63).

The Board of Directors makes priority policy for “*EGAT to disclose relevant financial and non-financial information in an accurate, sufficient, timely and transparent manner to all concerned parties with equality and fairness*” and “*EGAT Code of Conducts and Ethics as well as rules and regulations are clearly stated to ensure the legal rights of all stakeholders are well protected*” (EGAT 2009, p. 63).

EGAT claims that it is committed to treating all customers and stakeholders in a respectful and fair manner, while providing its customers with the highest quality of service and producing products consistent with customer requirements. EGAT is also committed to “disclosing relevant information in an accurate, reliable and timely manner” to relevant stakeholders. In addition, the company maintains that it “respects the human rights of all stakeholders in the way its services and products are delivered”. The Board of Directors makes it a priority policy for “EGAT to disclose relevant financial and non-financial information in an accurate, sufficient, timely and transparent manner to all concerned parties with equality and fairness” and “EGAT Code of Conducts and Ethics as well as rules and regulations are clearly stated to ensure the legal rights of all stakeholders are well protected” (EGAT 2009, p. 63).

Furthermore, in order to enhance public participation in its project development, EGAT “has actively initiated and supported a wide variety of social and community development programs with a view to enhancing the local economy and the better quality of life” (EGAT 2009, p. 62).

2.3.2 EGAT Policy on Social Responsibility

EGAT CSR Policy on Social Responsibility

EGAT claimed 2009 to be the milestone of EGAT’s 40 years in operation, as well as another milestone in terms of its social and environmental development. EGAT reaffirmed that it has adopted and integrated a Corporate Social Responsibility (CSR) policy and strengthened it by making efforts to apply it organization-wide (EGAT 2009, p.78).

The company’s new master plan (2010-2014) also aims to provide a framework for all of its activities with “greater accountability to Society and Environment integrated into EGAT’s business strategies and operations” (EGAT 2009, p. 78).

EGAT's CSR initiatives and activities have been completed by different methods in some provinces of Thailand where the company operates its projects. For instance, the company has conducted a variety of social and charitable activities such as donating money, food, warm clothing and blankets for rural people. It has also engaged in helping plant forests, garbage cleanup, and conserving wildlife and plants for reforestation projects (EGAT 2009, p. 79).

Corporate Governance Policy on Society

EGAT’s annual report states that the Board of Directors has prioritized the firm’s Corporate Social Responsibility (CSR) implementation. According to the 2009 annual report, “EGAT has in place a CSR Master Plan to serve as guidelines for all

units' organization wide in consistently implementing CSR initiatives and activities in their respective areas". Furthermore, the firm "has carried out all operations with full Accountability to Society and Environment. Community Relations and Development Programs have been regularly implemented in the vicinity of EGAT's sites with a view to establishing sustainability in EGAT" (EGAT 2009, p.62).

2.3.3 EGAT Policy on Environmental Responsibility

EGAT CSR Policy on Environmental Responsibility

EGAT aims to be a rule-based organization; according to the company's Annual Report 2009, "EGAT has strictly observed all applicable laws and regulations in all processes of its operations and activities, both before and during the project development and throughout the operating life of its power facilities". Furthermore, EGAT also states that it has prioritized environmental and social impact prevention, mitigation measures, and environmental monitoring programs (EGAT, 2009. p.76). In addition, the report also stated that "EGAT has conducted environmental impact assessment (EIA) and has prepared EIA reports for all of its power development projects and associated facilities, giving particular importance to health impact assessment (HIA)" (EGAT 2009, P.76). EGAT also includes the ISO 14001 environmental management system and the safety, occupational health and work environment system.

Corporate Governance Policy on Environment

EGAT says that its Board makes it a priority to conduct its business operations and activities in a socially and environmentally responsible manner. EGAT makes efforts to support social projects and activities with the aim of environmental quality development, encouraging the production of green products and services with environmentally friendly manufacturing processes. It also encourages employees to volunteer in communities, for example, promoting the "construction of small-sized check dams, [and] aquatic species conservation activities[,] including the release of

fish fingerlings, baby freshwater prawns *Macrobrachium rosenbergii*, and baby sea turtles in their nature habitats, [as well as the] plantation of forest trees, coral and mangrove forest” (EGAT 2009, p.63).

2.3.4 EGATi's Mitigation Plan

As EGATi has broadly mentioned the mitigation plan with the community development program for social welfare system along Thailand and Myanmar border, EGATi's mitigation plan will be presented. EGATi affirms in its Public Hearing booklet, the impacts expected to be seen from the Hat Gyi Dam include to the balance of the water level, the river bank agriculture, fish species and some Human Rights (HR) violations (EGAT 2010b). Basically, EGATi emphasizes it will mitigate: 1) to handle the impact from the flooding 2) to mitigate the impact to the fish species 3) to manage the impact from the floods to the river bank agriculture and 4) to eliminate the human rights violations.

2.3.4.1 EGATi's Mitigation Plan to Handle the Impact from the Flooding

EGAT states that it has planned to give compensation to the villagers who experience direct impacts from the dam project, particularly the villages in Myanmar which will be permanently submerged under the water. The compensation includes the fee for transferring their belongings. Also, the dam developer will find a proper place for the resettlement of the affected community. In order to monitor the water level at the Sob Moei village on the Thai side, EGAT also will launch an office at the village to ensure the water is at the right level (EGAT 2010b).

2.3.4.2 EGATi's Mitigation Plan on the Impact to the Fish Species

EGAT states that it has planned to cooperate with biological engineers studying the fish species. Based upon the study, EGAT will design and make a fish ladder to allow the fish to swim from the downstream to upstream for laying their eggs. EGAT also plan to study more ways to add to the amount of fish in the reservoir

in order to complement and promote the livelihood of fisherfolk (EGAT 2010b).

2.3.4.3 EGATi's Mitigation Plan to Manage the Impact from the Flood to the River Bank Agriculture

EGAT says that the project developer associated with EGATi will do a further study on where villagers could plant their crops in the early part of dry season at the border of Thailand and Myanmar. In addition, EGAT also plan to adjust the water level so it will not impact the livelihoods of people inside Thailand in terms of river bank agriculture. The project is aimed to exist in harmony with the livelihoods of people by having programs for community development, creating job opportunity for the villagers, and opening the opportunity for the community to participate in the project (EGAT 2010b).

2.3.4.4 EGATi's Mitigation Plan to Eliminate on the Human Rights Violation

EGAT has an agreement with Myanmar government that the project developers will ensure the safety of the potentially affected communities and to assure that the living standard of the people should not be less than before the project. They state they will promote the rights of people and not violate human rights in accordance with the MOA.

The project developers also state that they will promote development along the Thai-Myanmar border by providing a social welfare system. The project developer claimed they will reduce the rate of migration and refugees by enhancing the living standard in both sides of Karen ethnic group (EGAT 2010b).

2.4 Knowledge Gaps

Since CSR is a voluntary self-regulating function, there are no definite guiding principles to regulate it. Since CSR has no definite guidelines, it is interpreted differently according to different parties, and can be implemented through distinct approaches. Reviewing EGAT's past activities, the CSR initiatives and activities have been accomplished by way of charity activities, including donations of money, food, and warm clothing.

CSR's voluntary nature also means that it requires no legal obligation. The author believes that EGAT's CSR policy has the potential to be beneficial to all potential affected communities, particularly non-citizens. It could be also beneficial regarding the issues of compensation, resettlement plans, and community development. Despite this, ethical issues are still the major consideration.

These issues are the foundation of this research's inspiration and analysis. The inquiry that emerged from this thesis is how EGAT_i would carry out its CSR given the trans-boundary nature of the Hat Gyi dam, and its circumstances as explained above. The thesis is specifically concerned with discovering in which manner EGAT_i would implement its CSR policy with regard to the potentially-affected communities across the border in Thailand. The policies of EGAT, especially those concerned with environmental responsibility, stakeholder participation, and social responsibility, are therefore examined.

CHAPTER III

RESEARCH FINDINGS AND ANALYSIS:

PUBLIC PARTICIPATION AND RIGHT TO ACCESS TO INFORMATION

This chapter presents findings from qualitative, in-depth interview research and group discussions with three communities located on the Salween River bank in Mae Hong Son Province, Thailand. It will analyze EGAT's public participation and information disclosure policies, as well as relevant laws and regulations. The objective of this chapter is to examine whether EGAT's policy on stakeholder participation has been applied to the communities on the Thai side of Salween River and other stakeholders in Thailand. In order to do so, it will be divided into four sections. Section 3.1 outlines EGAT's guarantee to ensure the public's participation and right to information and the legal basis. Section 3.2 describes EGAT's policies regarding public participation and disclosure of information. Section 3.3 provides other sources of information received by communities from different actors, and the last section is an analysis of EGAT's public participation and access to information with regard to policy and practice.

3.1 The Relevant EGAT Policy on Public Participation and Information Disclosure, and the Legal Basis

EGAT states that "Public Participation" is highly encouraged throughout all stages of activities which aim to view and address the concern of the local people and the public (EGAT 2009, p.78). Reaffirming its policy's existence and activities has been discussed in the annual report, including encouraging Public Participation throughout all stages of activities and setting up a "Tripartite Committee" for each project. A tripartite committee represents the local community, local administration and concerned government agencies. In addition, the participatory program is also implemented to encourage local communities to be involved in its power project development. For instance, in the Bang Pakong combined cycle power plant project in Chachoengsao province, Thailand, the local communities participated in

environmental quality monitoring activities such as on-site sampling and testing of air quality, water quality, and noise measurement. (EGAT 2009, p.78)

EGAT states that it is committed to treat all customers and stakeholders in a respectful and fair manner, while providing its customers with the highest quality of service and producing the products consistent with the customer requirements. On the other hand EGAT is also committed to “disclosing relevant information in an accurate, reliable and timely manner” to relevant stakeholders. In addition, it also states that EGAT “respects the human rights of all stakeholders in the way its services and products are delivered”. Thus, the Board of Directors makes priority policy for “EGAT to disclose relevant financial and non-financial information in an accurate, sufficient, timely and transparent manner to all concerned parties with equality and fairness” and “EGAT Code of Conducts and Ethics as well as rules and regulations are clearly stated to ensure the legal rights of all stakeholders are well protected” (EGAT 2009, p. 63).

As detailed in section 2.3.1, EGAT's CSR and Corporate Governance policies must integrate with the following key elements in the operation of its projects: public participation and the formation of tripartite committees, respect for human rights, disclosure of relevant information in an accurate, reliable, sufficient, timely and transparent manner, and the guarantee of legal rights and stakeholder protection.

Furthermore, in accordance with its CSR policy, EGAT must incorporate and comply with laws relevant to its business. The Constitution of the Kingdom of Thailand 2007, Section 57, is relevant to the Hat Gyi Dam Project on the Thai side. The clause declares the rights of individuals to receive information prior to any decision-making by way of a comprehensive public hearing, during which reasons and explanations must be clarified by the relevant stakeholders; individuals also retain the right at this hearing to express their opinions to the involved agencies. Based on the relevant laws mentioned above, EGAT must commit to providing a space for people's participation, as well as for public hearings prior to the decision-making process; soliciting feedback from the community is another requirement it must fulfill.

Additionally, Section 67 of the Constitution states that projects “should not be permitted unless EIA and HIA have been studied and passed the regulation of public hearing for consultation with the public.”

In section 3.3 of H.E. Prime Minister Abhisit Vejjajiva’s orders, declared 25 January 2010 (ref: Document (๓๔) 0110/168 dated 11 January 2010) with regard to the Hat Gyi Dam, the Prime Minister mandates that EGAT “setup a neutral body responsible for complete information disclosure based on objective and accurate evidences to ensure that all stakeholders get access to accurate information and facts. Relevant agencies will cooperate to work out the procedures to establish the neutral body.” Furthermore, in section 3.2, he further requires the company to engage in “public information disclosure, dissemination of project information covering all relevant issues to local people and cooperation with civil society to organize hearing processes to solicit input from stakeholders” (Cited in NGO-COD-NORTH, 2011). These stipulations preempted the Public Information Disclosure meeting in 2011. (See section 3.2.2)

3.2 Public Participation and Information Disclosure as Practiced by EGATi

3.2.1 Public Information Forum in 2009

The Public Forum was conducted on 11 July 2009 at Ban Sob Moei, and multiple parties, including representatives of EGATi, the Thai National Human Rights Commission, and villagers from both sides of the Salween River, as well as academic researchers, media and many NGOs, were invited to join. The forum was held in accordance with the recommendation of the Sub-Committee of Information and Human Rights Violations Investigation on the Hat Gyi Dam Project with the purpose of soliciting the villagers’ perspective. During the meeting, villagers expressed their sentiments on the project, pointed out the insufficiencies of the process of preparing the EIA, provided information relevant to the risks involved with the dam project, and discussed the dam’s potential impact on their livelihood and environment.

Photo 3.1: The Public Forum Conducted in Ban Sob Moei on 13 July 2009



3.2.2 Public Information Disclosure Meeting, Conducted in 2011

The Public Information Disclosure meetings were conducted in Ban Mae Sam Leap and Ban Sob Moei, respectively, on 7 and 8 February 2011¹⁴ by EGATi. Villagers from Ban Tha Ta Fang were also invited to join the Public Information Disclosure in Ban Mae Sam Leap.

The Public Information Disclosure meeting was conducted following the Subcommittee of Information and Human Rights Violations Investigation on the Hat Gyi Dam Project in order to inform the villagers of the invalidity of the MOA, and the efforts to extend it, in order to continue with plans to build the dam. According to community members who attended the meeting, three to four representatives from EGATi came and presented their arguments for the necessity of the project as well as their mitigation plans. EGATi representatives also mentioned that if Thailand withdraws from the Hat Gyi Dam Project, China and Myanmar would move forward with it, regardless.

¹⁴The original schedule from the booklet had been changed from BSM on 7 to 8, and BMSL on 8 to 7.

Photo 3.2: The Public Information Disclosure Meeting in BSM

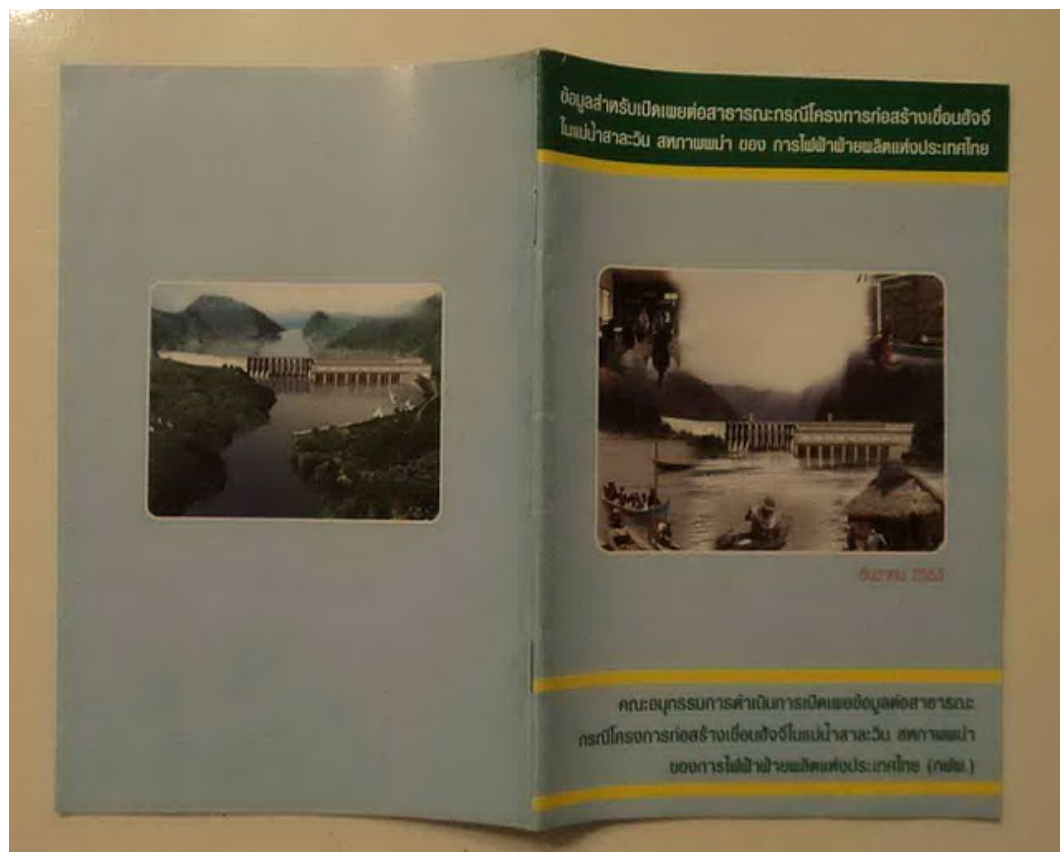


Photo 3.3: The location of the Public Information Disclosure in BMSL



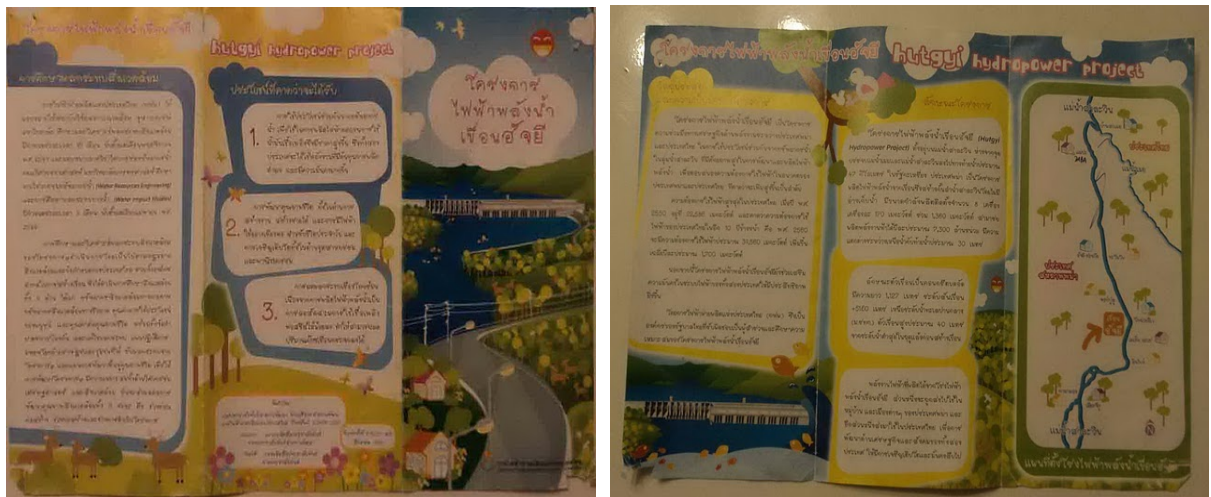
At the Public Information Disclosure Meeting conducted in 2011 in Ban Sob Moei, EGATi also distributed books and leaflets; in Ban Mae Sam Leap, only books were provided. The book was published in both Thai and Karen languages. In Ban Tha Ta Fang and Ban Sob Moei, the majority of the community members are of the Karen ethnic group. In Ban Mae Sam Leap, however, there is greater diversity, with a mixture of Thai, Karen, Shan, and Burmese ethnic comprising the village's ethnic make-up. However, while most of the villagers speak Karen, they mostly cannot read it, particularly in BMSL.

Photo 3.4: The Booklet Distributed at the Public Information Disclosure Meeting



The information toolkit was not suitable for all target audiences, especially as older villagers are unable to read in Thai and Karen. There are four main ethnic communities living along the Salween River on the Thai side, yet the booklet was only available in the Thai and Karen languages, and not in Shan and Burmese. According to the Development Center for Children Network (DCCN), an NGO group working on citizenship issues in Ban Mae Sam Leap, there are 138 Karen, 77 Shan, and 76 Burmese households in BMSL. Another leaflet containing information regarding the purpose of the dam provided more information about the project and the results of environmental study, but was only available in the Thai language and was distributed only in Ban Sob Moei. However, since most of villagers living in that village are illiterate, EGATi also should have also engaged in an alternative method of informing the villagers. Multimedia tools in different languages, for example, would have been an excellent strategy to make the information easily comprehensible for all potentially affected communities.

Photos 3.5: The Leaflet Distributed at Ban Sob Moei



3.2.3 EIA and Information Disclosure

3.2.3.1 The Implication of Public Participation and Information Disclosure in the Hat Gyi Dam EIA

In the Enhancement and Conservation of the National Environmental Quality Act, NEQA 1992, Thailand's EIA process is described as largely controlled by the government. The process does not include a clause that requires that the corporations provide an opportunity for public participation, either to inform the potentially affected community or any other interested group. It also does not mandate that the firm conduct a consultation process, nor must it incorporate the communities' input into its decision-making process. In Chapter 4, part 4 (Environment Impact Assessment), public participation is not directly provided for. According to the NEQA 1992, Section 8, an opportunity is provided for NGOs and judicial persons to participate in the EIA and environmental protection and conservation of natural resources processes, if the parties are registered with the Ministry of Science, Technology and Environment.

The concept of public participation is not widely acknowledged in the Enhancement and Conservation of the National Environmental Quality Act, NEQA 1992. As of yet, there is no specific compelling guideline released from government agencies that convincingly protects the public's right to play a role in the planning process. Additionally, "the constitution did not specify institutions or procedures to enable the prescribed policy participation" (Unger and Siroros, 2011). Yet Thailand's 2007 Constitution is likely to be the new guarantor of the right to public participation in the country. According to the document, the constitution provides a legal clause ensuring the public's right to participate. Still, in the case of the Hat Gyi Dam, there are limits to the provision and how it is applied, especially as the dam is proposed to be located in Myanmar, and EGAT maintains that there will be limited cross-border impacts. It has therefore been a point of contestation between EGAT and Thai civil society whether or not the basic rights of public participation and information disclosure in Thailand should be considered in tandem with the proposed project. Nevertheless, seeing as EGAT plays a very important role in the proposed project and

the majority of energy output will benefit Thailand, it can be argued that the company must fulfill its obligation to follow the Thai Constitution, as well as its own policy.

EGAT's CSR policy, as stated in the 2009 annual report, declares that it has “strictly observed all applicable laws and regulations in all processes of its operations and activities, both before and during the project development and throughout the operating life of its power facilities” (EGAT 2009, p.76) According to its claims, the policy on public participation and information disclosure will be considered in evaluating EGAT's compliance with them. (See section 2.7)

3.2.3.2 Analysis of Information Disclosure and Public Participation with Regard to the Hat Gyi Dam EIA

For the Hat Gyi Dam in particular, information disclosure is required, according to H.E. Prime Minister Abhisit Vejjajiva's instructions as of 25 January 2010 (ref: Document no 0110/168 dated 11 January 2010). According to PM Abhisit Vejjajiva's instruction, the call for the distribution of relevant and thorough project information also applies to the EIA report. Up to this point, villagers and a number of interest groups have still not received the EIA report completed in 2008. Only a few NGOs have received copies of the EIA but through indirect means. EGAT has yet to officially disclose its findings.

Interpreting the recommendation of the “Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River” to conduct the public information disclosure and public forum, it is likely that Hat Gyi Dam is subject to follow Thai law even though the dam is located inside Myanmar. Existing laws that pertain to the issues of information disclosure include the National Environmental Quality Act, NEQA 1992, Section 6 that states the public must “be informed and obtain information and data from the government service in matters concerning the enhancement and conservation of environmental quality”. Furthermore, Thailand's Constitution, Article 56 states that the general public is

entitled to access to accurate information, through public hearings and public information disclosure at all stage. Since the EIA report was only made available to a few parties, the manner in which EGATi disclosed information was not transparent.

With the recommendation of the Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River, the Public Forum was conducted on 11 July 2009 at Ban Sob Moei with the purpose of soliciting villagers' positions on the Hat Gyi Dam Project. The public information disclosures were also conducted in Ban Mae Sam Leap and Ban Sob Moei, on 7 and 8 February 2011, respectively, with the intent to inform villagers about the invalidity of the MOA and plans to extend it in order to continue on with the project (For more details, see section 3.2.2). The purpose of these meetings has been contested, as the MOA approving the further development of the planning stages was signed by core investors 11 months prior to the date of the Public Information Disclosure meeting. As cited in Unger and Siroros, 2011, the public hearings in Thailand appeared to be little more than mere ritual, generally organized after decisions had already been made.

EGAT has followed the sub-committee's recommendations. However, all the meetings listed above were held simply in order to comply with regulation. Thailand suffers from weak law enforcement as well as ambiguous laws, especially when it comes to trans-boundary projects. The Public Participation in the National Environmental Quality Act of 1999, for example, was opened for public participation, though in actuality it offered very limited protection of it. Section 8 of NEQA 1999 makes clear that in order to participate in environmental protection and conservation, NGOs or those who claim status as juristic person under Thai law "shall be entitled to register with the Ministry of Science, Technology and Environment as the NGOs for environmental protection and conservation of natural resources in accordance with the rules, procedures and conditions prescribed by ministerial regulation." This means that the organizations or individuals that have not registered will not have direct participation rights in the environmental protection and conservation process, which includes the EIA.

3.3. Other Sources of Information Received by Communities from Different Acting Parties

This section will discuss the communities' sources for information regarding the Hat Gyi dam project, other than EGATi. Information has been made available by NGOs, as well as academic researchers, the media, government documents, and by villagers' mere observation of the survey teams during their feasibility study.

Around 2002, an EGAT team surveyed the water level and assessed project feasibility nearby the areas of Ban Tha Ta Fang and Wei Gyi for the Wei Gyi Dam Project (See figure 1.1). Some villagers independently observed the survey teams, and alert fisherman and boat drivers realized that a development project would soon come into their areas. The villagers also learned from NGOs that the Wei Gyi and Dagwin Dams were proposed for construction in Thailand. Due to the subsequent strong opposition by Thai communities, the construction of these dams has been postponed, and EGAT has prioritized the Hat Gyi Ddam inside Myanmar in their place.

A local individual who work for NGO in Sob Moei district stated the following: "I got to know about [the Salween] dam from diverse groups but not directly from EGAT and dam developers. During the survey and the feasibility done by EGAT and team, we were not consulted and the information was not made available to the villagers and us." (NGO 5, Interview, 20.7.11)

A villager from BTTF, who once worked as a logger at Ban Mae Pa, ten kilometers from the dam site inside Myanmar, said, "In 2007, I got to know the Hat Gyi dam project when I [worked at a] nearby dam site. I saw the survey team measure... the water levels and took the photos at the dam site." (BTTF 8, Interview, 25.7.11)

Since the information disclosure was conducted, the villagers have received inconsistent information coming from various channels. A villager of Ban Tha Ta Fang said, "[A]t first, I got the information about dams from NGOs ten years ago. Later on I got to know from EGATi in early 2011. But two sides have different

information.” (BTTF 6, Interview, 25.7.11) Sai, from Ban Mae Sam Leap, claimed that “EGATi said if China blocks the water on the upstream, the water will dry up downstream. NGOs said if the dam is built in the downstream it will be flooded. I am very confused with different information.” (BMSL 17, Interview, 21.7.11).

3.4 Access to Information and Public Participation - A Reality Check

This section will seek to answer the question, “Has EGATi’s policy on stakeholder participation been successfully implemented for communities on the Thai side of the Salween River and other stakeholders in Thailand?” In order to answer the question, the researcher has assessed key policy elements to evaluate EGAT's CSR and Corporate Governance policies. As EGAT has emphasized to the legal aspect of its CSR policy, this section will also evaluate the relevant laws as stated in Thailand’s 2007 Constitution, entitled “Rights in Connection with Information and Complaints, Section 56.”

3.4.1 Disclosing Relevant Information in an Accurate, Reliable, Sufficient, Timely and Transparent Manner

EGAT claims to disclose relevant information in an accurate, sufficient, timely, and transparent manner to all concerned parties (EGAT 2009, p. 63).

Yet villagers were not given advance notice, sufficient information, and no time for preparation for their suggestions. While the invitations for the Public Information Disclosure meetings on 7 and 8 February 2011 were sent to the communities from BMSL two weeks in advance, some communities from Ban Tha Ta Fang did not know about the meeting until two days prior. Overall, EGATi fails to incorporate timeliness into its activities despite its claims to in its Corporate Governance policy.

While an Information Disclosure process was conducted, it seems that the information related to the impacts and benefits of the project are not fully understood by the communities, and the information is not nearly comprehensive enough to provide a thorough understanding of the entire project. From the research findings,

some believe that the dam will not block the waterway, but will only require that a generator be placed underwater in order to produce electricity. This misunderstanding is due to the fact that in the meeting, EGAT_i claimed that the Hat Gyi Dam would not create a reservoir as the Bhumiphol Dam did, because the design is a run-of- river. Su from Ban Mae Sam Leap stated, “I want to know more about the design of the Hat Gyi dam. I understand that the run of river means that the river is not blocked and does not have a reservoir. But the design of Hat Gyi dam in the book is different from what we understand. If the dam is designed as in the book, it is impossible for the people in Mae Sam Leap to survive from the flood.” (BMSL 28, Interview, 22.7.11)

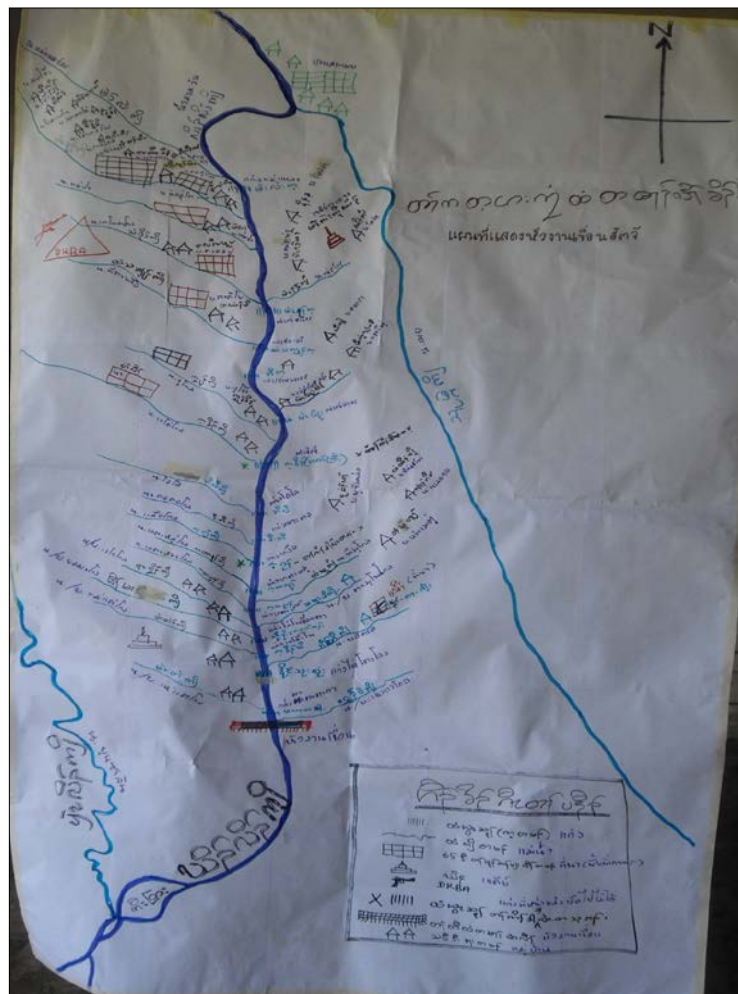
In terms of the ownership of the Hat Gyi Dam, different information and interpretations of it are circulating on the ground. The Hat Gyi Dam project was initiated by EGAT and the Myanmar government in 2005, an agreement based on the former’s proposition. Some understand that if Thailand reneges on its involvement, China and Myanmar will still move forward with the project. They believe that though the impact will remain the same, it will be harder to manage the trans-boundary impact if Thailand is not an active player in the plans. Whatever the case is, clear arguments for the dam should be made available to the villagers. By providing unclear information and giving unreliable rationale, EGAT_i is not fulfilling its claims to provide accurate and sufficient information.

In another example, in meetings held on 7, 8 and 9 February 2011, EGAT_i announced that it would inform villagers about the plans to extend the MOA, though it was already signed on 24 April 2010. In other word, 11 months after the MOA was signed with the core investors, EGAT_i conducted the Public Information Disclosure under false pretenses, another violation of its policy to provide truthful, timely information.

In addition, the large gap in the differences between official statistics and accounts from affected society has alarmed the local communities involved. The information from EAI is not consistent with information relayed by the community. While EGAT’s partner reported that six villages with 110 households would be affected, the local community has testified that the dam’s impact is much wider. Some

villagers revealed in the Public Forum conducted in 2009 that, “according to our local research team, we have found that 31 villages with 506 households, from both side of Salween River and equivalent to a population of 3559, will feel the repercussions from the Hat Gyi dam project” (BSM, PF in 2009). The villagers also suggested that, since Ban Sob Moei is very close to the dam site, EGAT should have prepared an alternative resettlement and compensation plan.

Photo 3. 6: Affected Areas Research Conducted by Local Communities



Due to the inaccurate and insufficient information provided, the villagers will not be able to understand the background and the design of the dam project. The information has been deliberated on by different institutions, and EGAT has not made

efforts to cooperate with different stakeholders, often providing information in an untimely manner. Confused villagers are living in fear in regards to a dam project they fail to completely comprehend.

3.4.2 Encouraging Public Participation and Forming a Tripartite Committee

The inclusion of public participation has not yet been fully applied in the Hat Gyi Dam Project. Villagers who were invited to attend the Public Information Disclosure meeting in 2011 were invited on short notice, and did not have sufficient time to prepare beforehand (For more details, see section 3.4.1). As the booklet was distributed during the meeting, the villagers could not read it in advance and had a disadvantage to offer their fully input regarding the project's preparatory steps. EGATi has yet to create a space for the communities to participate in the decision-making process.

The importance of public participation is not only to inform but also to acquire the consensus of the community and to incorporate its wishes with those of the relevant stakeholders. In regard to forming a tripartite committee, which EGAT often mentions in its annual reports and CSR policy, tripartite committee has not been established.

Protecting public participation is the fundamental component of good governance and a basic right of the people. Enforcing effective public participation requires the provision of accurate information, and the collaborative efforts of stakeholders to create sustainable projects. If a project is in conflict with the community's best interests, it will drain financial resources and time. For example, in a case study conducted by the World Commission on Dams (WCD), the Pak Mun Dam in Ubon Ratchatani Province, Thailand, has less output and benefits, but EGAT committed to pay the affected communities for the consequential impact on their food security and ecosystems in the long run (Amornsakchai et al, 2000). Lesson learnt from the Pak Mun Dam project include that EGAT has had to pay continuous compensation, and it could miss opportunities because of the bad reputation.

Respecting the community and protecting the environment by encouraging public participation are key elements to promoting justice.

3.4.3 Ethical Code of Conduct

According to EGAT's Corporate Governance policy mentioned in the 2009 annual report, it emphasizes the ethical code of conduct and the treatment of all people with dignity and respect (EGAT 2009, p. 62).

In 2010, the villagers from Ban Sob Moei were purposely misinformed. They were invited to meet with the provincial official, but instead, at the meeting, were met with an EGATi team.

Ti, a villager from BSM, explained the situation: “In 2010, EGAT came to Ban Sob Moei with soldiers to distribute blankets to the villagers. Before the distribution began, they talked about the dam project, and after that gave 50,000 Baht to the Army Battalion 105, right in front of villagers. The conflict began when some villagers expressed their disapproval of the dam project. They [the soldiers] looked down on the villagers, and one of them said, “You are not well educated, you don’t know anything about it.”, To which we responded, “We have information from different sources and the news. We can’t accept this treatment. If we knew the meeting was going to be held by EGAT, we would not have come. We were invited to join a meeting with the provincial official.” She added that “If they had approached us in an appropriate manner, we would not have responded impolitely. Before they distributed the blankets, they meant to persuade us about the dam project. It is unacceptable”. (BSM 21, Interview, 26.7.11). Based on the reports from villagers, EGATi has violated its ethical code of conduct by purposely providing inaccurate information and using the military to pressure villagers, reach consensus, and get the villagers’ permission to build the Hat Gyi Dam.

3.5 Conclusion

It is unclear to villagers why, even though the plans to build Hat Gyi Dam were initiated more than a decade ago, the official Public Forum and Information Disclosure were only conducted by EGATi in 2009 and 2011. Furthermore, it appears that the Public Forum and Public Information Disclosure were conducted not on EGATi's own initiative, but because of the recommendation of the Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River and the instruction of the Prime Minister.

Based on the evaluation and analysis of EGATi's activities mentioned above, the firm has not disclosed information in a timely, accurate, sufficient and transparent manner as it guarantees in its Corporate Social Responsibility and Corporate Governance policies. Additionally, as of present EGATi has not formed a tripartite committee and is still failing to encourage the public to participate in the project planning activities. EGATi has also failed to treat all people with dignity and respect for human rights. Based on the facts and evidence mentioned above, EGATi has not implemented its own policies.

Nevertheless, Thai law repeatedly emphasizes the necessity of an information disclosure prior to the approval of any project, as well as the provision of accurate information and rationale for the project. It also maintains the right of the people to voice their opinions before the project is approved. Based on the findings, EGATi has not followed the Thai Constitution of 2007's Section 57. Also, Section 67 has not been incorporated in their practices. Despite EGATi completion of the EIA, the information was not made available to the public and a Health Impact Assessment (HIA) has not yet been conducted. As EGAT claimed to follow the relevant laws and regulations, the company had a responsibility to arrange a consultation meeting and public hearing before extending the MOA or informing villagers that the construction of the dam would occur. In addition to conducting an EIA and HIA, the findings should have been made available to the relevant stakeholders, and particularly to the potentially affected communities. (For more details, see section 3.2; Thai Constitution: Section 67). For this trans-boundary project, EGAT's actions should be in accordance Thailand's 2007 Constitution Section 67 for multiple reasons: 1) EGAT

is the buyer. 2) All citizens of Thailand pay tax directly or indirectly to the government, of which EGAT is a beneficiary. 3) At least three communities on the Thai side will be indirectly impacted from the Hat Gyi Dam Project.

CHAPTER IV

FINDINGS AND ANALYSIS: SOCIAL RESPONSIBILITY

This chapter will present the findings of EGATi's Social Responsibilities implementation in three communities located on the Salween River bank in Mae Hong Son Province, Thailand. Along with instituting a social welfare system along the Thai-Myanmar border, EGATi also mentioned in its 2011 information booklet a long-term plan to mitigate any project impacts, although few details are provided. As the mitigation plan is part of EGAT's social responsibility, a discussion of the topic is also included in this chapter. In section 4.1, this chapter first summarizes EGAT's policy on social responsibility, and the activities under EGATi's Social Responsibilities in three communities. Section 4.2 presents the perspectives of the communities and analysis of EGATi's mitigation plan on the Hat Gyi Dam Project, and section 4.3 is comprised of interviews with the selected communities and external stakeholders. The researcher then analyzes EGATi's actions completed on behalf of social responsibility by analyzing its key indicators, which is presented in section 4.4.

4.1 EGATi and its Social Responsibility

As discussed in section 2.3.2, EGAT's CSR and Corporate Governance policies claim that the following elements constitute EGAT's Social Responsibility: Mutual understanding with communities, the treatment of all individuals with dignity and respect, social responsibility and full accountability to society, as well as the improvement of quality of life, community relations and development programs¹⁵.

¹⁵ Note, on 26 June 2008, EGAT transferred its entire obligation to EGATi for further development of Hat Gyi Dam (section 2.1.4). The community relations and development program conducted before 26 June 2008 is marked as activities accomplished by EGAT, and from 26 June 2008 onward as EGATi activities.

4.2 The Implementation of EGAT and EGATi's Social Responsibilities in Three Communities

This section describes the social program activities of EGAT and EGATi in each village.

4.2.1 Ban Tha Ta Fang

According to villagers, since 2006 EGAT has come to Ban Tha Ta Fang to support projects, with the help of Thai soldiers. Fish farming was provided to eight households with Thai Citizenship, and this project lasted for two years. EGAT also organized a four-day-long workshop in the village, demonstrating how to make organic fertilizer, and also distributing plant seeds. EGAT furthermore conducted a one-day workshop on how to wash dishes more effectively in 2006. In 2008, EGAT cooperated with the local school and distributed books, pencils and other school materials for the students. EGATi has also distributed blankets and clothes approximately once a year.

Sun said, "EGAT came to our village and introduced many activities. But they just came here as part of their duty, and don't really care about the development of our community. Also, EGAT never came to work on environmental activities in Tha Ta Fang village. And every time they came, they came with soldiers." (BTTF 46, Interview, 25.7.11) That all the projects had been led by soldiers is one of the reasons that the villagers have not appreciated the activities initiated by the company.

EGAT has also sent a doctor from Bangkok once a year to Tha Ta Fang, since approximately 2006 for a total of three times. The local public health worker observed, "When EGAT sends the doctor to our village, the provincial hospital from Mae Sariang doesn't even know. They just come with their own plan. I was so surprised that the villagers came to ask me how to take the medicine. I believe that the doctor didn't properly explain to the villagers how to use it. I would suggest that EGAT's contribution be conducted with goodwill and also good execution. The

activities should not only be done on account of its reputation and the purpose of writing these activities into the report.” (KI. BTTF 47, Interview, 24.7.11)

Later on, villagers discovered in the news that “more than 500 villagers came to use the service.” On learning of this, the villagers said “how could we use that amount of service in one day?” Although in total they have a population of more than 600, almost one third of the villagers work outside of the village in the fields. It is not possible that 500 people could have gone to use the service during the doctor’s one-day visit.

4.2.2 Ban Sob Moei

In 2009 and 2010, EGAT came to Ban Sob Moei School to celebrate Children’s Day by distributing books and pencils. They also handed out blankets and clothes. In 2011, EGATi also planned to come, but due to the fighting between the Myanmar Army and Karen National Union armed forces on the riverbank opposite Ban Sob Moei, EGATi cancelled its visit. EGAT also organized study trips to other dam, such as Sirikit and Bhumiphol dams. According to the group discussion in the village, EGAT also facilitated a short training on making organic fertilizer for a half hour with 20 people and soldiers.

The distanced relationship between EGATi and the communities started with untruths, and a lack of communication and close relationship. Ta said, “EGATi came to the village only a few times. They didn’t conduct a community development program in Ban Sob Moei.” (KI.BSM 49, Interview, 26.7.11) Jay explained how “EGAT staff never stayed with the villagers, but stayed at the soldier camp or the building behind the school” (BSM 44, Interview, 27.7.11). Chang added that “every time they came, they just said they had no time. They just presented about the dam project and distributed the food and then went back. If I knew one day in advance that EGAT would hold a meeting, I would have had time to prepare to discuss the issues, but they never gave us that chance. I didn’t know in advance that EGAT would hold a meeting.” (BSM 50, Interview, 26.7.11)

4.2.3 Ban Mae Sam Leap

In 2009, EGATi supported Children’s Day in Ban Mae Sam Leap. That same year, EGATi came to the village with two big boats, three small boats and ten vans filled with blankets and dry food to distribute. Most of the villagers didn’t accept the offer, as the village did not appreciate the manner in which EGAT approached them. Yoto revealed that “EGATi always came with soldiers,” and another villager claimed, “We didn’t accept [the donations] and then they moved on to Ban Tha Ta Fang and Ban Sob Moei” (BMSL 36, Interview, 21.7.11). According to a public health doctor working in BMSL, “The hospital has not received support from EGAT up to this day, but if they offered it we would take it, because we need to support the villagers” (KI. BMSL 15, Interview, 27.7.11).

BMSL is a connection point to the other two villages BTTF and BSM. When compared with the other two villages, BMSL has had little opportunity to engage in activities with the EGATi team. In comparison with BTTF and BSM, BMSL is comprised of many ethnicities, and few villagers hold Thai citizenship. Despite the fact that BTTF is further than BMSL from the dam site, EGAT has focused more attention on the community of BTTF than that of BMSL. As 90 percent of BTTF hold Thai citizenship, which is significantly more than BMSL, it seems that citizenship is part of EGAT’s consideration in terms of implementing its policy.

4.3 Social Responsibility and the Project’s Mitigation Plan

As mentioned in section 2.3.4, EGATi states that it has planned to mitigate some of the potential impact of the dam in several ways. The dam will be designed to be able to adjust the water level and to ensure that a rise in the water level in Ban Sob Moei will not result in flooding. In addition, EGATi will launch a new office at BSM to better monitor water level. In case of a flood, EGATi has said that it will find a proper site for the resettlement of the affected community. EGATi also has plans to design a fish ladder for some species of fish and plans to further study methods for

increasing the amount of fish in the reservoir to complement and promote the livelihood of fisherfolk. In order to manage the impact from the flood on river bank agriculture, EGATi has said that it will conduct a further study to assess where a plantation could be managed in the early dry season at the border of Thailand and Myanmar. Furthermore, to eradicate human rights violations, EGATi has agreed with the Myanmar government on the safety of potentially affected communities, and received assurances that the living standard of the people will not be lower than prior to the project.

4.3.1 Analyzing on EGATi's Project Mitigation Plan

EGATi has asserted that flooding from the Hat Gyi dam project will be prevented by maintaining the water at the right level; however, villagers living along the Salween River and its tributaries do not believe this claim, based on their experience interacting with the nature of the water and having faced natural disasters in past years. Maw was echoed by nearly all villagers from BSM when he said, “Ban Sob Moei is very close to the dam area, not even one hour away by boat. We would say that Sob Moei will be flooded by the dam project, as even though the waterway is not blocked yet, every year in rainy season it has been flooded already.” (KI.BSM 34, Interview, 27.7.11)

Photo 4.1: The Confluence of Moei and Salween River 47 Km Far from Dam Site



Nay from BTTF also added, “The evidence is that the Bhumiphol dam has created more reservoir than expected” (BTTF 12, Interview, 24.7.11). Tee from Ban Mae Sam Leap added that, “when the water can’t go forward, it will find the way to move backward” (BMSL 37, Interview, 22.7.11).

Villagers are hesitant to trust EGAT, since EGAT's proposal and implementation were not consistent during the construction of the Bhumiphol dam and Pasak dam. Sek said that “The dam developers always say that it would not be flooded the same as Pasak dam. But, it still floods” (BSM 35, Interview, 26.7.11). Ti also gave her opinion based on her observation during a study trip organized by EGAT, saying, “I have been to Sirikit dam with some other 15 youths in Ban Sob Moei village which was organized by EGAT in 2009. When we saw the difficulties of the dam victim, we don’t want to build the Hat Gyi as well. Even though the Nan River is many times smaller than the Salween, the impact is so large. We can’t imagine how the impact will occur from the Hat Gyi dam on the Salween River. Fifteen years ago, there was a big flood in Ban Sob Moei. We totally don’t believe that dam will not flood if it is built. EGAT only sees the river when the water level is not high. In the rainy season, the water level and our paddy field outside of the village are almost at the same level” (BSM 21, Interview, 26.7.11).

Photo 4.2: Water Level and the Paddy Field at Ban Sop Moei in Rainy Season



The Salween River has a diverse fish biodiversity that spawn in different seasons throughout the year. According to the villagers, the Salween's fish need flowing water and could not survive in a reservoir. Additionally, the nature of the Salween River is very different from other rivers in the region, as the water is very cold, so only the fish from the Salween River can survive the river's conditions. Therefore, the villagers believe that EGATi's mitigation plan is not realistic. The lawyer who was working closely with the community asked, "Who will manage and where could they get the food for the fishes?"(KIL 23, Interview, 20.7.11) Tee also added, "Will EGATi support all the time? If not, how will we manage it?" (BMSL 37, Interview, 22.7.11)

The occupations of the people living by the river bank are guided by season. In early dry season, they do river bank agriculture, and then switch to fishing in the cold season, along with planting various seasonal fruits and rice. Since the community's livelihood is dependant on the river, the possibility that EGATi's programs fail to materialize would seriously impact those upstream from the dam in Thailand. Food security is the primary concern for the villagers. Pre said, "Even if EGATi could manage the water level not to flood our village; [now] at least we have the indirect impact [of flooding] for river bank agriculture. Naturally, after flooding, remains fertile soil for river bank agriculture. If we have a permanent dam, we would not be able to grow our seasonal plants at the river bank anymore." (BTTF 33, Interview, 24.7.11)

The villagers also view the Hat Gyi project negatively as they believe it will not provide benefits or development to Myanmar society either. In terms of job opportunity that EGATi mentioned, villagers believe that there will not be long-term benefits and sustainable jobs for local workers. Instead, the social problem would likely increase, with many predicting that Chinese workers will come to dominate the project area.

Beyond the issue of the resettlement and compensation plan, the villagers place their priority on preserving the environment rather than receiving compensation and moving to a new place. The villagers rank the value of nature equal to the value of humans, as they see how their livelihoods are interconnected to nature. Pan expresses how, “If the dam is built, we will lose the world heritage and endangered wild animals. Later on, we can only see these animals in the zoo.” (BSM 39, Interview, 27.7.11) Nood said, “The tourists come here to see nature. If the dam is built, we will no longer see our place as one of nature. We can see lots of infrastructure and development in the city. Even if we get full compensation, we do not want to change from our existing livelihood and nature. Since I was young, from generation to generation, the Salween has flowed freely as a part of nature. We want to see the Salween River flow freely.” (BTTF 45, Interview, 23.7.11)

As a result of the dam proposal, the villages interviewed said that they have been living in fear of having to find a new place to live and a new job. The proposed project also creates a conflict with their culture in which people live their life and eventually die in the same place and this is another an important reason that the community does not want to move from their home; Pho says, “I feel very sad that when I told an old woman living by the river bank inside Myanmar about the Hat Gyi dam, she didn’t speak and eat for many days” (BTTF 38, Interview, 24.7.11). Jay said “Even if EGATi gives us millions of baht, it cannot compensate for the value of our happiness and the social value that we have now.” (BSM 44, Interview, 27.7.11)

Overall, although a mitigation plan has been outlined by the dam developers, the information released on the mitigation plan fails to mention the compensation and resettlement plan in detail even though these plans are referred to in the MOA and EIA. The villagers predict that they will have to face the flooding, and are living in the fear because they possess no land-title and have not been granted citizenship.

4.4 Analyzing EGATi's Social Responsibility

This section will seek to answer the question: “Has EGATi implemented ‘Social Responsibility’ projects in the communities on the Thai side of the Salween River?” In order to answer this question, the researcher uses the key elements for evaluation stated in EGAT's CSR and Corporate Governance on social responsibility, namely: mutual understanding with communities; treat all people with dignity and respect; operate in a socially responsible way with full accountability to society, bring better quality of life; and implement community relations and development programs.

4.4.1 Mutual Understanding with Communities

EGAT and EGATi have often said that they conduct their activities under a mutual understanding with communities. However, the findings show that on each occasion that EGAT and EGATi came to the villages, soldiers always accompanied them and the project meetings were led by the soldiers. Though the soldiers are based nearby, there is still a clear power relationship in effect. Thus, EGAT created a barrier to a direct relationship with the communities through working with the military. One senior villager stated, “I don’t feel as if EGAT supports us, they just came for their purpose and their benefit. Even though I am the senior of the village, they never came to discuss with me, and they always come with the soldiers.” (BSM 51, Interview, 26.7.11)

Furthermore, EGATi failed to provide clear and sufficient answers to the villagers’ questions during the Public Forum and Public Information Disclosure meeting, effectively creating another barrier and hindering EGATi from being able to build a close relationship. Tong from BTTF said “five years ago, EGAT conducted the public hearing in the Tha Ta Fang village. EGAT did not answer when the villagers requested to survey all details of the resources in the village and for the details of a compensation plan. Since the upstream dam disappeared, they never got back anything to us again.” (BTTF 29, Interview, 24.7.11). Unless EGATi revises its approach to building a close and honest relationship with the communities, it is

unlikely that they can achieve a mutual understanding with the communities in which they work. (See section 3.4.1)

4.4.2 Treat all People with Dignity and Respect

An analysis in regard to EGAT treating all people with dignity and respect has been provided previously in Chapter III. (See section 3.4.3) To summarize, EGAT has failed to treat stakeholders with dignity and respect, most clearly seen when community members were given incorrect information for attending the training organized by EGAT. In addition, EGAT has repeatedly abused the authoritative power of local soldiers to acquire consent from the villagers in regard to the Hat Gyi dam project, and have adopted a philanthropic approach to encourage the consensus of the villagers, rather than focusing on long-term community development.

4.4.3 Socially Responsible Way and Full Accountability to Society

Whilst a limited number of community development projects were started five years ago in Tha Ta Fang village, since the Wei Gyi dam and Dagwin dam were cancelled, EGAT also suspended these projects despite the fact that the village may still be affected by the Hat Gyi Dam. The villagers were very disappointed with the value given to social responsibility by EGAT. The villagers said they felt that EGAT implemented the community project in a manner that only represented its own benefit, not for the sustainable development of the community. De explained that, “The reason EGAT distributes dry foods and clothes to us is because they want villagers to agree on their dam project. Life has value; we can’t exchange these material things with our life” (BSM 22, Interview, 27.7.11).

From the direct experience of the some of the villagers themselves of EGAT’s past performance, they consider that EGAT has not taken full responsibility for its resettlement plans; Maw, the public health doctor from BSM, said “I am the victim of the Bhumiphol dam; even though we are Thai, we still did not get compensation.

They designated a resettlement place for us, but it was not appropriate for our community, so we had to leave that place and resettle in Mae Hong Son” (KI.BSM 34, Interview, 27.7.11).

If EGATi were to conduct its project adopting a socially responsible approach to hold itself fully accountable to society, it should guarantee the livelihood of the affected community and present a resettlement plan in case the villages are flooded to alleviate the people’s fears and concerns. Yet, EGATi has not prepared an alternative plan for the potential affected communities, instead insisting that “Thailand will not be flooded from the Hat Gyi Dam.” Alternatively, if EGATi is confident that flooding will not affect the communities, EGATi should publicly release the detailed information regarding the dam and its design to the communities. (See more detail in 3.4.1) Furthermore, EGAT should support community development by assisting with community-designed projects working with the community that focus on the sustainability of the village and reflects the true needs of the community.

4.4.4 Bring Better Quality of Life

EGAT states in its 2009 annual report that it has conducted its business with full accountability to affected societies. However, in the case of the Hat Gyi dam project, the experience of the community on the Thai side of the river has been that the activities conducted by EGAT and EGATi have not proven to be sustainable and have not benefited the community as a whole. For example, in Ban Tha Ta Fang, the fish farming project only benefited eight households who hold Thai citizenship and the project lasted for just two years, and the workshops for making fertilizer and cleaning dishes have not proven to be useful as they were not considered to be directly relevant to the lives of the villagers. Furthermore, since the workshops lasted less than one day, these short term activities were not effective.

Community development should be implemented with substantial input from the villagers, working jointly with EGAT to design projects that address the real and specific needs of the community. Unfortunately, the projects were conceived solely by

EGAT without any discussion with the community. For example, although Ban Mae Sam Leap is in great need of support for medicine and medical supplies, the support of EGAT was never directed at the community clinic.

The community development projects implemented by EGATi seem to fulfill only the superficial needs of the community, and fail to account for the sustainable development of the potentially affected societies. As such, EGATi's actions have not improved the quality of life through its development programs to date.

4.6.5 Community Relations and Development Programs

As described in sections 4.3.1 to 4.3.3, EGATi has cooperated with school activities, for example Children's Day, to dispense school supplies such as books and pencils, distributed household supplies including blankets and dry food, initiated the fish farming program, and held a workshop on making organic fertilizer. Though substantial at first glance, none of the mentioned activities turned out to be self-sustaining, and as also discussed in section 4.6.4, thereby EGATi has not met its commitment to community development as these projects did not meet the needs of the community, nor did they benefit the community as a whole in the long run.

Regarding community relations, whilst the fish farming project in Tha Ta Fang ended after just two years (section 4.2.1), when the project was introduced EGAT did reveal itself as the sponsor, and were understood by the villagers to be a soldier-sponsored project. By always having a military accompaniment, EGATi refrained from building a close relationship with the involved communities.

4.5 Conclusion

The conduct of EGATi when executing their community-based activities does not match the values and statements of CSR detailed in section 2.3.2. Since EGATi has failed to build a mutual understanding with the communities or to create sustainable development projects, EGATi's activities are interpreted by the villagers as to its own benefit rather than for the benefit of the community. This in turn has created mistrust that acts as an impediment to EGATi to work further with the communities.

CHAPTER V

FINDINGS AND ANALYSIS:

ASSESSMENT OF ENVIRONMENTAL RESPONSIBILITY OF EGAT*i*

This chapter aims to answer the question: “Has EGAT*i*’s policy on environmental responsibility been successfully implemented by following the relevant laws and regulations, including in the preparation of the Environmental Impact Assessment (EIA) report?” In order to do this, section 5.1 presented the expectation of the law with regard to an EIA both in Thailand and Myanmar; section 5.2 discusses EGAT’s environmental responsibility and the EIA; section 5.3 details the implementation of EGAT*i*’s environmental responsibility; section 5.4 discusses challenges in implementing environmental responsibility, including ambiguities that arise from the cross-border nature of the project; and section 5.5 offers conclusions.

5.1 Expectation of the Law with Regard to an EIA in Thailand and Myanmar

EIA is mandatory for a mega-development project in Thailand according to the Thailand Constitution, Section 67 (Constitution of the Kingdom of Thailand 2007, p. 27), and the Enhancement and Conservation of the National Environmental Quality Act 1992 (NEQA, 1992). Additionally, EGAT’s own CSR policy requires it to conduct an EIA and HIA (see section 2.3.3).

Section 67 of the 2007 Thailand Constitution requires an EIA, a Health Impact Assessment (HIA) and a Social Impact Assessment (SIA) before undertaking any major project, stating “*Any project or activity which may seriously affect the community with respect to the quality of the environment, natural resources and health shall not be permitted, unless, prior to the operation thereof, its impacts on the quality of the environment and on public health have been studied and assessed and a public hearing process has been conducted for consulting the public as well as interested persons and there have been obtained opinions of an independent*

organization, consisting of representatives from private organizations in the field of the environment and health and from higher education institutions providing studies in the field of the environment, natural resources or health” (Constitution of the Kingdom of Thailand 2007, p. 27).

The Enhancement and Conservation of the National Environmental Quality Act, NEQA 1992, Chapter 3, Part 4, titled “Environmental Impact Assessment”, also mandates that certain projects conduct EIA (NEQA, 1992). There are twenty-nine types of projects listed, including dams or reservoirs, which require the preparation of reports on EIA in order to proceed with the project. There are two different categories for the EIA process in Thailand: One is for private sector projects or activities of state enterprises that are jointly undertaken with a private enterprise that do not require Cabinet approval; the other type of project includes those for national interest purposes, which are undertaken by government agencies or require the Cabinet's approval according to the official rules and regulations (NEQA 1992, Sec.46-48). As the Hat Gyi dam project aims to fulfill Thailand's power demand and is justified as being to the national benefit, it should require the Cabinet's approval, although the need for an EIA has been contested (see section 5.4).

Myanmar's national laws do not formally require EIA and public participation by the local communities in the decision-making processes of large-scale development projects. Myanmar does have specific legislation related to the protection of its people and environment, but it does not enforce those provisions due to the inadequate administrative and legal structures, standards, safeguards and political will. For example, Myanmar became a party of the Convention on Biological Diversity (CBD) in 1994, where Article 14 (1) (a) of the convention requires an Environmental Impact Assessment (EIA) and Article 8 (j) mandates indigenous participation where there is a significant impact on biodiversity. In another example, the need for EIA is also recognized in Myanmar Agenda 21.

Environmental protection in Myanmar is under the authority of the National Commission for Environmental Affairs (NCEA), which was formed in 1990. The NCEA doesn't have the authority to require EIAs (UNESCAP, 2011). A report by the Burma Environmental Working Group (BEWG) mentions, "The NCEA has drafted two environmental laws: the Environmental Protection Law and the Environmental Impact Assessment Rules, both of which are pending approval by the government" (BEWG, 2011). As a result, the ongoing development projects in Myanmar, including hydropower dam, mining, gas, oil, and logging projects, all of which could cause negative impacts to the environment and local people, are not required to complete an EIA, nor are they required to mitigate these impacts. Evidence from current large-scale development projects in Myanmar show that even on the rare occasion when an EIA is conducted in Myanmar, it is not prepared to assess the accumulative impacts to meet the substantive objectives of a proper EIA, and has no impact on the decision-making process (BEWG, 2011).

In 2008, Myanmar passed its new constitution, which states a commitment to "protect and conserve the natural environment" in Chapter 1, Section 45. With regard to environmental aspects, it is yet to be a guarantee of the people's rights to participate in the management of natural resources and does not obligate any significant measures for sustainable development (BEWG, 2011). There is, furthermore, a gap between what is stated in the constitution and the actual practice on the ground.

5.2 EGAT's Environmental Responsibility

EGAT states two commitments in its policies on environmental responsibility. Firstly, EGAT states it will strictly pertain to the applicable law in all of its operations and activities. (See section 2.3.3) As mentioned in section 5.1, the relevant law in Thailand makes an EIA mandatory for any large-scale development project under the NEQA 1992 and Article 67 of Thailand's 2007 Constitution. Secondly, as mentioned in section 2.3.3, EGAT has committed to conduct an EIA for all of its power development projects and associated facilities, and it additionally mentions that it will

give particular importance to HIA (EGAT 2009, p.76).

5.3 Implementation of Environmental Responsibility: Hat Gyi's EIA Report

A feasibility study of Hat Gyi dam was conducted in 2007 and a final EIA report was completed in July 2008 by the Environmental Research Institute of Chulalongkorn University. Thai civil society have claimed that the EIA conducted for the Hat Gyi dam project does not comply with Thai law, first of all because the study scope of the EIA was only in Myanmar and did not incorporate the potential transboundary impacts on Thailand (BSM.PF 11.7.2009). Furthermore, as discussed in section 3.2.3.2, EGATi has not yet released the final EIA to the public, although some NGOs have accessed it through other channels, despite Articles 56 and 57 of the 2007 Thai Constitution placing particular importance on the right for all stakeholders to access all valuable information.

The EIA report, whilst conducted only in Myanmar, was prepared in accordance with Thailand's overarching EIA reporting criteria, namely: physical resources, biological resources, human use values, quality of life values, and public consultation. Despite this, there are still several weak points to consider in the EIA, including insufficient information in the EIA report that is compounded by a failure to include cumulative impacts or incorporate the necessary legal components.

NGOs and local researchers conclude that the information within the EIA is insufficient, and a lot of secondary information sourced from local NGOs' research has been referenced rather than primary data collection by the EIA team itself (BSM.PF, 11.7.2009). EGAT has also admitted that the EIA report does not include an area approximately 20 kilometers from the dam site due to transportation difficulties and concern for the safety and security of its staff (EGAT 2010, p.8). A local researcher from BMSL said, "I have been to the Myanmar side four times, but EGAT and the survey group never reached that area so they have no information on villages such as Mae Pai, Wal Kwel and Ta Kate Pah. There are 26 villages located upstream, all within fifteen minutes of the river bank, and among them three of these villages are

settled along the river.” (BMSL 36, Interview, 21.7.11) The information booklet distributed at the Information Disclosure Meeting in 2011 (section 3.2.2) states that only 6 villages will be flooded inside Myanmar, contradicting the villagers’ research that found the dam could flood up to 31 villages. (See section 3.4.1 and photo: 3.6) Raising concerns about the poor research in the EIA, the Thai National Human Rights Commission urged EGAT to conduct a separate EIA on the Thai border for a clearer understanding of the dam’s impact. (Watcharapong, 16.2.10)

The Hat Gyi is proposed to be one of seven dams on the Salween River, yet the EIA report does not contain an analysis of the cumulative impact of constructing the entire Salween dam cascade with respect to fisheries, livelihoods, land use, wildlife, and transportation. Marty, an environmental lawyer, explains, “This EIA often compares a small impact to every benefit of the entire dam. For example, on p. 3-5, the EIA is supposed to compare all impacts at once. It mentioned the need of electricity, but the alternative has not been mentioned in EIA.” (K.I.L, Interview 54) In addition, the proposal for a fish ladder will likely fail, given the technical limitations of this technology on tropical rivers with large numbers and diversity of migratory fish species; previous failures of fish ladders in Asia include at the Pak Mun dam.

Finally, regarding the scope of the EIA a sound EIA should fully address the entire scope of potential impacts. A lawyer from Australia confirmed that “By international law, the EIA needs to assess all countries that will be significantly affected.” (K.I.L. 57, Interview) Despite this, the Hat Gyi dam EIA report does not include an assessment of impacts to Thailand. According to Principle 15 of the Rio Declaration (1992), which details the precautionary principle, in order to meet requirements of due diligence it is necessary to conduct adequate studies that ensure cross-border impacts are understood and mitigated. One approach to conduct this study could be through a trans-boundary EIA, but this has not been applied to the Hat Gyi dam project. The case of the Hat Gyi Dam, which is built on an international river and could have trans-boundary impacts, raises a number of distinct issues in terms of the interpretation of the law. (See below, section 5.4.1)

5.4 Challenges in Implementing Environmental Responsibility: Legal Ambiguity on transborder projects

EGAT has prepared an EIA report within the scope of Myanmar's existing legal framework. In principle, EGAT could argue that it has already satisfied the requirements of its own CSR policy, and this claim may be hard to dispute, even though the EIA has a number of weaknesses. (See section 5.3.2) Since Myanmar has no law enforcement of EIA requirements, there are no guidelines for conducting the EIA; therefore, in this context, EGAT can claim it has fulfilled its own policy to conduct an EIA.

Thai law, on the other hand, is more stringent than Myanmar law. Yet, whether the Thai law applies in this case is ambiguous and contested between stakeholders given the trans-boundary nature of the project. Because the project is physically located inside Myanmar and EGAT_i claims that there will be limited impacts on Thailand, it has sought to reduce the scope of its EIA to be wholly within Myanmar. Through doing this, it has sought to avoid meeting the more stringent requirements of the Thai Law on EIA.

The decision on whether EGAT_i was required to conduct an EIA in Thailand was given to the "Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River", and the subcommittee's deliberations on this are critical in determining if EGAT_i has complied with the law or not and therefore whether it has followed its CSR policy. Whether EGAT is required to do an EIA compliant with Thai Law has been heavily contested within the subcommittee between Thai civil society groups and EGAT_i.

In the 2009 Public Forum conducted in Ban Sob Moei, Thai civil society claimed that even though the EIA had been completed within Myanmar, the EIA remains incomplete and weak because it does not cover Thai soil or the Karen National Union area, located 20 kilometer upstream of the dam site inside Myanmar

(BSM PF, 11.7.2009). Thai civil society contends that the dam will greatly impact the Thai side of the river, especially the livelihoods of Thai communities' whose main source of income are from fishing and river bank agriculture. Due to the many possible impacts and the unclear information available, Thai civil society called for its national government and the Thai National Human Rights Commission (TNHRC) to provide clear information on the environmental impacts and to conduct a new EIA. (Information Disclosure Subcommittee on Hutgyi Hydropower Project on the Salween River, 2009)

In order to satisfy the call of the TNHRC and NGOs, after many meetings among committee members and extensive investigation including in the field within the potential affected communities, the Information Disclosure Subcommittee issued its recommendation in August 2009. (See section 2.1.5) The subcommittee stated that the Ministry of Energy has a responsibility to design a power development plan for economic growth and to ensure energy security to meet the future energy demand. At the same time, the subcommittee also noted that every development project – especially large-scale development projects – always have benefits and disadvantages, and in this respect it is necessary for all areas susceptible to potential impacts caused by the project to have the expressed right to access truthful, comprehensive and relevant information, together with having the right to express their opinion and give feedback from the earliest stages of the project. The subcommittee identified specific negative impacts of the proposed Hat Gyi dam, including Human Rights violations to the communities inside Myanmar, destructive changes to the environment, and sensitive issues of borders and territory. (Information Disclosure Subcommittee on Hutgyi Hydropower Project on the Salween River, 2009)

In order to resolve the problems and mitigate the predicted impact of the dam if it is built, the subcommittee made a number of recommendations. This section focuses mainly on recommendations related to the issue of the environment in order to evaluate whether EGATi has met its environmental responsibility as stated in its CSR policy. (See section 2.3.2) The subcommittee noted that EGATi has already carried out the EIA inside Myanmar, but insisted that the voices from civil society

from different sectors inside Thailand also be heard. Therefore, in order to reduce the feelings against the Hat Gyi project, the subcommittee recommended that EGATi conduct an “Environment Assessment” inside Thailand along the Salween River and its tributaries where there are likely to be impacts. Furthermore, the subcommittee recommended that EGATi should address expected problems and develop potential solutions that can be implemented in the future.

The subcommittee’s recommendation failed to fully adopt the NGOs’ demand to prepare a trans-boundary EIA, which covers both countries and meet’s Thailand’s legal standards. Furthermore, it is important to note that an “Environmental Assessment” has no legal standard according to Thai law and does not, therefore, require the full process of an EIA. In other words, based on the decision of the subcommittee, it can be interpreted that the Hat Gyi dam EIA does not need to meet all the standards which are required by the “Enhancement and Conservation of the National Environmental Quality Act, 1992.”

In accordance with the subcommittee’s recommendation, a new scope of “Environmental Assessment” on Thai soil was proposed by EGATi on 28 April 2011 that covered four main issues, namely: water regulation and biodiversity; water level and problems to river bank agriculture; impacts on socio-cultural livelihood of people; and human rights issues. Finally, on the election of the new government in August 2011, the “Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River” was terminated and at the time of writing it is unclear whether there will be further deliberation on the issue of a transboundary EIA, which the Thai NGOs are still asking for. (See section 2.1.5)

5.5 Conclusion

Analysis of the circumstances surrounding the Hat Gyi dam project reveals the importance of the interpretation of the law. The findings and recommendations of the “Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River” are still disputed between the different parties, specifically EGATi and the Thai NGOs.

EGAT’s CSR policy states that it will conduct an EIA and HIA and strictly apply the applicable law in all of its operations and activities. (See section 2.3.3) EGAT conducted an EIA within the scope of Myanmar’s existing legal framework, which it claims to have completed satisfactorily. As mentioned in 5.1, Myanmar’s national laws at present do not require an EIA, nor does it require projects to meet the substantive criteria of an internationally recognized EIA. Furthermore, EGAT justifies its scope of study for the EIA to be wholly inside Myanmar by claiming that there will be no major impact on Thailand. In this respect, EGATi can claim that it has followed its CSR policy by conducting an EIA where the project operates.

Meanwhile, Thai civil society maintains that Thai law should apply, and therefore EGAT should do an EIA in according with Thai legal standard. Interpreting EGAT’s commitment to “apply the applicable law”, in Thailand two important laws are considered to fulfill this obligation: Part 67 of the Thai Constitution and the Enhancement and Conservation of the National Environmental Quality Act, NEQA 1992, Chapter 3, Part 4 titled “Environmental Impact Assessment.” (NEQA, 1992). It is critical to note that the change of government closed the committee before the challenges to the conclusion could be considered.

CHAPTER VI

CONCLUSION

In the preceding chapters, the implications of EGAT's activities and its policy on three communities living on the Thai side of the Salween River that would likely be affected in some capacity by the Hat Gyi dam project have been analyzed according to each component of EGAT's CSR and corporate governance policy, namely: Public Participation and Information Disclosure; Social Responsibility; and Environmental Responsibility. This chapter summarizes and synthesizes the analysis to answer the thesis' primary question: "Has EGATi implemented its Corporate Social Responsibility and Corporate Governance policies in preparing the proposed Hat Gyi Dam project on the Salween River in Karen State, Myanmar?" To do so, section 6.1 summarizes and evaluates EGATi CSR policies on paper and in practice. Section 6.2 offers some insights into CSR in Thailand gained from considering the application of CSR in the case of the Hat Gyi dam project. Section 6.3 identifies reasons why EGATi has failed to implement its own CSR policy. Several other emergent issues arising from the project related to individual and national security are discussed in section 6.4. Section 6.5 contains proposals for further studies.

6.1 Evaluating EGATi's CSR and CG Policy Implementation

6.1.1 Information Disclosure and Public Participation

EGAT states that it is committed to the practice of transparency and public participation. Transparency is the process of disclosing information to be made available to the public with no hidden agenda. Attributes of transparency as defined in EGAT's CSR and CG statements include disclosing relevant information in an accurate, reliable, sufficient, timely, and transparent manner to the stakeholders as appropriate. (See section 2. 3.1) However, EGATi's Information Disclosure process has not relayed information to communities in a timely manner. (See section 3.4.1) For example, some of the community from Ban Tha Ta Fang did not know about the

Public Information Disclosure meeting conducted on 7 and 8 February 2011 at BMSL and BSM until two days before the meeting. Furthermore, EGATi has not provided accurate and sufficient information to the community and other external stakeholders, such as Thai civil society. During the meeting on 7 and 8 February 2011, villagers were informed that EGAT planned to extend the MOA, but in fact the MOA was already signed before the meeting was held. (See section 3.4) Additionally, at this meeting, the information toolkit was not appropriate for all of the target audience. Even up to this day, the villagers and some external stakeholders have not received the EIA report completed in 2008; only some NGOs have received a copy of the EIA through different channels, but this has not been officially disclosed by EGATi. In conclusion, EGATi has not successfully disclosed the relevant information in an accurate, reliable, sufficient, timely, and transparent manner to all relevant stakeholders as it committed to do.

Participation is a process that consists of diverse and meaningful public input in which the gathered input is taken into account in the decision-making process. Participation includes the provision of a formal space for the community's involvement in relevant forums, and the project developer has to engage with the relevant stakeholders from the project's earliest planning stages, to allow public contribution before final decisions are made. These processes are inclusive and opened to a wide range of interest groups. EGAT's interpretation of public participation is reflected in its formation of a Tripartite Committee and its encouragement to the public for participation in the project planning activities.

Yet, in regard to Public Participation, some villagers from Ban Tha Ta Fang village received an invitation to attend the Information Disclosure Meeting in 2011 only two days in advance. As a result, due to the limited time, some villagers who wanted to give input did not have enough time to prepare. They also did not get the information booklet prior to the meeting. This meant their participation was no more than attending the meeting, as they could not contribute in a more substantial manner without preparation beforehand. During the meeting, the questions of the communities

were not answered by EGATi. In addition, EGAT has not formed a Tripartite Committee as it states and is still weak in encouraging public participation in the project planning activities and EIA process.

Thailand's Constitution Sections 56, 57, 66 and 67 cover Public Information Disclosure and Public Participation. They entitle the right of Thai people to participate in comprehensive public hearings, where explanations are provided by the relevant stakeholders, and also define people's rights to express their opinions to the agencies concerned. Based on the findings and analysis throughout Chapter III, the extent of Public Participation in the EIA process and EGATi's Public Information Disclosure and Public Forum in 2011 and 2009 respectively has not adequately incorporated all stakeholders' opinions into the planning stages of the Hat Gyi dam project, in accordance with the context of participation mentioned above.

6.1.2 Social Responsibilities

In the context of EGAT's CSR and CG, Social Responsibilities is defined as mutual understanding with communities, treating all people with dignity and respect, operating in a socially responsible way with full accountability to society, improving quality of life, maintaining community relations, and implementing development programs. (See section 2.3.2)

As evident in EGATi's activities within three communities, the relationship with each community is severely lacking in trust and mutual understanding. On every occasion in which EGAT came to village, it orchestrated the visits in a way that maintained a barrier between itself and the community. A key part of this barrier was that EGATi always brought soldiers with them and had the soldiers lead the activities. Unless EGATi dramatically shifts its approach, it will be hard for EGATi to cultivate mutual understanding and trust with the impacted communities.

Furthermore, EGATi has also failed to treat all people with dignity and respect. In 2010, the villagers from Ban Sob Moei were provided inaccurate information to

attend a meeting which they thought was with a provincial official, but in fact was to meet EGATi and was led wholly by the escorting soldiers. EGAT used the soldiers' presence to take advantage of the villagers during the process of obtaining a consensus from the community to accept the Hat Gyi dam. Additionally, reports show that the soldiers treated the community with disrespect during the public meeting. (See section 4.2)

EGATi's social responsibility activities have been perceived by the communities as activities that are leading to EGATi's own benefit, rather than emphasizing a socially responsible strategy on behalf of each community. The villagers think that EGAT has initiated community development not to gain the trust of the community, but for the sake of its own reputation. For example, the health service provided in Ban Tha Ta Fang was not of good quality, but seemed to be used as for EGAT's public relations in its own report. (See section 4.2.1)

“Community Development” should be led by the local people themselves, as it is the community members who can best identify their own needs and problems. It should not be led by an appointed authorized party, as done in EGAT's cooperation with soldiers to lead the community development in the three communities. In the case of Hat Gyi dam, EGATi is exercising philanthropy in seeking to gain the people's consensus to proceed with the dam project. Yet, the concept of community development is much deeper than philanthropy, and to meet its social responsibilities EGAT should make a clear contribution to community development that is beyond philanthropy.

In conclusion, EGATi has failed to build a relationship with the community based on mutual understanding and transparency, which is required for a socially responsible approach. This is evident in its lack of regular communication with the community, the use of soldiers to lead all meetings and community development projects, and the seeking of the peoples consent for the project on the false pretext of philanthropy. In additional, community development activities have not been core to the communities' needs, are not sustainable, and have not led to benefits for the

community as a whole. As such, EGATi has not been well received by the community because of a lack of trust and transparency (see 6.3.2 below).

6.1.3 Environmental Responsibility

Findings from the literature review and field research have shown that environmental problems from the Hat Gyi dam project could arise if the dam is built. The Salween River's ecosystem spans across national boundaries, such that although the village of Ban Sob Moei is located 47 kilometers away from dam site it will very likely be impacted by the project, and yet it is not covered in the scope of the project's EIA report which covers only Myanmar. This EIA report was prepared with no input from the communities upstream on the Thai side of the Salween River, and therefore completed without meaningful public participation. The EIA is perceived by NGOs and local researchers as extremely weak because it contains insufficient information, cumulative impact has not been assessed, and alternatives to the project have not been considered, revealing a bias towards building the dam. Furthermore, the EIA report has not been made available to the public (See section 3.2.3 and 5.3.1).

According to its CSR policy, EGATi has committed to conduct an EIA and strictly apply the applicable law in all of its operations and activities. (See section 2.3.3) In accordance with its commitment in its environmental responsibility policy, EGATi conducted an EIA within the scope of Myanmar's existing legal framework. However, Myanmar has no national law requiring EIA. Due to the wide range of direct and indirect impacts that are expected to affect the Thai side of the river, Thai civil society has urged EGAT to conduct a new EIA which covers this wider scope of possible impacts. In order to reduce the conflict between EGATi and the Thai civil society, the "Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River" recommended in August 2009 that EGATi conduct an Environmental Assessment, but this is not required to meet the same legal standards of an EIA as detailed in Article 67 of Thailand's 2007 Constitution and the "Enhancement and Conservation of the National Environmental Quality Act (1992).

On 28 April 2011, EGAT_i proposed a new scope of study for the Environmental Assessment. However, Thailand's transition to a new government on 9 August 2011 effectively terminated the subcommittee, such that there is now no clear official process to proceed with further discussion amongst the different stakeholders.

Based on the above, it can be concluded that the ambiguous law and their interpretation in this trans-boundary project provide EGAT_i with sufficient space to claim that it has followed its own policy and relevant laws, whilst at the same time Thai civil society can also legitimately contest this.

6.2 Insights into CSR in Thailand from the Case of Hat Gyi Dam

CSR is a voluntary-based self-regulated evaluation of businesses performance on social and environmental issues beyond the requirement of the law. EGAT has its own policy, which is mainly focused on social and environmental issues and stakeholder participation (See section 2.3). The findings of this study reveal that while CSR appears good in theory and on paper, it has not been successfully applied in practice. Though CSR is interpreted as an ethically-oriented practice, the evidence shows that EGAT_i has accepted very limited social responsibility during the preparation process of the Hat Gyi dam project. The findings have revealed that EGAT_i has exercised a philanthropic approach to community investment as its CSR activity, which villagers felt was undertaken to sway those opposed to the dam project. In other words, the implementation of EGAT_i's activities, as perceived by the communities involved, was for the sake of its own reputation and meant to improve public opinion rather than provide benefits to the local society and environment.

6.3 Why doesn't EGAT follow its CSR Policy?

Section 6.1 concludes that EGAT_i has not followed its CSR policy. This

section seeks to analyze why this is so. Two reasons are identified, namely the ambiguous existing law in the trans-boundary project, and the reflection of the consequential response from the community.

6.3.1 Ambiguous Existing Law and Trans-Boundary Projects

The reason that EGAT/EGATi doesn't execute its policy in a successful manner is not only an implementation problem, but also an issue of an ambiguous policy and lack of definite guidelines within the trans-boundary project itself. (See more detail in section 5.4.1) Physically, the construction involved in the Hat Gyi dam project is located wholly within Myanmar. With the claim of having no trans-boundary impact to Thailand, EGAT has conducted an EIA report following the scope of Myanmar's existing legal framework, though formally Myanmar has no legal requirement for an EIA. The decision of the "Information Disclosure Subcommittee on Hat Gyi Hydropower Project on the Salween River" also did not required EGATi to conduct the legal standard EIA on the Thai side. In this trans-boundary development project, due to the ambiguous existing laws and the open interpretation of the laws, the need for a trans-boundary EIA has been ignored.

At the same time, the Salween River is an international river and there is an existing body of customary international law that should apply that is most clearly articulated in the "UN Convention on the Law of the Non-navigational Uses of International Watercourses" (1997). Other relevant international environmental laws and norms include: The principle of "Do No Harm"; the "Espoo Convention on EIA in a Transboundary Context"; and the Precautionary Principle. Under these laws, there would be a clear requirement for a trans-boundary EIA and other forms of recognition of the rights of communities living in both Thailand and Myanmar.

6.3.2 The Rationale of Community Opposition to the Proposed Hat Gyi Dam Project

There are several reasons the communities oppose the proposed dam project.

First, because all the villagers have primarily received information in regard to the Hat Gyi dam project from local NGOs, the influential role of the NGOs in the communities has helped to shape an informed view of the project's possible repercussions. This information is directly related to their main concern about their livelihood and the protection of the natural resources upon which this livelihood is reliant. Most importantly, they have received information detailing the risks involved with the proposed dam project. Based on the community's relationship with the NGOs, the information disseminated by the NGOs is viewed as more credible and comprehensive to the villagers than the information they have received from EGAT.

The second reason is the value that the communities put onto their livelihood and environment. Infrastructure development is not deemed a necessity to them, and their concerns are primarily to maintain the natural flow of the Salween River, the balance of the ecosystem, and the recognition of the interconnection of natural resources and their livelihood. They want to preserve the socio-cultural integration of environment and economy within the communities.

Merited worries in regard to legal status constitute the third reason of opposing the dam project. Many of the potentially affected communities have not been granted Thai citizenship. (See section 5.3.1) Furthermore, none of them are entitled to land titles because the area in which they live falls within the boundaries of a Thai national park. Under Thai law, these people would not receive compensation if their land is jeopardized.

A fourth major factor is EGAT's failure to build trust with the communities. Evidence shows that EGAT was unable or unwilling to work in cooperation with the community and build close relationships. (See section 4.2) The community development activities were led by soldiers which, intentionally or not, intimidated the villagers and influenced the agreement from the communities to build the dam. EGAT has not demonstrated to the villagers that they could provide sustainable community development, based on EGAT's track record at previous dam projects, as well as the community development projects conducted in the BTTF village.

The fifth reason is the belief among these communities that the Myanmar government intends to clear the Karen ethnic group from the dam site area on the Myanmar side, and a strong opposition to support or enable these intentions. Ni expressed, “The Hat Gyi dam project seemed to kill the Karen group in an indirect way.”(BSM 68, Interview)

The final reason is that the villagers believe that the dam is not necessary to fulfill the energy demand of Thailand. Yong suggested, “We can find some alternatives that do not harm the people and the environment.” (BTTF 67, Interview)

The villagers did not appreciate the misguided activities implemented by EGATi, and most villagers did not cooperate in the activities conducted in the village. For example, when EGATi came to donate food and clothes, the villagers felt this philanthropic gesture was disingenuous and did not accept the charity. The consequence of these reasons affected EGATi’s ability to do its CSR affectively in the community.

6.4 Emergent Security Issues Arising from the Hat Gyi Dam

There are several security-related issues that should also be considered by potentially affected communities and relevant interest groups, namely possible infringement on human rights, refugees and national security issues in the conflict zone, and loss of social and cultural integration, that cannot be mitigated or compensated for.

6.4.1 The Chain Set of Human Rights, Refugee and National Security Issues in the Conflict Zone

EGAT’s claim that getting electricity from the Hat Gyi dam in Myanmar can ensure energy security in Thailand, both effectively and inexpensively, has a high risk of failure due to the dam being located in a war-conflict zone. Dam construction in a

war zone will affect the security and safety of those living in communities near the dam and at the border, as well as the national security and energy of Thailand. Even in its preliminary stages, this project has acquired fatalities; during the feasibility study of the Hat Gyi dam project, EGAT lost two of their staff while studying the dam site.

Furthermore, as the project is located in a war-zone, the construction of the dam will come at the expense of human rights abuses imposed on Karen ethnic groups. The site of Hat Gyi dam is in the middle of the confrontation area between the military government and the KNU, an armed opposition group; the people living and working along the dam site could inevitably fall victim to the conflict between these two armed groups. As a result, an increasing number of affected people have fled into Thailand as refugees and will continue to flee in the future if current circumstances do not change. This situation is liable to create tension between Thailand and Myanmar and takes the risk of escalating warfare along the border.

6.4.2 Ensuring Thailand's Territorial Integrity

The importance of the Hat Gyi dam's reservoir on the border line between Myanmar and Thailand is a big consideration for Thai civil society and EGATi. From a legal aspect, the construction of the Hat Gyi Dam could result in a violation of the Thailand Constitution of 2007, Section 190 which states that, "Any treaty, which provides for a change in the Thai territory, shall be approved by the National Assembly" (Constitution of the Kingdom of Thailand, 2007, p. 104). In order to create the space for a reservoir, some part of Thai territory could be submerged. Since the British colonial era, the national border has been determined by this body of water; as far as the water body reaches, the land is considered to belong to Myanmar. In this sense, the Thai area which will become submerged will automatically become the property of Myanmar.

This raises concern among the Thai National Human Rights Commission and some civil society groups who argue that the impact of reservoir will affect the water level, subsequently impacting the border area and national boundaries. Because of

this, TNHRC and some NGOs in Thailand have claimed that, before proceeding with the construction of the Hat Gyi dam, parliamentary approval should be granted under Article 190 of the Thai Constitution.

In regard to this particular issue, the subcommittee agreed to investigate more options for further consideration. Unfortunately, the subcommittee was terminated upon the transition of the new government in August 2011, so the final decision will be based upon the new government and its consideration on this issue.

6.5 Proposals for Further Studies

1. To what extent could construction of the Hat Gyi dam result in environmental migration?

In many cases, EIA studies only analyze and calculate the direct impact of the project. But the dam's construction would have many less visible impacts, including 'environmental migration'. This refers to a social migration that happens when ecosystems change or the environment degrades, causing people to leave their current environment. The majority of people living along the Salween River are dependent on the water and forest for their food and livelihood. Degradation of environment due the Hat Gyi dam project could result in their migration.

2. To what extent does the Thai compensation and resettlement policy apply to people who do not hold Thai citizenship, but who have been living in Thailand for generations?

As many of the people living on the Thai side of the Salween do not hold Thai citizenship, it is very important to research the citizenship issue. In fact, a large number of these communities' members are stateless, meaning they do not have citizenship with any country and thus have no right to reside legally in one particular place, no right to land titles, and no right to participate in any particular project that

comes to their area and can potentially affect them. They do not even have the right to claim back for any loss of their property when exploited by some development projects. On the other hand, if they are recognized to get compensation from the project impacts, should they also be recognized as citizens?

3. Will it be possible for civil society to use CSR as an advocacy tool to claim a need for trans-national cooperation to address social and environment issues?

In the case of Hat Gyi dam, Myanmar has no law requiring EIA; however, since EGAT's CSR is committed to do an EIA, it has an obligation to do it in accordance with its CSR policy. Extending this logic, there are other possibilities for civil society to use CSR policy as a tool to improve businesses' performance on social and environment issues beyond the requirement of the law.

4. Given that the Salween is an international river, what international laws, norms, and tools should apply to help share it between countries?

Recent proposals for mainstream dams on the Mekong River's mainstream have resulted in a number of tools being applied, including a Strategic Environmental Assessment and a Procedures for Notification, Prior, Consultation and Agreement (PNPCA) under the "Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin" (1995). Further research could look at the possibility of a "Salween Agreement" and the use of these tools.

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APPENDICES

APPENDIX A

The sample questions for the local residents at Mae Sam Laep village, Tha Ta Fang village, Sop Moei village along the Salween River inside Thailand.

Key words for question: Public participation, information disclosure, stateless, conservation on the fish and forest plantation, EIA, HIA, community development program, resettlement and compensation, relevant law and regulations.

Personal Information

(Optional)

Name:

Age:

Member of family in the household:

Sex:

Ethnicity:

Occupation:

Type of Citizenship:

Background of the Village and the Villagers

How long have you lived in this village? If you come from somewhere else, could you please tell me where did you come from and how you first came to the village?

What kind of livelihood activities you and your family depend on? Where do you work? And does it enough for your household?

Background of the interviewee who are temporary resident at the selected sites and outside of the village

How long have you lived in this village? Could you please tell me where did you come from and how you first came to the village? What is your responsibility to this village?

Information Disclosure

-Are you familiar with the proposed Hat Gyi dam on the Salween River? Can you tell me about it?

-When you start to know about the Dam project?

-How did you receive information about the dam?

-What kind of information have you received?

-What studies related to the river or related to the dam are available to you (or have you seen or heard)? Can you tell me your opinion of these studies?

-Have you heard about the study of the river and the proposed dam done by EGAT?

-Have you received the book, brochure, leaflet, and any document related with the Hat Gyi Dam project? Who give to you?

-If yes, the information you got is in which language? Is it easy to understand? Does anyone help you to understand?

-Basically, what information contain in the documents you have got?

-What kind of information you want to know more?

-If you need more additional information where can you ask?

-Based on the information you got, have your idea about the Dam changed?

Public Participation

- Does anyone from the dam constructor or implementer came to the village and talk to the villager? How frequently do you see or hear of EGAT officials in the area and when?
- How frequently do you have NGOs visit your village?
- How often do officials from the district and province visit the village?
- Have you ever invited to participate in any kind of meeting relating to the Hat Gyi Dam project?
- How many days in advance you were invited to join the meeting?
- How many times you were invited to participate? How many people?
- Did you have a chance to raise your concerns about the river, the livelihood relating to the dam developments? How does effect?
- Did anyone in your family participate?
- Did you have a chance to join while the study group doing survey about the river and the proposed dam?
- Did you have a chance to give input on the project planning as well as the resettlement plan?
- Did you have a chance to make agreement on the compensation plan with the project implementer?
- In your village, do you have tripartite committee which is formed by EGATi?

Accountability on the resettlement and compensation

- Do you know how many villages will have to remove from the dam project?
- If the dam is built where you intend to move to?
- Does anyone from the EGAT official come to talk to you about the impact of dam project and resettlement and compensation plan?
- Does they mention where the new relocation sites are?

-Do you think your livelihood will be better than the present if you move to another place?

-In a new resettlement site what you want to be?

-Do you think the people inside Myanmar will get full compensation for not? How do you think of it?

-Did you have a chance to express your concerns in regard to the resettlement and compensation plan?

Community Development Program

-Have you ever seen or hear the trainings/workshops were conducted in the village?

-How many times you have seen in the village?

-Which institution or organization conducted?

-Have you ever joined the training/workshops?

-What issues have been discussed in the training/workshops?

-Have your idea changed after joining the training/workshops?

-Do you think, all people in the village have equal opportunity to join the training?

-What kind of people has been invited?

-How many percent of men and women were invited in the training/workshops?

-What have you learnt from the training/ workshop?

-Do you think you learnt a lot from the training/workshop?

-What kind of rights do you think you have to participate in the dam project?

-Do you have community clinic and school? Who supports it?

- How do think about the community development program?

The fish, forest and livelihood

-Do you think the dam will flood your village? If yes, where will you move to?

-Will the dam impact to your livelihood? What kind of impact?

-Do you think, the high technology could control the flood? How do you think of it?

-What is the regulation of river bank agriculture in this village? Does it help a lot?

-How many species will be lost by the dam project? Do you think the fish farming will help your living standard better than before? Is it realistic? How do you think?

Migration and Stateless

-How many percent of people in this community living with undocumented?

-Do they have the same rights as other?

-What kind of difficulty you may face being as the undocumented?

-If the dam is built, will the people get the job? What is your opinion on that?

-Do you think, the people in Myanmar will get the job and the migration rate will decline? How do you think of it?

APPENDIX B

Question Guideline for NGOs working on the Salween River and Hat Gyi Dam

Personal Information

(Optional)

Name:

Age:

Sex:

Agency:

Position:

Contact Number and Email:

1. When EGAT started sharing the information to the communities in regard to the Hat Gyi dam project?
2. How many times and when?
3. Basically, what kind of information contains?
4. What kind of information EGAT still needs to reveal to the communities and interest group?
5. What is your opinion or suggestion in regard to the EGAT's information disclosure?
6. Does EGAT invite the communities to participate in the feasibility study?
7. What kind of community development program has been conducted in three communities by EGAT?
8. In your opinion, are they meet with the standard of the CSR? What do you think of it?
9. In the CSR standard, what kind of components should have?
10. What the reason EGAT doesn't implement their policy?

11. Do you think it is related with the land title and citizenship?
12. If Ban Sop Moei and other villages in Thai side flood, do you think they will get the compensation and resettlement?
13. What the reason villagers don't like EGAT?

The influence role of the NGOs in the communities

The value that the communities put onto the livelihood and environment

The worrisome of the legal status

EGAT fail to build the truth with the communities

EGAT doesn't use the moral code conduct

The politic of the Myanmar government to clear the ethnic group

The dam is not necessary or more alternative on the energy

14. What kind of risks has potential to involve in this project?
15. What is your opinions and suggestion to avoid from being invest in the risk project?
16. How EGAT could strengthen their CSR standard?
17. Why the sub-committee is formed? What is the brief story of it?

APPENDIX C

Question Guidelines for Scholar

Personal Information

(Optional)

Name:

Age:

Sex:

Contact Number and Email:

- △ What is CSR mean to you?
- △ When the consultation meeting and public information disclosure should be conducted? Before planning the project or after making decision and signing the MOA?
- △ What kind of information related to the project, the community should be received?
- △ Why the community and interest group should access the information of the project?
- △ What is the public participation mean to you?
- △ What kind of strengthen and weakness incorporated by allowing the community to participate in the project and decision making?
- △ What the reason for conducting the Environmental Impact Assessment? For whom?
- △ Can the dam developer keep silence by holding EIA and not release to the community and interest group?
- △ If the project is trans-boundary project, should EIA cover both country or only where the project is located?
- △ Does EIA also part of CSR?
- △ If the potential affected community have no legal document being recognized as citizenship or land title, will they get the compensation in general?

- △ Can we say that, distribute the material things to the community is doing the community development? If the project developers acting in this circumstance, how you think about of them?
- △ In which form the community development project should be conducted?
- △ Fundamentally, what is the components of CSR should be consisted within the large scale development project?
- △ Do you think the public relationship and CSR are the same or not?
- △ If not, how is different?
- △ If the project developer states in their CSR policy as “follow the relevant laws and regulation, basically what kind of laws should incorporate with?
- △ If the dam developers are not following any of their CSR, what the next consequence?
- △ What is your suggestion toward CSR existing in Thailand?

APPENDIX D

Question Guidelines for EIA Expert and Lawyers

Personal Information

(Optional)

Name:

Age:

Sex:

Occupation:

Contact Number and Email:

1. What are the elements of EIA?
2. Why important to conduct EIA?
3. What are the weak points of EIA in Hat Gyi Dam Project?
4. What regulation the Hat Gyi's EIA doesn't meet the requirement of EIA standard?
5. How to improve the existing EIA in Hat Gyi Dam?
6. What would be the incentive for EGAT to conduct the trans-boundary EIA in Hat Gyi Dam Project?
7. Do you have any recommendation/suggestion for the Hat Gyi Dam EIA?

APPENDIX E

KEY ACTORS INVOLVED IN THE DAM PROJECT

Brief information about the key stakeholders involved in the controversial Hat Gyi Dam Project, will be provided, consisting of the project developer, the relevant government sector, the non-governmental organizations and the related communities from both Myanmar and Thailand.

Project Developers

Electricity Generating Authority of Thailand (EGAT) and the emergence of EGAT International Company Limited (EGATi)

The Electricity Generating Authority of Thailand (EGAT), is presently recognized as a state enterprise under the Ministry of Energy. EGAT was established on 1 May 1969. EGAT accounts for developing 47.8% of country's 28,479 MW electricity generating capacity in recent years; being the largest power producer in Thailand. "EGAT capital is supported by the government cabinet, so that every specific grant by the cabinet have to get approval" (Fang, 2010). Basically, EGAT's investment is divided into three groups, consisting of subsidiaries, associated company and joint venture. In particular,

EGAT International Company Limited (EGATi) was established with the total registered capital of 50 million Baht on 18 December 2007. Consistently, EGAT's rules and regulations are considered to be practiced in the projects conducted by EGATi. According to an agreement between EGAT and EGATi, the initial plan of the company is to directly invest in six power development and energy-related projects in neighboring countries.

On 26 June 2008, EGAT transferred the entire obligation to EGATi for the Hat Gyi dam project with the agreement of Department of Hydropower Planning (DHPP), Myanmar (EGAT, 2010b). EGATi has a 36% share in the Hat Gyi dam project. In accordance with the Thailand constitution of 2007 and the EGAT's policy, EGATi

have to practice accountability and transparency. They also have an obligation to conduct an Environmental Impact Assessment (EIA) and have to take responsibility for resettlement and compensation in accordance with the EIA, as mentioned in the MOA 2010.

SINOHYDRO Corporation Limited

Sinohydro Corporation Limited is a Chinese state-owned company (SOE), which was established in 2004 with the registered capital of 122 million USD. In charge of overseas operations, it is present throughout the world with 65 overseas branch-companies and representative offices (Sinohydro, 2011). Sinohydro Corporation is furthermore a China's leading dam builder, which is constructing many big dams within China and overseas. The company has share of 70% of the Chinese and 50% of the global hydropower market (International Rivers website).

Sinohydro states that it is committed to “transparency, excellence, security, and innovation, and respect for the environment, together with a strong cultural identity based on harmony, cohesion and trust”. It also states that “our sustainable development program is built around a corporate social responsibility”. Very importantly, it states that it gives emphasis to a commitment to environmental protection through the activity of “integrating social and environmental aspects in the tender submissions, assuming responsibilities regarding the management of the worksites; reducing greenhouse gas emission and lowering energy consumption”.

In the case of Hat Gyi dam, Sinohydro plays a role as the constructor as well as the investor. Sinohydro has a 50% share in the project and is the biggest shareholder in the proposed Hat Gyi dam project. In terms of the responsibility, according to MOA in April 2010, as an investor Sinohydro also have to take responsibility for the resettlement and compensation in accordance with the EIA.

International Group of Entrepreneur Company (IGOEC)

IGOEC is one of the biggest companies in Myanmar which specialize in export-import trading and in nationwide government projects. It also well-known as one of the leading timber companies and is a major exporter of natural teak logs to

other countries. The company was established in 1994 and registered in Singapore since 2001. The company specializes in trading construction materials, and is a major supplier of sub-station and transmission line materials, oil and gas accessories, and CNG filling stations for government projects (Global Wood). In 2008, IGOEC signed a contract with China's state-run Sinohydro Corporation for the construction of a hydro-power plant on the Salween River.

In the case of Hat Gyi dam project, IGOEC plays a very important role as the local private investor with a 4% share in the entire project. According to the MOA signed in April 2010, as an investor, IGOEC also has to take account of the resettlement and compensation, sharing responsibility with others investors in accordance with the EIA.

Department of Hydropower Project Planning (DHPP)

The Ministry of Electric Power in Myanmar was reorganized as two ministries on 15 May 2006, which are composed of the Ministry of Electric Power No.1 and the Ministry of Electric Power No.2. The Department of Hydropower Project Planning (DHPP) is under the MOEP 1 and it responsible for planning and policy matters regarding hydropower development and acting as a secretariat to the ministry (Myint, 2006).

In the case of Hat Gyi dam, DHPP has a 10% share in the project and is playing the role of the moderator between investors, constructors and buyers. Following the Memorandum of Agreement (MOA) signed in April 2010, during a period of 18 months from the date of signing the MOA, DHPP should ensure the security and preparation of the ongoing process. It also has responsibility for administrating and coordinating, getting permission, and dealing with tax. According to the MOA, they also have to make sure that the resettlement and compensation plan must be better than the original living standards in accordance with the EIA.

National Institution

Thai National Human Rights Commission

This commission has members consisting of the President and six other members appointed by the King with the advice of the Senate. These members have proficiency, knowledge and experience in the field of human rights. The office of the National Human Rights Commission is independent administration, with budgeting and other activities provided by law. Basically the Commission are to examine and report human rights violations to the National Assembly for further proceedings. It also is authorized to file a lawsuit to the Court of Justice on behalf of an injured person, as provided by law. Other responsibilities include promoting and protecting human rights, promoting education, research and the dissemination of knowledge on human rights, promoting co-operation and co-ordination amongst Government agencies, private organizations, and other organizations in the sphere of human rights, preparing an annual report for the purpose of evaluating situations in the sphere of human rights in the country and submit it to the National Assembly, and other powers and duties as provided by law.

In the case of Hat Gyi Dam, the National Human Rights Commission plays a role in terms of investigation and providing information to the relevant stakeholders and to give recommendations and suggestions to the Prime Minister Office in regard to the human rights violation involved in the dam project.

Non-Governmental Organizations (NGOs)

Salween Watch coalition

In February 1999, the Salween Watch coalition was formed, specializing on the Myanmar-related environmental issues. The coalition was set up with the aim of preventing the building of harmful hydropower dams on the mainstream of Salween River. Salween Watch coalition is based in Chiang Mai, Thailand. In the case of Hat Gyi dam, the group members aim to inform and raise awareness of the impacts of the proposed hydropower development in the Salween Basin to international community (Salween Watch, 1999).

Burma Rivers Networks

Burma Rivers Network is comprised of representatives from different ethnic

organizations which focus on monitoring the dam projects in Myanmar. The network was set up with the mission to protect the health of river ecosystems and sustain biodiversity, rights and livelihoods of communities inside Myanmar. (BRN, 1996) Burma Rivers Network is based in Chiang Mai, Thailand. In this particular context, the group is advocating and campaigning in regard to the issues related to Hat Gyi dam project by associating with Salween Watch and Thai NGOs activities.

Toward Ecological Recovery and Regional Alliance (TERRA)

TERRA is a project under Foundation of Ecological Recovery (FER), a non-profit organization based in Bangkok, Thailand. TERRA was established in 1991 with the aim of focusing on issues concerning the environment and local communities within the Mekong Region. Their work emphasizes on “supporting the network of NGOs and people's organizations in the Mekong Region, encouraging exchange and alliance-building, and drawing on the experience of development and environment issue in Thailand” (TERRA). In the case of Hat Gyi dam, TERRA is taking part in interacting with policy makers, dam developers, Thai and Burmese activists monitoring the Hat Gyi dams project and the communities living inside Thailand.

Mekong Energy and Ecology Network (Mee.Net)

Mee.Net is established under the Foundation for Ecological Recovery (FER) as a sister organization of Toward Ecological Recovery and Regional Alliance (TERRA) to work on energy issues, especially: “electricity structure, governance and policy reform towards fair sustainable development, local livelihoods protection, and ecological preservation in the Mekong Region”, which is comprised of the southern part of China (Yunnan), Myanmar, Thailand, Laos, Cambodia and Vietnam. Mee.Net is playing a very important role in monitoring the energy policy and Power Development Plan and creating an energy network among the Mekong region rather than focusing on the specific issue.

Communities

People from both sides have no boundaries across the Salween River and

make their livelihood by sharing the resources which are provided by the river and forest. Most of the people living along the Salween River from both Myanmar and Thailand are classified as non-citizens even though they have been living around the river for many generations. Ban Tha Ta Fang, Ban Sob Moei and Ban Mae Sam Lap are the three main Thai villages on the Salween along the stretch where it forms the border between Thailand and Myanmar.

Table 2.1: List of Key Informants

NO	Age	Sex	Ethnicity	Citizenship	Status
1		M	Mong	Thai	DCCN Vice Director
2		F	Karen	Thai	DCCN-local coordinator
Individual interview in Ban Mae Sam Leap					
3	44	M	Karen	Non-Thai	Villager, boat driver
4	36	M	Karen	Non-Thai	Villager, local researcher
5	40	F	Shan	Thai	Villager, Seller
6	36	M	Shan	Thai	Villager, Seller
7	33	F	Karen	Thai	Villager, Merchant
8	31	F	Muslim	Non-Thai	Villager, Dependent
9	50	M	Muslim	Non-Thai	Villager, Religious leader
10	52	M	Thai	Thai	Villager, Soldier
Group Discussion with Muslim community in Ban Mae Sam Leap					
11	31	F	Muslim	Non-Thai	Villager, Dependent
12	50	M	Muslim	Non-Thai	Religious leader
13	14	F	Muslim	Non-Thai	Student
14	52	F	Muslim	Non-Thai	Villager, General worker
15	56	F	Muslim	Non-Thai	Villager, Seller
16	19	M	Shan	Thai	Work in Bangkok
17	32	F	Shan	Thai	Villager, Tailor
18	34	M	Karen	-	Villager, General worker
19	35	M	Thai	Thai	Teacher
20	42	M	Thai	Thai	Head School
21	30	M	Karen	Myanmar	Missionary from Myanmar
22	48	M	Shan	Non-Thai	Villager, Seller
Group Discussion with Shan Community in Ban Mae Sam Leap					
23	50	F	Shan	Non-Thai	Villager, Seller
24	35	F	Shan	Non-Thai	Villager, Dependent
25	42	F	Shan	Non-Thai	Villager, general worker
26	80	M	Shan	Non-Thai	Villager, Dependent
27	46	F	Shan	Non-Thai	Villager, Dependent
28	45	F	Shan	Non-Thai	Villager, Seller
29	46	M	Karen	-	KNU
30	47	M	Karen	-	KNU
31	25	M	Karen	-	KNU
32	24	M	Karen	-	KNU
33	46	M	Karen	Thai	Public Health Worker
Individual Interview in Ban Tha Ta Fang					
34	22	F	Karen	Thai	Villager, Dependent
35	44	M	Karen	Thai	Villager, general worker
36	55	M	Karen	Non-Thai	Villager, Farming
37	64	M	Karen	Thai	Former head Village,

					Farming
38	58	M	Karen	Thai	Villager, Farming
39	45	M	Karen	Non-Thai	Villager, seller
40	65	M	Karen	Thai	Religious leader
41	32	F	Kaya	Non-Thai	Villager, Dependent
42	48	M	Karen	Thai	Head Village
43	41	F	Karen	Non-Thai	Villager, Dependent
44	41	M	Karen	Non-Thai	Villager, boat driver
45	-	F	Karen	Thai	Villager, Public Health
46	33	F	Karen	Thai	Villager, Teacher
47	38	M	Karen	Thai	Villager, Public Health
Group Discussion in Ban Tha Ta Fang					
48	32	F	Burmese	Non-Thai	Villager, Dependent
49	39	F	Karen	Non-Thai	Villager, Farming
50	50	M	Karen	-	Mae La Oo refugee
51	32	M	Karen	Thai	Villager, general worker
52	20	F	Karen	Non-Thai	Villager, Dependent
53	70	M	Karen	Thai	Villager, Farming
54	60	F	Karen	Thai	Religious Leader
55	23	M	Karen	Thai	Villager, General worker
56	45	F	Karen	Non-Thai	Villager, Seller
57	-	M	Karen	-	Villager, general worker
58	32	F	Karenni	Non-Thai	Villager, Dependent
Individual Interview in Ban Sop Moei					
59	39	M	Thai	Thai	Head Village
60	32	F	Karen	Thai	Teacher
61	42	M	-	Thai	Public Health
62	41	M	Karen	Thai	Villager, seller
63	26	F	Karen	Thai	Villager, farming, seller
64	44	M	Karen	Thai	Villager, farming
65	57	M	Karen	Thai	Head Village
66	31	M	Karen	Non-Thai	Villager, farming
67	34	F	Karen	Thai	Villager, Phone business
68	28	F	Karen	Thai	Villager, Seller
69	20	F	Karen	Thai	Work in Mae Sariang
70	31	M	Karen	Thai	Villager, Religious Leader
71	27	F	Karen	Thai	Villager, Missionary
72	56	F	Karen	Thai	Villager, Farming
73	30	F	Karen	Thai	Villager, Farming
74	51	F	Karen	Thai	Villager, Farming
75	40	F	Karen	Non-Thai	Villager, dependent
76	30	M	Karen	Thai	Sub district Administer
77	-	F	Karen	Thai	Villager, general worker
78	26	F	Karen	Thai	Villager, Seller
79	45	F	Karen	Non-Thai	Villager, Seller
80	16	F	Karen	Thai	Villager, Dependent

81	34	M	Karen	Thai	Villager, Farming
82	23	F	Karen	Thai	Public Health
83	-	M	Thai	Thai	Public Health
84	-	M	Karen	Thai	Villager, General worker
85	-	M	Karen	-	From inside Myanmar
86	27	M	Karen	Non-Thai	Villager, Farming
Individual Interview with NGOs					
87		M	Thai	Thai	TERRA
88		M	Foreigner	Foreigner	KESEAN
89		F	Foreigner	Foreigner	International Rivers
90		M	Foreigner	Foreigner	Water Resource Institute
91		M	Thai-Karen	Thai	ERI
Individual Interview with Lawyers					
92	48	M	Foreigner	Foreigner	Biodiversity Attorney
93		M	Mong	Thai	DCCN
94		M	Foreigner	Foreigner	Mekong Legal Institute
Individual Interview with Academic					
95	65-+	M	Foreigner	Foreigner	Mae Fah Laung University
96		M	Foreigner	Foreigner	Environmentalist

No	Interviewee	Pseudonym	Place	Date
1	NGO1	-	Sob Moei District	19-20/7/11
2	BTTF 2	-	Ban Tha Ta Fang	25/7/11
3	BSM 3	-	Ban Sob Moei	26/7/11
4	BMSL 4	Ji	Ban Mae Sam Leap	21/7/11
5	NGO 5	-	Sob Moei District	20/7/11
6	BTTF 6	-	Ban Tha Ta Fang	25/7/11
7	KI.BMSL 7	Teacher	Ban Mae Sam Leap	22/7/11
8	BTTF 8	-	Ban Tha Ta Fang	25/7/11
9	BMSL 9	Soldier	Ban Mae Sam Leap	22/7/11
10	BMSL 10	Chan	Ban Mae Sam Leap	23/7/11
11	BMSL 11	Salween	Ban Mae Sam Leap	22/7/11
12	BTTF 12	Nay	Ban Tha Ta Fang	24/7/11
13	BTTF 13	Senior	Ban Tha Ta Fang	24/7/11
14	BMSL 14	-	Ban Mae Sam Leap	23/7/11
15	KI.BSM 15	Nai/Public Health	Ban Sob Moei	27/7/11
16	KI.BMSL 16	Teacher	Ban Mae Sam Leap	22/7/11
17	BMSL 17	Sai	Ban Mae Sam Leap	21/7/11
18	BSM 18	Sak	Ban Sob Moei	26/7/11
19	BMSL 19	Apu	Ban Mae Sam Leap	21/7/11
20	BMSL 20	Sup	Ban Mae Sam Leap	22/7/11
21	BSM 21	Ti	Ban Sob Moei	26/7/11
22	BSM 22	De	Ban Sob Moei	27/7/11
23	KI.L 23	Fang	Sob Moei District	20/7/11
24	BTTF 24	Tong	Ban Tha Ta Fang	24/7/11
25	BTTF 25	Sun	Ban Tha Ta Fang	25/7/11
26	BMSL 26	-	Ban Mae Sam Leap	21/7/11
27	KI.BMSL 27	Soldier	Ban Mae Sam Leap	22/7/11
28	BMSL 28	Su	Ban Mae Sam Leap	22/7/11
29	BTTF 29	Tong	Ban Tha Ta Fang	24/7/11
30	NGO 30	Chantawong	Chiang Mai	08/08/11
31	BMSL 31	Shan Woman	Ban Mae Sam Leap	22/7/11

32	BSM 32	Che	Ban Sob Moei	27/7/11
33	BTTF 33	Pre	Ban Tha Ta Fang	24/7/11
34	KI.BSM 34	Maw	Ban Sob Moei	27/7/11
35	BSM 35	Sek	Ban Sob Moei	26/7/11
36	BMSL 36	Yoto	Ban Mae Sam Leap	21/7/11
37	BMSL 37	Tee	Ban Mae Sam Leap	22/7/11
38	BTTF 38	Pho	Ban Tha Ta Fang	24/7/11
39	BSM 39	Pan	Ban Sob Moei	27/7/11
40	NGO 40	Kirl	Chiang Mai	17/9/11
41	NGO 41	Ame	Chiang Mai	17/9/11
42	KI.BMSL 42	Teacher	Ban Mae Sam Leap	22/7/11
43	KI.BMSL 43	Teacher	Ban Mae Sam Leap	22/7/11
44	BSM 44	Jay	Ban Sob Moei	27/7/11
45	BTTF 45	Nood	Ban Tha Ta Fang	23/7/11
46	BTTF 46	Sun	Ban Tha Ta Fang	25/7/11
47	KI.BTTF 47	Local public health	Ban Tha Ta Fang	24/7/11
48	BSM 48	Pu	Ban Sob Moei	27/7/11
49	KI.BSM 49	Ta	Ban Sob Moei	26/7/11
50	BSM 50	Chang	Ban Sob Moei	26/7/11
51	BSM 51	Head village	Ban Sob Moei	26/7/11
52	BSM 52	Dekk	Ban Sob Moei	26/7/11
53	AC 53	Ajarn Richard	Chiang Rai	19/9/11
54	KI.L 54	Marty	Via Skype/Online	01/10/11
55	KI 55	-	Bangkok	27/8/11
56	NGO 56	Steve	Chiang Mai	02/10/11
57	KI.L 57	Daniel	Chiang Mai	29/9/11
58	NGO 58	Witoon	Bangkok	10/05/11
59	NGO 59	P Chom	Bangkok	10/05/11
60	BMSL 60	Saw	Ban Mae Sam Leap	21/7/11
61	KNU 61	KNU	Ban Mae Sam Leap	23/7/11
62	KNU 62	Ah	Ban Mae Sam Leap	23/7/11
63	NGO 63	Retire from KNU	Chiang Mai	18/9/11
64	BSM 64	Pra	Ban Sob Moei	27/7/11

65	BSM 65	Phai	Ban Sob Moei	26/7/11
66	BMSL 66	Nang	Ban Mae Sam Leap	22/7/11
67	BTTF 67	Yong	Ban Tha Ta Fang	25/7/11
68	BSM 68	Ni	Ban Sob Moei	27/7/11
70	BSM PF	(Public Forum)	Ban Sob Moei	11/07/09

NOTE:

BMSL 9 and KI.BMSL 27 are the same person.
 BMSL 20 and KI.BMSL 43 are the same person.
 BTTF 24 and BTTF 29 are the same person.
 NGO 5 and KI.L 23 are the same person.
 BTTF 25 and BTTF 46 are the same person.

BIOGRAPHY

Miss.Nang Shining received her Bachelor of Science Physics (B.Sc Physices) from Taunggyi University, Southern Shan State, Myanmar. As well as she also got her Diploma on Secondary Assistance of Teacher from Taunggyi Education College.

Upon her graduation from the University, she came to Thailand in 2005, and then started working with Shan Sapawa Environmental Organization (SSEO) as a volunteer for three months. After that, she joined an internship program at Images Asia Environment Desk for three months. Then, she got to join to Earthrights Mekong School six months' program. Nang Shining completed an excellent two-month field work project, in which she conducted first-hand interviews with community members to document the environmental and social impacts of the Salween Dams projects in eastern Shan State. Upon graduation from the Mekong School, Nang Shining interned with the NGO Forum on the ADB in Manila, Philippines.

After she graduated from Mekong School, she worked with Images Asia Environmental Organization for one year. Afterward, she has been working with Earthrights Mekong School as Mekong Alumni Program Coordinator. Nang Shining was instrumental in organizing her fellow Mekong School graduates into an alumni network with the goal of strengthening human rights and environmental protections in the Mekong basin countries.

For several years in a row, she has bravely taken a leading role at the ASEAN Youth Forum and ASEAN Peoples Forum, where she has spoken out on her concerns around the human rights and environmental impacts of the Salween Dams in Myanmar. Her concerns on human rights and sound environment inspire her to pursue the Master of Arts in International Development Studies at Chulalongkorn University with believe that the findings from her research on the Salween Dams to advocate for more just Corporate Social Responsibilities in Mekong Region.