

# Press Release | Disappointing and Lengthy Mediation Leaves Impacts of Xayaburi Dam Unaddressed

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## FOR IMMEDIATE RELEASE

**Bangkok, Thailand:** Last week, the Austrian National Contact Point (NCP) concluded a lengthy and ultimately disappointing [OECD Guidelines](#) mediation process between Andritz, the turbine supplier for the [Xayaburi Dam](#), and a coalition of Mekong-based and international civil society organizations. As the holder of a \$300 million contract to supply custom-built parts that will power the Xayaburi Dam, Andritz has important leverage to improve the design and implementation of the project. The [original 2014 complaint against Andritz](#) stated [grave concerns about the social and environmental impacts](#) of the Xayaburi Dam. The complainants cited [independent scientific analysis](#) and [expert opinions](#) predicting that the project will threaten food security, increase malnutrition and lead to loss of livelihoods due to impacts on fisheries and agriculture, as well as repeated resettlement of local communities.

A [Joint Statement](#), marking the conclusion of the NCP process, [was signed and released by the remaining parties to the complaint](#), following withdrawal from the mediation by the Mekong-Complainants\* and International Rivers. The Joint Statement signed by the NCP, Andritz and two remaining complainants sets out agreed commitments by Andritz to provide further information on the situation in the project resettlement sites and work to improve internal human rights and due diligence policies for future projects. These commitments, while important, are unlikely to produce substantive change for the displaced communities and those along the Mekong whose livelihoods and food security are threatened due to the dam's impacts.

This limited result after such a lengthy process highlights the lack of an effective grievance mechanism for communities in the region to challenge socially and environmentally destructive projects with transboundary impacts. Major barriers in accessing local judicial systems – such as lack of independence and protracted proceedings – compound this problem. [A lawsuit filed by Thai villagers](#) challenging the [transboundary impacts of the Xayaburi Dam in the Thai Administrative Court](#) remains pending more than five years later, [despite a landmark procedural decision](#) by the court in 2014 to accept jurisdiction in the case.

International Rivers withdrew from the official complaint in May 2015 due to the confidentiality restrictions of the OECD NCP mediation, which limited the transparency of the process.

“The Xayaburi Dam continues to be plagued by a lack of transparency,” said Maureen Harris, Southeast Asia Program Director of International Rivers. “The developers have consistently

refused to make information available that would allow the real impacts of the dam to be independently scrutinized and assessed. Even now, years into construction, with the dam over 75% complete, the full project designs have not been released to the public or reviewed for compliance with the Mekong River Commission's (MRC) Preliminary Design Guidance for Mainstream Dams. We withdrew from the complaint believing that an entirely voluntary process that failed to address transparency concerns would not be able to meaningfully address fundamental human rights and environmental concerns."

The Mekong Complainants withdrew from the OECD Guidelines process between March and April 2017. They assert that the OECD mediation process, including the NCP's role as mediator, failed to provide an adequate framework through which key issues and concerns raised in the complaint could be effectively discussed and negotiated. It was not possible to adequately address Andritz's responsibility for the Xayaburi project's transboundary impacts, including sediment trapping, damage to fish mass and biodiversity, or the dam's social impacts.

A Vietnamese complainant, Mr. Dang Ding Bach, Director of the [Law and Policy of Sustainable Development Research Center](#) (LPSD) in Hanoi, said: "The Mekong Delta is crucial for the world's food security as one of the biggest rice producing regions globally. We are extremely concerned about the cumulative impacts of all Mekong mainstream dams, including Xayaburi Dam." Mr. Bach elaborated, "Losses in sediment loads trapped behind upstream Mekong dams are already causing severe environmental impacts in the Delta, and in-turn we are starting to see rising food security issues across this region." Mr. Bach called for immediate action, saying: "If Andritz and other companies involved in destructive dams in the Mekong and elsewhere don't seek to address the harmful environmental and social transboundary impacts, people's livelihoods are under significant threat".

Ms. Sor. Rattanamanee Polkla, Coordinator of the Community Resources Centre (CRC) in Thailand, said: "We feel incredibly disappointed that this process took such a long time and in the end produced such limited outcomes for the communities we individually and collectively represent." She added: "We collectively filed this complaint with genuine hope that the OECD Guidelines for Multinational Enterprises would serve to protect communities from the Xayaburi Dam's harmful transboundary impacts, but as time went on in the mediation process, it became very clear that this wasn't going to be possible."

The group of Mekong Complainants called for significant strengthening of the [OECD Guidelines for Multinational Enterprises](#) process, in particular the institutional role of the NCP as mediator, so that it can achieve practical outcomes for communities impacted by harmful projects.

"The OECD Special Procedure complaint mechanism must be strengthened so it produces real results for real people," said Mr. Bach from LPSD. "It should be an equitable platform for communities impacted by development projects to be able to effectively address key issues that are grounds for a complaint, rather than a top-down process whereby powerful companies are able to avoid discussing practical outcomes, and where power imbalances between parties hinder any meaningful solutions." Sor from CRC added: "Overall reforms are needed so that "the OECD and NCP process can provide transparency, accountability and a practical way for

communities to access remedy to ensure corporations commit to addressing their harmful impacts”.

International Rivers and the Mekong Complainants welcome [the commitments made by Andritz in the Joint Statement](#) to seek further information from the Xayaburi Dam developer, Ch. Karnchang, and the Lao government about environmental and social issues at the resettlement sites for displaced villages in Lao, as well as to seek stakeholder inputs as part of its obligation to strengthen and make publicly available its internal policies and Corporate Social Responsibility (CSR) frameworks in order to comply with environmental and human rights standards.

Ms. Ith Mathoura, a public interest lawyer from [Samreth Law Group](#) in Cambodia, said: “Despite the lengthy process and relatively weak outcomes, Andritz has made clear and binding commitments whereby they must now fulfill their obligations regarding obtaining information about the resettlement issues as well as strengthening its CSR and due diligence policies to align with international legal standards.”

Ms. Ormbun Thipsuna from Thailand who leads the coalition of Northeastern Community Network in 7 Provinces reiterated that: “Corporations must respect the rights of communities and actually put meaningful CSR policies into practice, rather than simply using these documents to try to portray their business in a good light. We look forward to holding Andritz accountable.”

*\* The 'Mekong Complainants' are: the Community Resources Centre (Thailand), Fisheries Action Coalition Team (Cambodia), Samreth Law Group (Cambodia), Law and Policy of Sustainable Development Research Center (Vietnam), Centre for Social Research and Development (Vietnam), and the Northeast Community Network of 7 Provinces of the Mekong River (Thailand).*

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More information:

**Timeline for the Xayaburi OECD Guidelines Complaint**

- In April 2014, International Rivers, EarthRights International (ERI), Finance and Trade Watch Austria (FTW) and the Mekong Complainants brought a complaint to the Austrian Contact Point against Andritz under the OECD Guidelines for Multinational Enterprises.
- In May 2015, International Rivers withdrew from the official complaint, citing concerns with the confidentiality restrictions of the OECD NCP mediation.
- During the three years of the complaint, the head of the Austrian NCP changed three times.
- Between March and April 2017, the Mekong Complainants, also formally withdrew from the complaint jointly citing that within the NCP mediation process it was not possible to have a constructive dialogue regarding responsibility for the Xayaburi project's transboundary impacts as raised in the complaint against Andritz.
- In July 2017, the NCP's Final Statement and a Joint NCP, Andritz, EarthRights International (US) and Finance & Trade Watch (Austria) Statement as released. A copy of the NCP's Final and the Joint Statement can be [accessed here](#).

<https://www.internationalrivers.org/resources/press-release-disappointing-and-lengthy-mediation-leaves-impacts-of-xayaburi-dam>