Progress Overview and Next Steps
— Towards completion of a 6-month Pak Beng PNPCA PC Process

The 2nd Regional Stakeholder Forum
The Pak Beng Hydropower Project
5th May 2017
Vientiane, Lao PDR
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 WS uses in MS.
  ii. **PC** – DS uses in MS, and inter-basin uses in WS.
  iii. **Specific Agreement** – inter-basin use in DS.

- **PBHPP** represents a year-round use of Mekong mainstream it is 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.

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2. Progress Overview and Next Steps (1)

Timeline of a 6-Month PC Process for PBHPP

2nd Meeting of JCWG 5/April/17, and site visit

Official start date 20/Dec/16
2. Progress Overview and Next Steps (2)

- MRCS received “Notification” of PBHPP from Lao PDR on 4th Nov. 2016.

- MRCS checked “Completeness” and prepared a “Scoping Assessment Report (SAR)”.


- 1st Meeting of PNPCA JCWG on 12th Jan. 2017 – agreed on start date (20th December 2016), roadmap & scoping report, experts, key technical issues to be addressed in TRR.
2. Progress Overview and Next Steps (3)

- **1st Regional Stakeholder Forum – 22nd Feb 2017:**
  - **PC process** and **expected end-point** was outlined and presented.
  - Forum attracted **more than 180 participants** representing MRC MCs, DPs, NGOs and CSOs, RI&A, PDs and Media.
  - **Report** on outcomes of 1st Stakeholder Forum is available on MRC’s website. It was also referred by **1st draft TRR**.
  - **Responses from Stakeholders was positive** – **increased transparency of PC process** was recognised.
2. Progress Overview and Next Steps (4)

- **1st draft Technical Review Report (TRR)** circulated with MCs on **25th Mar 2017**.

- **2nd Meeting of PNPCA JCWG** organized on **4th – 5th Apr 2017** to discuss **1st draft TRR** and **visit to Pak Beng project site**.

- Comments and information obtained from **2nd Meeting of JCWG cum site visit** and a meeting with MEM & developer were used to come up with **2nd draft TRR**.

- **2nd draft TRR** was circulated with MCs on **17th Apr 2017** and to be presented in **summary form in 2nd Stakeholder Forum on 5th May 2017** and **2nd Round National Consultations**.
2. Progress Overview and Next Steps (5)

- **Outcomes** of 2\textsuperscript{nd} round regional and national consultations, and comments from JCWG will be used to prepare **final draft TRR**.

- **3\textsuperscript{rd} Meeting of PNPCA JCWG**: discussion and endorsement of **final draft TRR** – 7\textsuperscript{th} June 2017.

- **JC Special Session**: discussion and negotiation using **final draft TRR** and **Reply Forms** – 19\textsuperscript{th} June 2017.

- **“Statement”** including **“a set of measures”** to be unanimously agreed by JC for ongoing involvement of MRC and Stakeholders thru project development.
3. What happens after a 6-month Prior Consultation

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 PBHPP.

- As, **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 a 6-month Prior Consultation

- 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