

for the peoples of the rainforest

Mr. Takehiko Nakao
President
Chairperson, Board of Directors
Asian Development Bank (ADB) Headquarters:
6 ADB Avenue
Mandaluyong City 1550
Metro Manila, Philippines

6 October, 2014

Re: Concerns about Project 44921-014 (Proposed Private Sector Loan to Sarawak Energy Bhd.)

Dear President Nakao,

We are writing in regards to the proposed private sector loan of US \$ 45 million under Project 44921-014 (Trans Borneo Power Grid: Sarawak to West Kalimantan Transmission Link) to Malaysia's state-owned company, Sarawak Energy Berhad (SEB). According to the Project Data Sheet, the loan is intended to finance the construction of a 47 kilometer, double-circuit 275 kV transmission line in Sarawak between Mambong and the West Kalimantan border and two 275 kV line bays at the Mambong substation. The loan for the development of the electricity distribution network in West Kalimantan (Indonesia), Project 40174, was approved in August 2013. According to the corresponding "Report and Recommendation of the President to the Board of Directors: Proposed Loan and Administration of Loan and Grant to Republic of Indonesia: West Kalimantan Power Grid Strengthening Project", importing power from Sarawak is rationalized as economical because hydropower-generated energy can be utilized as an alternative to coal and oil reserves. The Report and Recommendations of the President also note that the project will contribute to a net overall reduction in the carbon footprint of power generation in Borneo.

We respectfully urge the Asian Development Bank to conduct a comprehensive analysis of the economic, social and environmental risks at stake in relation to Project 44921-014, and duly consider withdrawing the proposed loan from the institution's project portfolio. In particular, we recommend the risks of the loan be evaluated with the following concerns in mind:

1. The loan is to be issued to SEB, a company that has a systematic record of corruption. Allegations of gross corruption against SEB have been brought to the attention of the Norwegian anti-corruption agency (Økokrim), which has in turn sought to raise the concerns with the Malaysian Anti-Corruption Commission (MACC).
 - SEB is fully owned by the state of Sarawak, with oversight from the State Financial Secretary and the Minister of Finance. Until six months ago, the then Chief Minister, Taib Mahmud (now the Head of State), held the position of Minister of Finance. Taib's cousin chairs SEB, and Taib's brother-in-law acted as SEB's former CEO. Over the past six years, contracts worth US \$400 million have been awarded by SEB to companies linked to Taib's family, including Sarawak Cable, Naim Holdings and Cahya Mata Sarawak,

despite not offering the most competitive bids. According to the ADB's Integrity Principles and Guidelines (2012), such conflicts of interest in the procurement process would constitute acts of corruption. *A list of contracts awarded by SEB in which conflicts of interest are evident is enclosed separately (Bruno Manser Fund, 2014).*

- Specific incidences of corrupt practices by SEB are emerging in relation to the hydropower projects in which the company is involved. For example, in January 2014, villagers to be affected by SEB's proposed Baram Dam reported incidents of SEB personnel delivering large sums of money in December 2013 to village headman known to be opposed to the dam. Since villagers from at least two affected areas, Long Mekaba and Tanjung Tepalit, interpreted these cash 'gifts' as an attempt by the company to exert pressure on the people who vocally oppose the Baram Dam, they filed a police report, and returned the money to the local police headquarters. In another incident, in November 2013, villagers displaced by SEB's Murum Dam who had been demonstrating their opposition to the project resettlement scheme reported being promised large sums of money (approximately US\$ 6,940) by SEB personnel, and receiving the said amount of cash after leaving the blockade. In both of the above instances, no formal agreements or receipts were signed or provided. Such acts of corruption constitute as coercive practice under the ADB's Integrity Principles and Guidelines.

If the ADB is to proceed with the loan, the bank's reputation and staff integrity are at risk of being compromised because connections may be drawn with SEB's acts of corruption.

2. Recent human rights investigations have demonstrated SEB's repeated complicity in violations of individual and collective rights outlined in the provisions of the national constitution and international laws.
 - Recent investigations conducted by the Malaysian Bar Council, the national human rights commission (SUHAKAM), and an independent fact finding mission that was endorsed by the national human rights non-governmental organization (SUARAM) and the national indigenous peoples organization (JOAS), have examined allegations of SEB's complicity in extinguishing customary land rights, denial of the right to information, violation of the right to livelihood and use of coercive tactics, including threats and intimidation. Each of the above has issued reports (2014) outlining evidence and examples of such abuses and has called on SEB to respect national and international human rights frameworks.

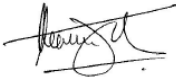
Given that the majority of these human rights violations are yet to be resolved, the ADB will face significant reputational risk by offering a loan to SEB, whether or not the particular transmission line to be financed is associated with violations of Indigenous Peoples' rights.

3. Shifting reliance towards energy generated through large scale hydropower developments does not automatically equate to a low carbon footprint or to being a cheaper source of power.
 - The suggestion that investing in a shift towards generating power via large-scale hydropower projects that require flooding vast expanses of forested areas in Sarawak would lead to a reduced carbon footprint in Borneo appears to be based on an outdated mode of carbon equations. An increasing body of scientific evidence has revealed that greenhouse gas discharges from hydropower dam reservoirs in tropical climates are substantial and do have a corresponding impact on global climate change. Over the lifecycle of a hydropower project, the masses of methane gas emissions produced can be equivalent to the greenhouse gases emitted by a coal-fired plant because methane gas is a much more potent greenhouse gas than carbon dioxide. In determining that the Sarawak-West Kalimantan transmission line project would cause a reduction of carbon emissions, it is not clear how - or if - methane emissions from the source of the power in Sarawak are being taken into account.
 - Although electricity produced by damming rivers in Sarawak may be deemed cheap for West Kalimantan investors, associated environmental and social costs borne by the ecosystems and people of Sarawak, including irreversible losses to biodiversity, jeopardized food security, and social instability due to mass displacement, are evidently being ignored. In the current project balance sheet, these costs are not mentioned, but in the long term will negatively impact the health, well-being, sustainability and climate resilience of local communities, economies and the environment.
4. Recent design and mechanical problems at SEB's Murum Dam demonstrate disregard for appropriate measures to ensure operational safety and accuracy. SEB's lack of attention to design complexities and project performance present an investment risk to the ADB.
 - At the Murum Dam site, SEB is confronted with the necessity to take urgent measures to rectify alarming mechanical problems. An assessment by Norway's Norconsult identified serious defects in the turbine runners, which were noted as 'not suitable for installation and operation' and as potentially leading to operational breakdowns. Without the Murum Dam being operational, it is not clear if SEB will be in a position to guarantee adequate power supply for export to West Kalimantan.

The lack of regard for project safety, quality assurance and oversight in preparation for dam commissioning at the Murum site raises questions in regards to SEB's performance and ability to meet the stipulations of cross-border power exchange agreements.

With the above evidence, we trust the ADB management will make a responsible decision based on principles of ethics, economics and accountability, and that you will have the integrity to withdraw the proposal to offer a loan to Sarawak Energy Berhad. Thank you for your time and consideration.

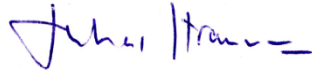
Sincerely,



Thomas Jalong, President, Jaringan Orang Asal SeMalaysia



Peter Kallang, Chair, SAVE Rivers



Lukas Straumann, E.D., Bruno Manser Fund



Joan Carling, E.D., Asia Indigenous Peoples Pact



Tanya Lee, Program Coordinator, International Rivers

With the support of the following Malaysian, regional and international non-governmental organizations:

Alliance Sud (Switzerland)
Article 19: Defending Freedom of Expression and Information (International)
Asia Indigenous Peoples' Network on Extractive Industries and Energy (Asia)
Asian Indigenous Women's Network Secretariat (Asia)
BaramKini (Malaysia)
Berne Declaration (Switzerland)
BERSIH 2.0 (Malaysia)
Bob Brown Foundation (Australia)
Borneo Resources Institute Malaysia Sarawak (Malaysia)
Both ENDS (Netherlands)
Borneo Project (USA)
Center for Orang Asli Concerns (Malaysia)
Centre for Research and Advocacy-Manipur (India)
Committee on the Protection of Natural Resources-Manipur (India)
Dignity International (International)
Friends of the Earth International (International)
Forest Peoples Programme (International)
GegenStrömung – CounterCurrent (Germany)
Indigenous Peoples' Links (International)
Institute for Development of Alternative Living (Malaysia)
Institute for Ecology and Action Anthropology (Germany)
NGO Forum on the ADB (Asia)
Naga Peoples Movement for Human Rights (India)
PACOS Trust (Malaysia)
Pax Romana/International Catholic Movement for Intellectual and Cultural Affairs
Rainforest Rescue (Germany)
Sahabat Alam Malaysia/Friends of the Earth Malaysia (Malaysia)
Sarawak Dayak Iban Association (Malaysia)
Sarawak Native Customary Land Rights Network (Malaysia)
SOS-Selangor (Malaysia)
Suara Rakyat Malaysia (Malaysia)
Society for Threatened Peoples-Switzerland (Switzerland)
TEBTEBBA: Indigenous Peoples' International Centre for Policy Research and Education (International)
WALHI /Friends of the Earth-Indonesia (Indonesia)
World Rainforest Movement (International)

Cc:

Clare Wee, Head, Office of Anti-Corruption and Integrity

David Binns, Director, Office of Anti-Corruption and Integrity

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Chong Chi Nai, Director, Energy Division, Southeast Asia Department

Sohail Hasnie, Principal Energy Specialist, Energy Division, Southeast Asia Department

Chris Morris, Head, NGO Center

ADB Board of Directors