



Mekong River Commission

Cambodia • Lao PDR • Thailand • Viet Nam

For sustainable development

Statement on the Prior Consultation Process for the Pak Lay Hydropower Project in Lao PDR

The Mekong River Commission Secretariat published this Statement “unedited” as the approved version by the Mekong River Commission Joint Committee at its Special Session on the Prior Consultation Process for the Pak Lay Hydropower Project on 4 April 2019.

The Joint Committee of the Mekong River Commission (MRC) met at a Special Session on 4th April 2019 in Vientiane, Lao PDR, to discuss the Pak Lay Hydropower Project (PLHPP) submitted by the Lao PDR for Prior Consultation.

As provided for in Article 5 of the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the 1995 Mekong Agreement), and Article 5.4.3 of the Procedures for Notification, Prior Consultation and Agreement (PNPCA), the MRC Joint Committee aimed to reach an agreement on the PLHPP, and to propose measures that should be considered in the ongoing development of the Project.

The MRC Joint Committee noted that the 1995 Agreement; signed by the Governments of Cambodia, Lao PDR, Thailand and Viet Nam; set out cooperation in all fields of sustainable development, utilisation, management and conservation of the water and related resources of the Mekong River Basin. The meeting also recognised that the four MRC Member Countries reaffirmed their commitment to the Objectives and Principles of the Mekong Agreement at the last three MRC Summits in 2010, 2014 and 2018, in Hua Hin in Thailand, in Ho Chi Minh in Viet Nam and in Siem Reap in Cambodia, respectively.

The MRC Joint Committee also recalled that in 2016, the MRC adopted the Basin Development Strategy 2016-2020 for the Lower Mekong Basin, which recognises mainstream hydropower as a development opportunity and the enhancement of regional benefits while any potential adverse transboundary impacts should be avoided, minimised and mitigated.

The MRC Joint Committee acknowledged its mandate to evaluate the proposed PLHPP with the aim of arriving at an agreement. The meeting noted that the notified Countries had submitted individual Reply Forms on the proposed PLHPP, and that the Lao PDR delegation has submitted a Statement at the Special Session the Joint Committee.

The MRC Joint Committee appreciated the spirit of cooperation and responsibility of all Member Countries during the Prior Consultation process and noted with gratitude that efforts were already made by Lao PDR to address some of the Member Countries' concerns.

The MRC Joint Committee noted that MRC Secretariat has prepared Technical Review Report (TRR), guided by the Joint Committee Working Group and informed by feedback from national and regional stakeholder forums. The MRC Joint Committee also considered the responses to the second draft of the TRR prepared by Lao PDR's Ministry of Energy and Mines and Ministry of Natural Resources and Environment.

Having considered the Technical Review Report and outcomes of the national and regional stakeholder forums, the Reply Forms from the notified Countries, and the Statement from the Lao PDR, and to conclude the prior consultation process, the MRC Joint Committee:

- I. **Calls on the Government of the Lao PDR to make every effort to address any potential adverse transboundary impacts of the PLHPP by considering the inter alia the following measures in the ongoing development of the proposed project:**

- 1. Addressing the impacts of the changed hydrology by:**
 - a. Introducing the operating rules curve to accommodate requirements of flow management as Article 6 of the 1995 Mekong Agreement, cascade optimisation and no significant harm to the downstream, that is aligning with Xayaburi HPP, and other potential mainstream HPPs to improve sediment flushing and downstream larval drift; and
 - b. Ensuring environmental flows for the area immediately downstream of the dam site.

- 2. Increasing the transport of sediment through the head pond by considering:**
 - a. Optimising sediment-related design to improve the sediment delivery efficiency of the PLHPP, including effective flushing gates and mechanical delivery method;
 - b. Considering the measures to minimise and mitigate the potential impacts of sediment deposition in the headpond/in-channel storage;
 - c. Reviewing the sediment management strategy to pass sediment more frequently, such as on a seasonal or annual basis; and
 - d. Coordinating water management and sediment management operations at the PLHPP with other hydropower projects of the cascade to minimize adverse impacts of flood and drought downstream and optimize power supply.

- 3. Improving the fish passage facilities by:**
 - a. Examining the design and effectiveness of the fish pass facilities at the previous best practice of mainstream hydropower projects when designing and constructing the fish pass for the PLHPP; and
 - b. Demonstrating the most effective designs in terms of the entrances and exits, slope of the fish pass, flow velocity and capacity of fishpass, dam operational rules to maintain drifting fish egg and larvae and effective fish passing, operation of spillway gates and turbines to minimise fish mortality and installing fish screens to divert larger fish from the turbines.

- 4. Gaining a better understanding of potential transboundary socioeconomic impacts by:**

Considering the results from the socio-economic impact assessment of the related MRC studies and undertaking further assessment if needed on the consequences of the PLHPP on livelihoods and food security.

- 5. Improving the design of the dam safety features by:**
 - a. Undertaking a dam break analysis including possible failures, at the start of the detailed design stage to identify any weaknesses in the design and allow mitigation measures to be incorporated at an early design stage; and
 - b. Carrying out dam break modelling to determine the consequences of the theoretical dam break flood wave, and to select the design standards accordingly.

- 6. Increasing the safety of the navigation facilities by:**
 - a. Increasing the air clearance over the upper lockhead to align with the standard practice on the Mekong;
 - b. Providing a vertical front for the downstream guidance wall, as is the case with the upstream guidance wall;
 - c. Improving the safety of the upstream and downstream approaches to the lock

- system by considering appropriate design changes; and
- d. Using the lock system to facilitate fish migration during construction, drawing upon the Xayaburi system as an example.

7. *Maintaining a communication channel to get the inputs into the ongoing design and development of the PLHPP, including at a minimum the following expertise:*

- a. Dam safety;
- b. Flow regulation;
- c. Sediment flushing infrastructure;
- d. Fish passage infrastructure;
- e. Navigation lock infrastructure; and
- f. Socio-economic assessment.

8. *Gaining a better understanding of the potential impacts of the PLHPP by:*

- a. Collecting additional data to better support local and transboundary impacts assessment and identification of appropriate mitigation measures;
- b. Taking into account the impact assessments at both local and transboundary levels including changes in flow regimes, sediment transport, fisheries, water quality, and ecological health as recommended by the Technical Review Report; and
- c. Cooperating with MRC Secretariat to consider the impacts of the PLHPP in the context of cumulative impacts of other existing and planned mainstream dams including the dams in the Upper Mekong River.

9. *Monitoring*

Expanding the MRC Joint Environment Monitoring of the mainstream development projects to cover the impacts assessment of the PLHPP on the hydrology, sediment, water quality, aquatic ecology and fisheries in construction and operation stages.

10. *Information sharing*

Periodically share the monitoring data, the updated detailed design and operating rules with the MRC for comment and reference.

- II. **Requests the Mekong River Commission Secretariat to support the preparation of a Joint Action Plan (JAP) that outlines a post Prior Consultation process.**
- III. **Requests the MRC Secretariat to incorporate the key findings from the PLHPP PNPCA process in the development of Commentaries to the Procedures for Notification, Prior Consultation and Agreement through its work with the MRC Joint Platform, and to expedite this work for consideration by the MRC Joint Committee.**

The MRC Joint Committee notes that the list of recommendations above may be updated based on the additional information provided. The MRC Joint Committee will continue its dialogue on the PLHPP in order to address the transboundary impacts of the PLHPP through the Joint Action Plan (JAP). Financial arrangement would be discussed for all the items listed above.

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