

# OVERVIEW AND PROGRESS TOWARDS COMPLETION OF PNPCA PRIOR CONSULTATION PROCESS FOR LUANG PRABANG HYDROPOWER PROJECT

THE 9<sup>TH</sup> MRC REGIONAL STAKEHOLDER FORUM

DAY 1: THE 2<sup>ND</sup> REGIONAL INFORMATION SHARING ON PRIOR CONSULTATION FOR LUANG PRABANG HYDROPOWER PROJECT

05 FEBRUARY 2020, LUANG PRABANG, LAO PDR

Mr. Bountieng Sanaxonh, Director, Planning Division, MRC Secretariat

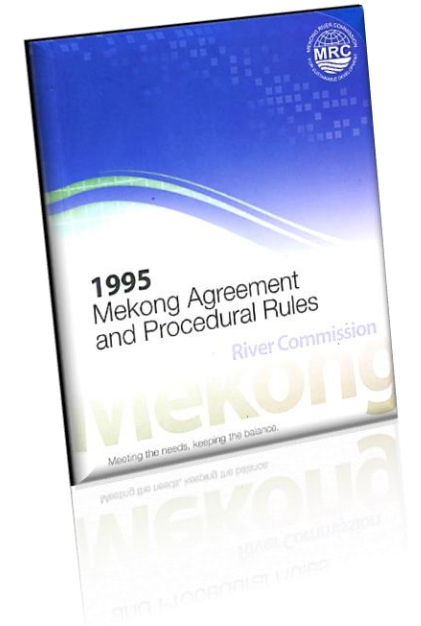


# CONTENTS

1. PNPCA and Prior Consultation Process
2. Progress Overview and Next Steps
3. What happens after Prior Consultation

# 1. PNPCA and Prior Consultation Process (1)

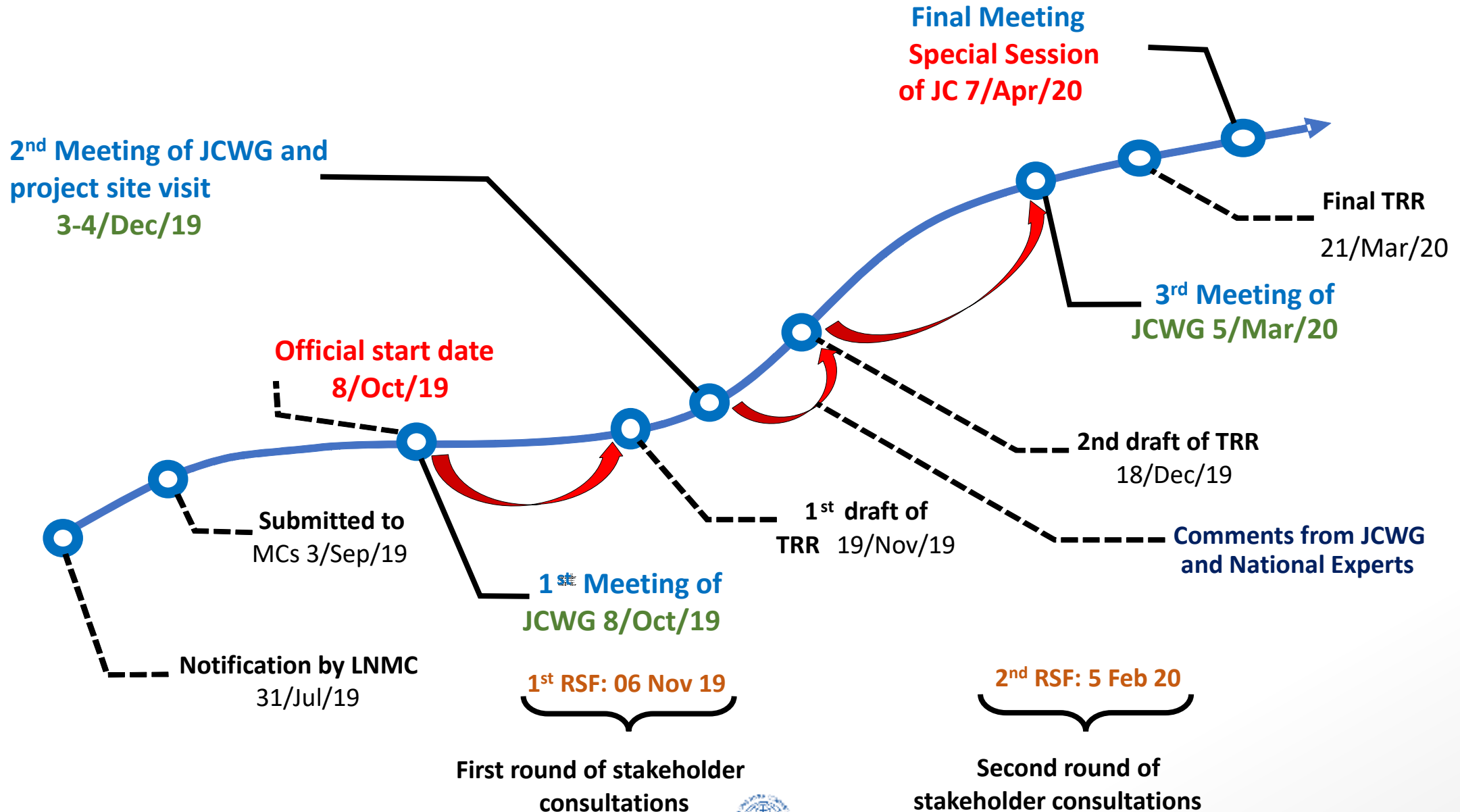
- PNPCA based on Article 5 of 1995 MA – **Reasonable** and **Equitable** use of Mekong River system.
- 3 distinct forms inter-State communication:
  - i. **Notification** – *tributary uses, and wet-season uses in mainstream*
  - ii. **Prior Consultation (PC)** – *dry-season uses in mainstream, and inter-basin uses in wet-season.*
  - iii. **Specific Agreement** – *inter-basin use in dry-season.*
- **LPHPP** represents a year-round use of Mekong mainstream therefore subject to PC
- PNPCA is based on following principles:
  - *Sovereign equality and territorial integrity;*
  - *Equitable and reasonable utilisation;*
  - *Respect for rights and legitimate interests; and*
  - *Good faith and transparency.*



# 1. PNPCA and Prior Consultation Process (2)

- PC is neither ***a veto right***, nor ***a right to unilaterally*** proceed without taking **legitimate concerns** of notified countries into account – Not a “**yes**” or “**no**” decision process.
- Rather, a “**Statement**” calling on notifying country to include “**a set of measures**” in ongoing development of proposed project to be unanimously agreed by JC (Art. 5.4.3 PNPCA).
- “**A set of measures**” will serve as basis for formulation of a **Joint Action Plan** provides for ongoing involvement of MRC and Stakeholders.
- Agreement on a set of measures does not imply “**tacit approval**” of project, but rather agreement that **additional steps could be taken** to reduce potential risks and TB impacts, **if project proceeds**.

## 2. Progress Overview and Next Steps (1)



## 2. Progress Overview and Next Steps (2)

- MRCS received “**Notification**” of LPHPP from Lao PDR on **31 July 2019**.
- MRCS checked “**Completeness**” and prepared a “**Scoping Assessment Report (SAR)**”.
- MRCS forwarded submitted documents to notified countries on **03 September 2019** and followed by SAR on **24 September 2019**.
- **1<sup>st</sup> Meeting of PNPCA JCWG** on **08 October 2019** – *agreed on start date (the same day), roadmap & scoping report, experts, key technical issues to be addressed in TRR*

## 2. Progress Overview and Next Steps (3)

- **1<sup>st</sup> Regional Stakeholder Forum – 6 November 2019:**
  - ✓ **PC process and expected end-point** was outlined and presented.
  - ✓ Forum attracted **more than 194 participants** representing MRC MCs, DPs, NGOs and CSOs, Research Institutes & Universities, & Media.
  - ✓ **Report** on outcomes of 1<sup>st</sup> Stakeholder Forum is available on MRC's website
  - ✓ ***Comments have been incorporated in draft TRR***



## 2. Progress Overview and Next Steps (4)

- **1<sup>st</sup> draft Technical Review Report (TRR)** circulated with MCs on **19 November 2019**.
- **2<sup>nd</sup> Meeting of PNPCA JCWG on 3– 4 Dec 2019** to discuss **1<sup>st</sup> draft TRR & visit to LPHP project site**.
- Comments & information obtained from **2<sup>nd</sup> Meeting of JCWG, site visit** and written comments from MCs were used to come up with **2<sup>nd</sup> draft TRR**.
- **2<sup>nd</sup> draft TRR** was circulated with MCs on **18 Dec 2019** and to be presented in a **summary form** in **2<sup>nd</sup> Stakeholder Forum** on **5 February 2020**
- **National meetings** organized by Member Countries:
  - ✓ Cambodia: 21 October 2019 & 9 January 2020
  - ✓ Thailand: 24 December 2019 & 28 January 2020
  - ✓ Viet Nam: 04 November 2019 & 14 February 2020 (to be conducted)
  - ✓ Lao PDR: 31 Jan 2020



## 2. Progress Overview and Next Steps (5)

- **Outcomes** of 2<sup>nd</sup> round regional and national consultations, and comments from JCWG will be used to prepare **final draft TRR**.
- **3<sup>rd</sup> Meeting of PNPCA JCWG**: discussion and endorsement of **final draft TRR – 5 March 2020**.
- **JC Special Session**: discussion and negotiation using **final draft TRR and Reply Forms – 7 April 2020**
- **“Statement”** including **“a set of measures”** to be unanimously agreed by JC for ongoing involvement of MRC and Stakeholders through project development.

### 3. What happens after Prior Consultation (1)

Success of PC lies in establishing an enabling environment for JC to agree “**a set of measures**” to assist developer to *avoid, minimise* and *mitigate* potential TB impacts, **if the project proceeds**.

- **A set of Measures** will outline **what are recommended, how to response and adapt it**, and **how it could be monitored and communicated** to MRC and other stakeholders.
- **Agreed Measures** will not reflect “**tacit approval**” by notified countries to proceed with PLHPP.
- **Notified Countries** will **separately reflect their views and position in their formal reply forms** to be part of official records of JC Special Session.

### 3. What happens after Prior Consultation (2)

- Agreement on *a set of measures* **does not prevent** Member Countries from **negotiating** and **agreeing** anything outside a 6-month Prior Consultation process.
- The **rollout** of *a set of measures* need to be detailed in a **Joint Action Plan (JAP)** to be endorsed by JC.
- **JAP** will provide opportunities for developer through Lao Government to share details of **on-going design**, and **how agreed measures have been taken up and addressed**, with MRC and other stakeholders.



**THANK YOU**

*One Mekong. One Spirit.*