

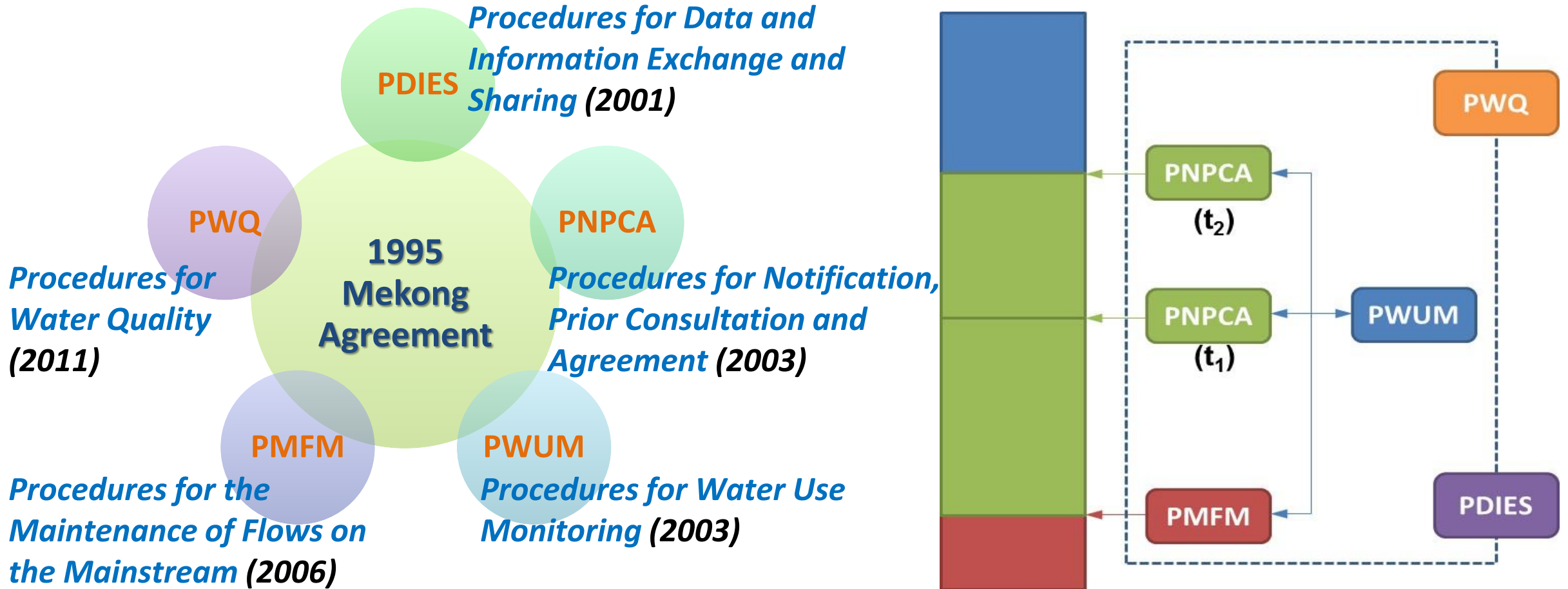
*The MRC Regional Stakeholder Forum
14th – 15th December 2017
Vientiane, Lao PDR*



Status – Post Prior Consultation Process for Pak Beng Hydropower Project (PBHPP)



1. The 1995 Mekong Agreement and five MRC Procedures



Water Diplomacy Legal Framework— Cooperative Management rather than Regulatory Approach to Cooperation

2. How PNPCA is applied?

Type of River	Season	Scope of water-use	Required procedure
 Mainstream	 Dry	Inter-basin (from the Mekong basin to another basin)	 Specific Agreement
		Intra-basin (within the Mekong basin)	 Prior Consultation
	 Wet	Inter-basin (from the Mekong basin to another basin)	 Prior Consultation
		Intra-basin (within the Mekong basin)	 Notification
 Tributary	 Both	Both inter and intra-basin	 Notification

3. How does Prior Consultation work?

*Prior Consultation is neither a **Right to Veto** the use nor **Unilateral Right** to use water by any riparian without taking into account other riparian rights.*

Prior Consultation Process Framework



Step 5: If Council is unable to resolve the matter, The case will be referred to concerned Government.

Step 4: If JC is unable to come to an agreement, however, JC can refer the case to MRC Council.

Step 3: Submission of **Reply Form** by notified country, JC meeting aiming at **unanimous agreement** (*not about approval or disapproval*), *recommendations and measures to mitigate potential adverse impacts.*

Step 2: Starts a 6-month PC process when JC members received full project documentation.

- **Technical Evaluation:** MRCS and MCs (JCWG) undertake technical review of submitted technical report using MRC's tools (PDG) and guidelines.
- **Regional and National Consultation:** to hear views and concerns of interested stakeholders.

Step 1: Notification to MRCS by notifying country for PC process, submission of detailed project documents, one-month internal review by MRCS for its **completeness** and **scoping assessment**.

4. Facts about PBHPP



- **1st cascaded hydropower project on mainstream of LMB**
- Located in Pak Beng District, Oudomxai Province
- 174 km upstream of Luang Prabang and **258 km from Xayaburi Hydropower Dam**
- **Run-of-River Project**
- Total storage capacity – 559 million m³
- 16 bulb turbines of 57 MW
- **Installed capacity – 912 MW**
- Annual average energy production – 4,765 GWh
- **10% of power will be supplied to EDL and remaining power to Thailand**

5. Timeline of 6-Month PC Process for PBHPP

2nd Meeting of JCWG
4-5/Apr/17, and site visit

Final Meeting -
Special Session
of JC 19/Jun/17
(Statement)

Final draft of
TRR 13/Jun/17

3rd Meeting of
JCWG 7/Jun/17

Official start date
20/Dec/16

2nd draft of TRR
17/May/17

Submitted to
MC 6/Dec/16

1st draft of TRR
27/Mar/17

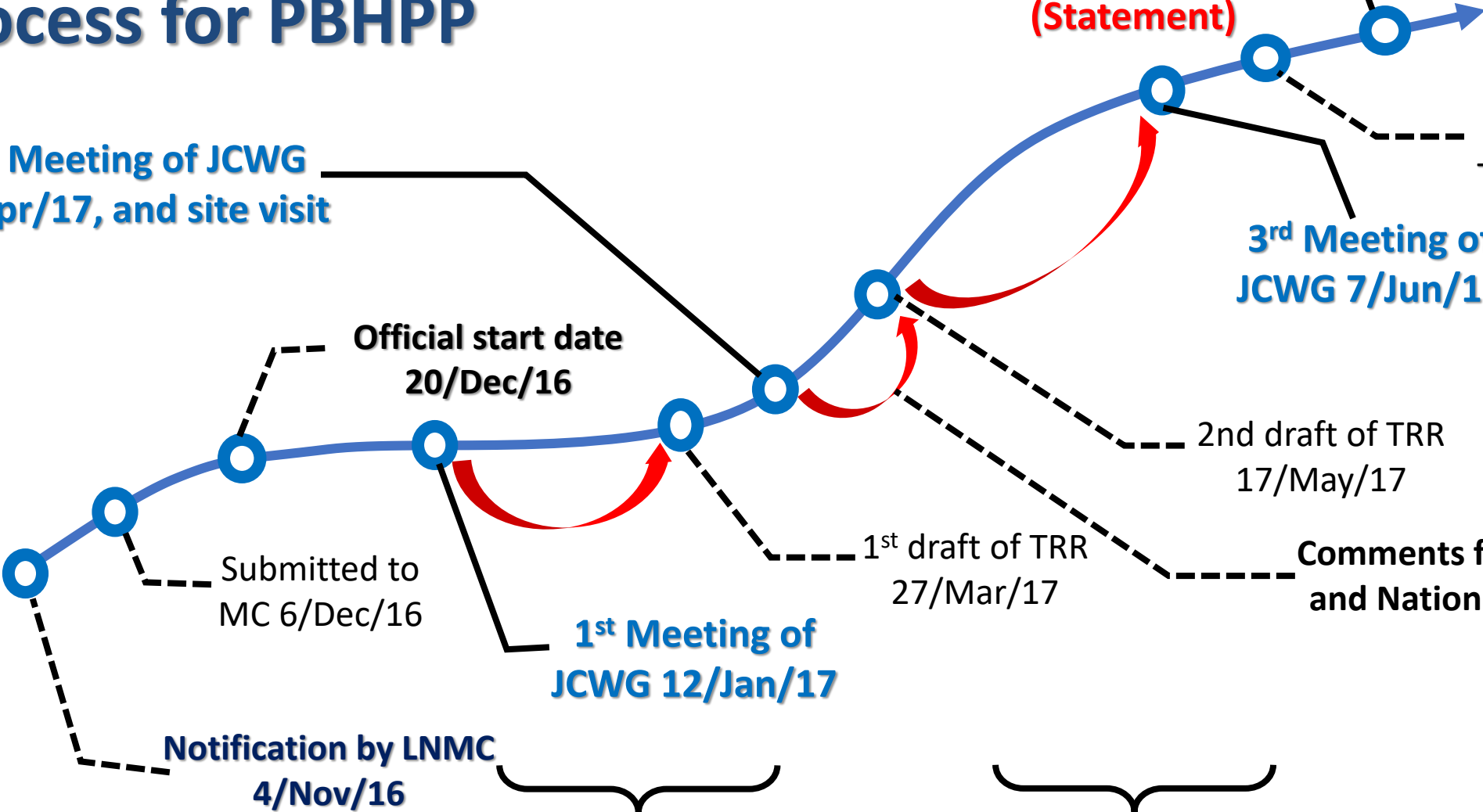
Comments from JCWG
and National Experts

1st Meeting of
JCWG 12/Jan/17

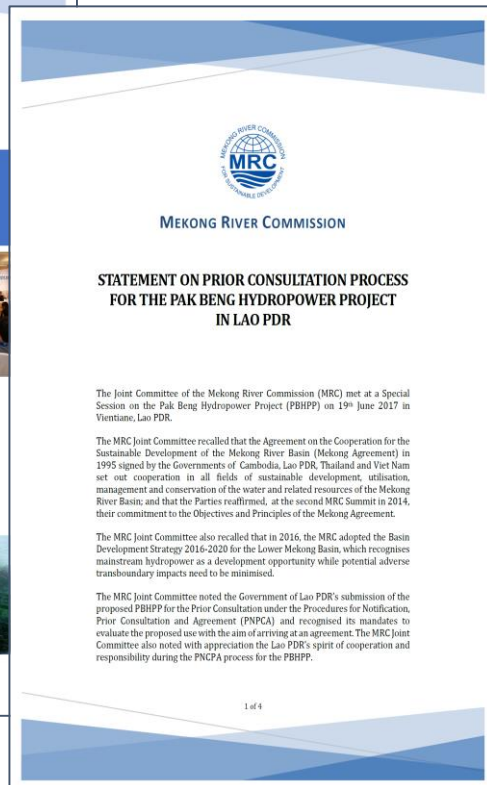
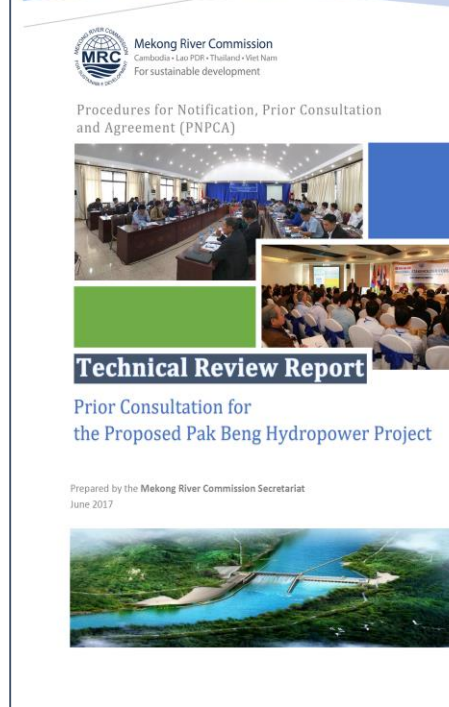
Notification by LNMC
4/Nov/16

First round of stakeholder
consultations – 22nd Feb. 2017

Second round of stakeholder
consultations – 5th May 2017



6. Conclusion of 6-month PBHPP PC Process and Next Steps



- ✓ JC took note of **findings and recommendations** provided in final draft Technical Review Report;
- ✓ JC endorsed proposed “**Statement**” which is the *formal declaration of outcome of PBHPP review*;
- ✓ Statement contains: *Key Recommendations, MRCS to Support Preparation of **Joint Action Plan (JAP)**, and MRCS to uptake lessons learnt in **Commentaries to PNPCA**;*
- ✓ **JAP** describes post-PC process aiming to provide mechanisms for **ongoing feedback between Lao PDR and MRC Member Countries, and Stakeholders.**

7. Key Aspects of Statement for PBHPP

According to the Statement on PC Process for PBHPP in Lao PRD:

1. Calls on the Government of the Lao PDR to make all reasonable efforts to address any potential adverse transboundary impacts of the Pak Beng Hydropower Project

6. Consider establishing a communication channel to get the inputs into the ongoing design and development of the PBHPP

- ❖ JAP takes place *after* PC → *Duty of Result* not *Duty of Conduct* as per PNPCA
- ❖ It is an *advisory in nature*, and follow the spirit of the **Statement**

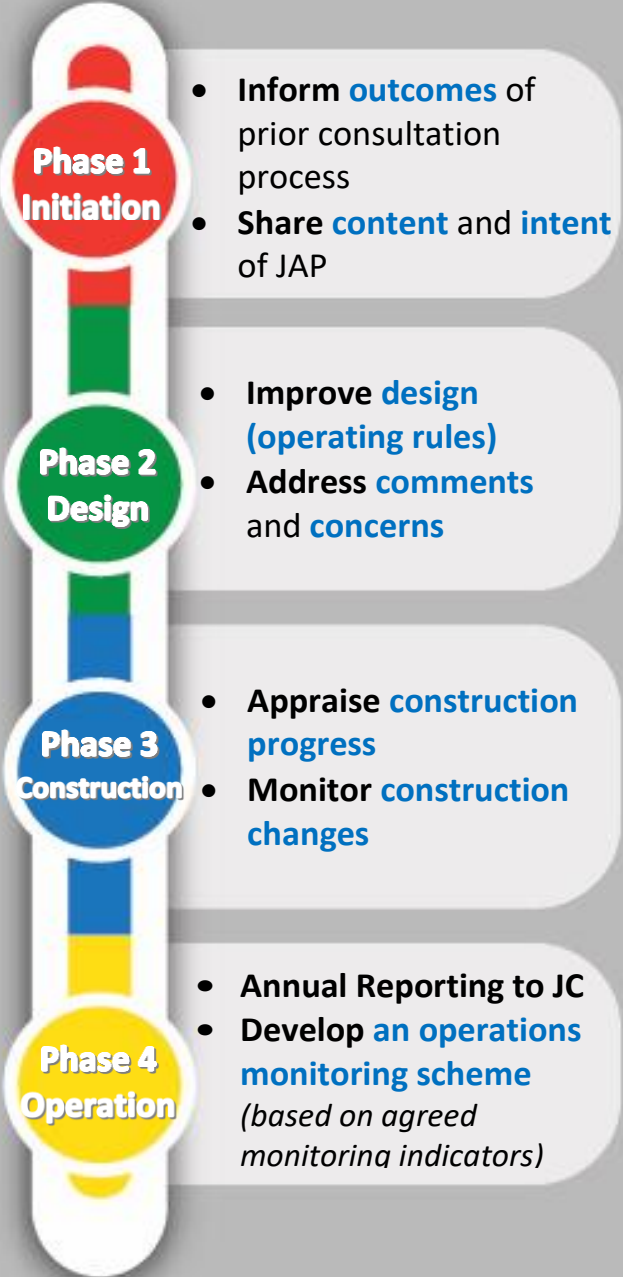


8. JAP Development Process

- ✓ **1st draft JAP** with proposed content was tabled at the 32nd JC Task Force Meeting – **28th Jul. 2017**
- ✓ **2nd draft JAP** was circulated to Member Countries for input and comments – **Aug. – Sep. 2017**
- ✓ **3rd draft JAP** was developed basing on comments and inputs from MCs and tabled for discussion at **4th Joint Platform Meeting – 5th Oct. 2017**
- ✓ **4th final draft JAP (4 versions)** is being discussed by MCs
- ✓ **Final JAP (version 5)** will be submitted to JC for approval in written in **March 2018**



Draft Joint Action Plan for the Implementation of the Statement for Pak Beng Hydropower Project



9. Factors Contributed to a Better PC Process for PBHPP

1. An enabling water diplomacy environment to **do things differently** was created (*clearer end-point, previous lessons, better project, hydro-politics*)
2. There was a shift in thinking away from a decision on whether the project **should proceed or not** (*if proceed, what could be done to reduce TB impacts*)
3. The **MRC's role** to promote the sustainable development of LMB was clearer (*not regulatory body, negotiating platform, Joint Committee*)
4. There was **greater engagement** of external stakeholders (*open & transparent from the beginning, inform/consult → ongoing engagement – JAP*)



Thank you

