



Mekong River Commission
for Sustainable Development

Fast Facts about On-going Hydropower-related Work

Mekong River Commission Secretariat

July 2018 | Vientiane

1. Joint Action Plan (JAP) for Pak Beng Hydropower Project

Unlike the previous two cases (Xayaburi and Don Sahong hydropower projects), aside from the TRR (Technical Review Report), a **Statement** on the Conclusion of the Prior Consultation process for the Pak Beng Hydropower Project (PBHPP) was also prepared for consideration at a Special Session of the MRC's Joint Committee on 19 June 2017. As the result of the JC deliberation, the JC agreed on a "Statement" calling on "the Government of Lao PDR to make all reasonable efforts to address potential adverse transboundary impacts of the Pak Beng project" and requesting the Secretariat to support the preparation of a Joint Action Plan (JAP) outlining a post-prior consultation process.

The JAP describes the post-prior consultation process, aiming to provide mechanisms for ongoing feedback between the developer and Lao PDR, and the MRC and stakeholders. The JAP gives confidence to all MCs that their concerns *are being addressed* in the *ongoing design, construction and future operations* of the PBHPP; that the expectations are reasonable; and that it keeps the MRC engaged in the ongoing process of identifying measures to avoid, minimise and mitigate potential transboundary impacts.

After several rounds of national and regional discussion the final version was submitted to the JC members in mid-February 2018 for approval through an exchange of letters. By April 2018, the MRC Secretariat has received letters of approval on JAP Version 5 from Cambodia, Thailand, and Viet Nam. The MRC Secretariat is awaiting only the official approval from Lao PDR.

Along the development process, the MRC Secretariat also presented the draft content of the JAP for PBHPP in a Water, Land and Ecosystems Forum in October 2017 and MRC's International Conference in April 2018. These stakeholder engagements helped clarify the intention and scope of the JAP as well as informed the MRC Secretariat of public views and expectations.

The MRC Secretariat will present details of the JAP for PBHPP at the upcoming MRC's 5th Regional Stakeholder Forum slated for September 2018 and make it available on the MRC's website.

2. Xayaburi Design Changes

The PNPCA prior consultation process for the Xayaburi Hydropower Project (XHPP) was officially completed in April 2011. After the finalization, the government of Lao PDR commissioned Poyry Engineering to prepare a compliance report in August 2011 in response to the MRC's TRR on the prior consultation process of XHPP. After the PNPCA process and after a report by Poyry in 2011, the government of Lao PDR and the Xayaburi Power Company Ltd (XPCL) engaged a France-based company called CNR and Poyry from Switzerland to carry out studies and to propose re-design solutions to meet the MRC member countries' concerns raised during the PNPCA process (*fish passage, sediment transport, navigation facility and seismic risks*).

The review of the redesign of the XHPP has been carried out by the MRC Secretariat since the second half of 2017 after completion of the prior consultation process for the PBHPP. The review considers ONLY officially provided, or publicly available, reports, drawings, presentations, and correspondence provided by the government of Lao PDR and the developer

as well as their advisors (*Re-design Reports received February 2014, Presentations received July 2015, Drawings received August 2016, Report on design adaptation of the Xayaburi HPP in November 2017*). The Review of the Xayaburi redesign is intended to determine whether the recommendations of the PNPCA's Xayaburi Technical Review Report (XTRR) by the MRC Secretariat have, in general, been taken up in the re-design of the Xayaburi HPP.

Ultimately, the review will be made available to notified countries and other stakeholders to better understand the project adaptation in response to the MRC's XTRR and more broadly the role of the MRC's involvement in the process, including how it connects update of the Preliminary Design Guidance, Joint Environment Monitoring for the Mekong hydropower projects (JEM), Guidelines for Transboundary Environment Impact Assessment (TbEIA) and the Review and Update of the Sustainable Hydropower Development Strategy for the Mekong (SHDS2018). The Xayaburi Design Changes Report was tabled for discussion in the regional Working Session and the 5th Meeting of the MRC Joint Platform. Final feedback on Review Report of the Xayaburi Design Changes is being sought from Lao PDR for the MRC Secretariat to finalise the report to be submitted to the upcoming JC Meeting, scheduled for late August 2018, for taking note before it is released to the public.

Upon the no-objection by Lao PDR, the Review Report of the Xayaburi Design Changes will be release to the public through the MRC's website as well as the presentation in the MRC's 5th Regional Stakeholder Forum scheduled in September2018.

3. Update of Preliminary Design Guidance for Proposed Mainstream Dams (PDG)

The MRC developed the Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin (PDG) in 2009 in response to the imminent development of several hydropower dams on the mainstream and in the absence of any available regional guidance for developers and member countries on risk mitigation.

After its application for 3 mainstream dams (Xayaburi, Don Sahong and Pak Beng projects) it became clear that there are gaps in the PDG2009 that need to be filled and areas of ambiguity that need to be clarified. In addition, the question of the applicability of the PDG to significant tributary projects that may have transboundary impacts has been raised.

After approval of the Concept Note for the update of the PDG in November 2017 and following a series of national consultations on version 0.2 of the PDG2018 in May 2018, and a few rounds of consultations with hydropower developers, the updated PDG version 0.3 has been prepared for final discussion and consideration by the member countries at a regional consultation meeting. The updated PDG Version 0.3 was distributed to Member Countries in early June 2018 and was made available for public comment between 28th June and 18th July 2018 through MRC website.

After the regional meeting scheduled on 6th August 2018, a final draft of updated PDG will be produced to be submitted to the Joint Committee for approval in the upcoming 48th Meeting in late August. The MRCS has also planned to include the updated PDG in the agenda of the MRC's 5th Regional Stakeholder Forum. Upon receipt approval from the JC the updated PDG will be made available to the public and applied for the next prior consultation processes for proposed mainstream hydropower projects.

The updated PDG 2009 will provide contemporary, research-based performance targets, and design and operating principles for mitigation measures, monitoring and adaptive management to be endorsed by the Joint Committee by mid-2018.

4. Update of Sustainable Hydropower Develop Strategy (SHDS)

Hydropower is recognized as an important development opportunity for the Mekong River Basin and the people living within it. Building on the analysis of the Basin Development Strategy and the recently completed Council study, the updated 2019 Sustainable Hydropower Develop Strategy (SHDS 2019) is aiming to identify and analyse alternative hydropower development pathways that enhance benefits beyond national borders and minimize adverse transboundary impacts.

The main output of the SHDS updating is to be a shortlist of hydropower development pathways with a clear analysis of the trade-offs each option entails. The SHDS 2019 will detail the costs and benefits of preferred development options and will provide an agreed set of Strategic Actions to facilitate implementation of the Strategy.

After discussion and agreement reached on Inception Report in May 2018, a Discussion Paper #1 was developed and shared with all member countries for national consultations in mid-August 2018 with the aim to provide an opportunity to a broad range of stakeholders in each member country discuss and comment on a number of key issues such as appropriateness of the main pathways, hydropower development plans to be reconciled with national power sector development plans), role of regional power system integration, potential for multi-purpose, shared transboundary projects, and methodological issues.

After national consultations, two interactive participatory workshops will be held to discuss and finalise Discussion Paper #1 in October 2018 and Discussion Paper #2 in November 2018. It is anticipated that the updated SHDS will be completed by December 2018 for JC's endorsement and Council's through an exchange of letter in the 1st quarter of 2019, to be used for the updating of next BDS 2021-2025.

The updated SHDS will also be an agenda item for the upcoming 5th Regional Stakeholder Forum schedule in early September 2018.

5. Lessons Learnt from Previous Prior Consultation Processes

The implementation of the PNPCA has undergone critique specifically in relation to the Prior Consultation process. It has been questioned by some whether the process is functioning effectively to facilitate regional decision-making for the future of the Mekong River and its people. Challenges with the implementation of the PNPCA include the ambiguity regarding some parts of the text of the 1995 Mekong Agreement (MA) and its related Procedures.

In order to provide more clarity around the PNPCA process and its actual purpose (as there is misunderstanding that it is a regulatory approval process), development of a "Commentary" on the provisions of the PNPCA was recommended in the PNPCA lessons learnt workshop to supplement the current Guidelines on Implementation of the PNPCA by placing the key provisions of the PNPCA in the wider context of international good practice.

In April 2017 the first draft of PNPCA Commentary was prepared and went through national consultation in May and June 2017. Results from the first round of national consultation was

incorporated into the early working draft Commentary and presented in the 4th Joint Platform meeting in October 2017. Based on inputs from the member countries, the second draft of PNPCA Commentary was updated to the final draft and circulated for regional working session, which was held on 4th May 2018 in Vientiane, Lao PDR. The MRCS is planning to conclude this exercise by the end of 2018. The MRCS is also planning to present emerging findings of PNPCA Commentaries during the 5th Regional Stakeholders Forum before its finalisation.

6. Council Study

The Council Study was completed in 2017 and 2018 focused on dissemination and immediate uptake activities at the regional level especially MRC work. At the 3rd Summit, the Mekong Prime Ministers in their agreed statement calls on countries to consider “the key findings from the Council Study, including at both policy and technical levels in order to capture development opportunities and address trade-offs, benefit sharing, risks as a reference for planning and implementation of national plans and projects, and in relevant MRC work”.

For the MRC, actions in this regard include the use of the knowledge base and tools generated from the Council Study to support i) the preparation of the State of Basin Report 2018 which expects to disseminate publicly by the end of Dec 2018, ii) review and update of the Sustainable Hydropower Development Strategy, iii) the challenges and lessons learned drawn from the Council Study is being applied for updating and revising of the MRC Indicator Framework, including the development of the MRC regional data generation strategy and actions plan and iv) the reviewing process for the proposed Pak Lay PNPCA. The MRCS has worked with the United States Army Corps of Engineers (USACE) in using the data and information from the Council Study to undertake further Collaborative Modelling (CM) in order to identify and discuss trade-offs, benefit sharing, and risks.

In addition to many rounds of national dissemination workshops in the first half of 2018, the MRCS is working with member countries to conduct national working sessions in preparing detailed uptake plans of the CS’s key findings and recommendations into national planning and plans. The meetings will be conducted from August 2018.

7. Joint Monitoring of the Mainstream Hydropower Projects (JEM)

The proposal on establishment of the joint monitoring programme for the Mekong mainstream hydropower projects was presented for the first time at the 44th MRC JC Meeting on 27 July 2016 in Phnom Penh, Cambodia. The overall objective of this proposed “Joint Monitoring” initiative is to generate reliable and scientific data and information through established Joint Monitoring Programmes on site-specific (trans-boundary) issues related to fisheries, hydrology and hydraulics, sediment and water quality. A draft Concept Note for development of the joint environment monitoring programme, including the objectives, scope, disciplines, methodology, implementation arrangement, workplan and financial plan, etc, was prepared for consultation and agreement with the Member Countries at the regional meeting on 15 September 2017 in Vientiane, Lao PDR. The key futures of the Concept Notes include:

- a. *Specific objectives:*
 - To fill the gaps of environmental data and information for the Mekong mainstream hydropower project planning and designs;

- To support the Member Countries to jointly monitor and report the transboundary environmental impacts of Mekong mainstream hydropower projects during construction and operation to inform mitigation and management measures; and
- To facilitate environment data and information sharing and exchange among the concerned Member Countries.

b. Scope:

- Geographic location: The proposed “joint environment monitoring” should be developed for and used at mainstream hydropower projects sites in the LMB.
- Disciplines: The “joint environment monitoring” will include five key environment and fisheries disciplines: (1) hydrology and hydraulics, (2) sediments and geomorphology, (3) water quality, (4) aquatic ecology, and (5) fish and fisheries for impact assessment of mainstream hydropower projects.
- Indicators: The key specific indicators for the joint environment monitoring of mainstream hydropower projects will be properly selected to get sufficient data and information needed for assisting hydropower decision-making and sustainable hydropower management and development in the LMB, including project design, prediction of changes relating to the project operation, and development, application and evaluation of project impact mitigation and management measures.

c. Outputs: A joint environment monitoring programme for the Mekong mainstream hydropower projects is developed and approved by MRC Joint Committee. The joint programme will be like the Standard Operation Procedures for environment monitoring of mainstream hydropower projects in the LMB.

Following the agreed workplan, a JEM Coordination Team was established and four international consultants were recruited. To start design of the network, a kick off meeting with JEM international consultants and site visits to Xayaburi and Nam Ou projects in Lao PDR were conducted. The outcomes of these site visits are being used as references for the MRCS to produce the first draft of network design. It is planned that the draft design of the joint monitoring network will be brought for consultation with the member countries in September and will be finalized by end 2018. The pilot projects for Xayabuly and Don Sahong HPPs will then be implemented from 2019-2020.

###