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Mekong River Commission

DIALOGUE WORKSHOP REPORT

Dialogue Workshop on Lessons Learnt from the Implementation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA)

Bangkok, Thursday, 25th February 2016

Executive Summary

The recent Dialogue Workshop on Implementation of the Procedures for Notification Prior Consultation and Agreement, under the banner of the the Mekong River Commission (MRC) Joint Platform, brought together a very experienced group of national experts on Mekong cooperation and MRCS staff to consider key lessons learnt in the implementation of the PNPCA, adopted under the 1995 Mekong Agreement. The participants divided into four thematic groups to discuss particular aspects of PNPCA implementation, including the need to clarify the requirements of PNPCA, the scope for improving effective implementation of the PNPCA, means for ensuring more effective public and stakeholder participation under the PNPCA, and the role of international best practice in informing implementation of the PNPCA. This Report captures the observations made by the participants based on the MRC member States' experience to date of employing the PNPCA as a mechanism to facilitate inter-State communication and cooperation regarding planned projects which might impact on the regime of the Mekong. It also sets out the principal recommendations of the participants for promoting more effective implementation of the PNPCA, on which there was a very considerable measure of consensus. Such recommendations included:

- Greater clarity regarding the commencement and conclusion of the Prior Consultation process;
- A process for the review and approval of the adequacy of documentation received for Prior Consultation;
- Greater clarity regarding the roles of all actors who have a responsibility for implementing the PNPCA;
- Development of appropriate project information disclosure practices to effective stakeholder participation;
- Greater clarity regarding the role of transboundary EIA;
- Development of a "Commentary" on the provisions of the PNPCA, to supplement the current Guidelines on Implementation of the Procedures for Notification, Prior Consultation and Agreement by placing the key provisions of the PNPCA in the wider context of international best practice in the field.

Introduction to the Workshop Objectives and Format

Aiming to improve the process of water diplomacy, high-level representatives of the lower Mekong River basin countries and experts from the Mekong River Commission (MRC) Secretariat gathered in Thailand to discuss lessons learnt from the implementation of the Procedures for Notification, Prior Consultation, and Agreement (PNPCA) and its guidelines, one of five procedures adopted under the

1995 Mekong Agreement. The one-day workshop on the Dialogue of Lessons Learnt from the Implementation of the Procedure for Notification, Prior Consultation and Agreement (PNPCA) and Guidelines drew 64 participants from the National Mekong Committees of Cambodia, Lao PDR, Thailand and Viet Nam, their governmental line agencies and the secretariat.

The Dialogue Workshop was held as part of the work of the MRC Joint Platform and the outcomes of the workshop will be reported to the MRC Joint Committee (JC), which is the basis of this report. Prior to the commencement of the Workshop the member countries were provided with a draft working paper on lessons learnt from the implementation of the PNPCA, to stimulate ideas and discussions at the Workshop. National consultation meetings were held by member countries prior to the Workshop to inform input into the Workshop, where it was considered necessary. The Workshop was held on Thursday 25 February 2015 in Bangkok, Thailand. Experience by all Member States from the Prior Consultation process for the Xayaburi and Don Sahong Hydropower projects in Lao PDR provided a useful context for sharing the lessons learnt.

Following the formal opening of the Workshop and the welcome address delivered by the MRC Chief Executive Officer (CEO) and the Thai National Mekong Committee, the Main Facilitator (Prof Owen McIntyre, National University of Ireland) introduced the format of the event to the participants and explained the objectives of the Workshop and plans. Prof McIntyre outlined that the Workshop was intended to gather feedback from the participants on their practical experience of implementing the PNPCA mechanism, and that intensive dialogue on lessons-learnt to date and suggestions for improvement would be conducted by means of four groups of participants working in parallel with each covering a particular priority thematic area (guided by the draft working paper):

- Theme 1: Providing clarity for the implementation of the PNPCA and Guidelines (Facilitator - Dr John Dore, Australian Department of Foreign Affairs and Trading (DFAT));
- Theme 2: Improving the PNPCA process (Facilitator – Dr Alistair Rieu-Clarke, Centre for Water Law Policy & Science under the auspices of UNESCO, University of Dundee);
- Theme 3: Developing capacity and improving public perception and participation in the PNPCA (Facilitator – Ms Klomjit Chandrapanya, Stockholm International Water Institute (SIWI)); and
- Theme 4: Learning from international conventions and international law cases and looking to achieve best international practice (Facilitator – Mr Remy Kinna, London Centre of International Law Practice).

Each thematic group consisted of (at least) two participants from each MRC Member State and the MRCS, with the dialogue facilitated by an international expert familiar with the PNPCA and with similar procedural mechanisms and practice internationally. In order to identify best practice in inter-State notification and prior consultation, including those aspects of the PNPCA which might be improved, as well as those which currently work well, the participants were encouraged to provide forthright and objective feedback to the facilitators on the technical merits and/or de-merits of a full range of issues. The facilitators sought to adopt a reasonably informal approach to the Workshop proceedings in order to encourage a frank dialogue among the participants.

Contextual background for water diplomacy and the PNPCA process

The Main Facilitator then proceeded to provide some contextual background for the Workshop by making some observations on the nature of the role played by the PNPCA in accommodating effective international cooperation over a shared transboundary river basin. First of all, Prof

McIntyre stressed the significance of procedures for notification and prior consultation regarding major planned projects or uses for the practical implementation of the universally accepted core rules of general international water law:

- the requirement to utilise an international watercourse in an equitable and reasonable manner;
- the obligation to prevent significant transboundary harm; and
- the general duty to cooperate with other riparian States.

These key rules would inevitably remain vague in terms of their practical implications, and thus largely meaningless, in the absence of procedural rules to facilitate effective engagement and information exchange amongst the States concerned.

Secondly, he explained that recent developments in the practice of international water law, including a number of seminal decisions of international courts and tribunals, have made it clear that:

- (a) International water law may be understood as a “living” body of rules and practice, which is continuously evolving through the continuing elaboration of procedural rules, guidelines and other forms of practice (such as the PNPCA and Guidelines) by cooperative institutional fora established for this purpose; and
- (b) International water law is essentially concerned with fostering a “culture of communication” among co-riparian States by providing a set of shared understandings and a common language which can greatly assist effective inter-State cooperation.

In this way, the universally applicable rules and principles of customary international law, which are based on the general practice of States, continuously inform the further elaboration and interpretation of specific rules, procedures and guidelines adopted under a basin-specific conventional regime, such as the 1995 Mekong Agreement.

Thirdly, he suggested that the PNPCA and Guidelines, adopted by the MRC in 2003 and 2005 respectively, represent leading-edge practice internationally as regards the formal exchange of information on planned projects or uses between riparian States and, as such, are closely studied by interested State and river basin organisation (RBO) officials across the world. Therefore, any attempt by the MRC and national officials in the Lower Mekong Basin systematically to identify which aspects of the PNPCA works effectively, which aspects present challenges in implementation, which improvements or changes in approach might address such challenges, and the means by which such improvements or changes might be effected, presents the MRC with a further opportunity to demonstrate global leadership in the cooperative management of a major shared international basin.

The Main Facilitator then delivered a brief presentation outlining the *Draft Working Paper on Lessons Learnt from Implementation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA)*, prepared by the MRC Secretariat (MRCS) in order to inform the Workshop dialogue. The Draft Working Paper outlines the extent of experience gained to date of implementing the PNPCA process, as well as listing the key issues and challenges arising from such experience, both generally and more specifically in respect of the prescribed Notification and the Prior Consultation procedures.

Four Thematic Areas for Lessons Learnt from PNPCA

Theme 1: Providing clarity for the implementation of the PNPCA and Guidelines

This thematic area was intended to share the participants' experience of practical implementation of the PNPCA and Guidelines regarding, for example, scoping or definitional issues arising from the PNPCA or the respective roles of each actor under the MRC structure.

Observations

- Participants acknowledged the considerable achievement of having implemented two Prior Consultation processes to date – Xayaburi and Don Sahong.
- Participants suggested that a number of areas of uncertainty and confusion persist regarding implementation of the PNPCA and Guidelines, including:
 - Which steps might usefully be taken prior to engaging the PNPCA process (*e.g.* early sharing of project information (and to an extent acceptance of planned development in the basin) by means of the Basin Development Planning process);
 - Whether a 'significant impact' for the purposes of identifying a relevant "water use / utilization" under the PNPCA only referred to an impact on the water quality or flow regime of the mainstream, or of the mainstream or a tributary;
 - Whether preparatory or construction works should be undertaken during prior consultation.
 - When precisely the Prior Consultation process should be regarded as having commenced (*e.g.* on the receipt of the necessary documentation, when the Joint Working Group actually meets for the first time, *etc.*);
 - More specifically, who should review and/or approve the documentation received for Prior Consultation and determine whether it is adequate for the commencement of the six month timeframe under PNPCA Article 5.5.1;
 - How and when engagement by means of the PNPCA process has concluded;
 - More specifically, when and how does the Prior Consultation process ends;
 - What should happen after the conclusion of Prior Consultation (*e.g.* project monitoring and reporting, *etc.*);
 - What is the precise mandate and role of the MRCS under the PNPCA as the technically competent cooperative body under the MRC framework;
 - How does the PNPCA link to other MRC Procedures and to national processes, such as Environmental Impact Assessment (EIA), planning approval or environmental licensing (*e.g.* how to ensure that transboundary impacts are fully considered in EIA to the satisfaction of Member States and the public concerned);
- Participants noted that the six-month timeframe for Prior Consultation has proven difficult in practice (*e.g.* 45 days were lost at the start of the Don Sahong Prior Consultation process due to uncertainty over the adequacy and completeness of project documentation).
- Participants expressed concern over a lack of opportunities for public participation during the Prior Consultation process.

Recommendations

- That the mandate and role of all actors involved in implementation of the PNPCA should be clarified.
- That the MRCS and the MRC CEO should assume an enhanced, more proactive (rather than merely reactive) supporting role during implementation of the PNPCA.

- That a process should be introduced for the review, where appropriate, of the adequacy of documents received for the purposes of Prior Consultation. This review role might be carried out by the MRCS as the technically competent supporting body under the MRC framework. Further technical guidance on the adequacy of such documentation ought to be prepared.
- That an incremental programme be initiated for the preparation of technical guidance to address issues as they arise from the practice of implementing the PNPCA, in order to eliminate uncertainty and *ad hoc* practice.
- That further technical guidance should be prepared addressing implementation of the PNPCA in respect of selected priority water utilisation sectors, starting with technical guidance for the hydropower sector in addition to the existing guidance such as the MRC's "preliminary design guidance for mainstream dams in the Lower Mekong Basin".
- Pre-consultation: that measures should be identified for the effective use of the BDP process for early sharing of project information; that additional procedures should be elaborated for the early sharing of information in advance of formal notification.
- Post-consultation: that the role of the notifying Member State should be clarified in reporting on progress in project implementation, implementing mitigating measures, etc.; that the role of MRCS should be clarified in monitoring and reporting.
- That existing mechanisms, especially the Joint Platform should be employed more effectively in the implementation of the PNPCA. The Joint Platform should meet more regularly with a carefully structured agenda.
- That preparatory or construction works should not be undertaken during the course of the Prior Consultation process.

Theme 2: Improving the PNPCA process

This thematic area focused on the operation of the specific processes set out under the PNPCA – Notification, Prior Consultation and Agreement – with a view to identifying opportunities for improving understanding of certain aspects of these processes and, ultimately, for greater effectiveness. It was anticipated that this group might address a wide range of issues, such as: timely notification; timely disclosure of "available" and "relevant" information; timing and commencement of a proposed use; scope and need for transboundary EIA; cost of prior consultation; post-consultation procedures; and the role of the MRC Joint Committee (JC) in approving an agreement or referring a proposed use for Prior Consultation. It was intended that this thematic area might help to resolve ambiguities and/or differing interpretations regarding the provisions of the PNPCA and Guidelines.

Observations

- Participants noted the need for greater clarity in respect of aspects of the PNPCA process, in particular regarding:
 - How pre-consultation exchange of information or advice might take place;
 - How modifications to / redesign of a project might be requested and how feedback on such requests should be obtained from the project developer;
 - Who is responsible for funding the Prior Consultation process;
 - When the Prior Consultation process has concluded;
 - How to proceed when the Prior Consultation process has run its course without achieving agreement;

- MRC member States have limited capacity for technical review of projects and so rely heavily on the expert judgment of international consultants.
- Participants noted that stakeholders require adequate time to review complex data and information in advance of public consultation meetings.
- Participants noted uncertainty surrounding the precise implications of the requirement to act in “good faith” in the conduct of Notification and Prior Consultation.
- Participants agreed that a sense of trust among the various actors engaged in the PNPCHA process is of paramount importance, but recognised that trust might be promoted in a variety of ways. For example, a measure of trust might allow some flexibility in the application of the procedural requirements of the PNPCHA (in order to avoid undue delay or additional cost, for example), though such flexibility is necessarily limited due to the inherent accountability of governmental officials to their citizens, including NGOs.
- Participants expressed uncertainty concerning the nature and extent of any obligation to conduct transboundary EIA, in particular regarding:
 - Whether and when there exists a binding requirement for transboundary EIA;
 - How EIA of transboundary impacts might interact with national regulatory systems and engage with national environmental authorities;
 - How might a transboundary EIA incorporate measures for more effective public participation.
- Participants suggested that it might be helpful to have some clarity regarding the aim or preferred outcome of the PNPCHA in order to better understand what might amount to successful inter-State cooperation.

Recommendations

- That effective information disclosure practices should be developed in order to ensure that stakeholders can access critical project information in adequate time to review relevant data and information in advance of public consultation meetings.
- That the Prior Consultation process should only commence once adequate (core / essential) documentation is in place, though allowance should also be made for the provision of additional information as available and appropriate.
- That it might be more appropriate to establish timeframes for Prior Consultation based on the relative scale, complexity and potential for transboundary harm of a proposed project, for example by means of project ‘thresholds’ like those commonly employed in EIA legislation.
- That guidance should be provided regarding the nature and implications of the concept of “good faith” as it applies to the obligation of States to cooperate over a shared basin.
- That guidance should be provided regarding the nature and extent of any obligation to conduct transboundary EIA.
- That further guidance should be provided regarding the documentation required for the Notification and Prior Consultation processes – such guidance might distinguish between different categories of project, *e.g.* hydropower, diversions, *etc.*
- That greater clarity should be provided regarding the respective responsibilities of key actors in the PNPCHA process, *i.e.* MRCS, NMCs, MRC-JC, *etc.*

- Generally, participants supported the idea of supplementing the PNPCA and Guidelines with a detailed “Commentary”,¹ which would elaborate on the nature and context of each procedural step set out in the PNPCA, including a discussion of relevant international best practice.

Theme 3: Developing capacity and improving public perception of and participation in the PNPCA

This thematic area focuses on the need for meaningful participation of a wide range of stakeholders in the PNPCA process in order for that process to be fully understood and regarded as an effective means of managing transboundary cooperation with a view to realising the values inherent to the 1995 Mekong Agreement. It sought to identify ways to develop capacity and to improve public participation in and public perception of the PNPCA process.

Observations

- Participants stressed that the availability of key relevant information is crucial for meaningful engagement and participation.
- Participants also stressed the importance of making key relevant information available in a timely manner, and well in advance of public consultation meetings, as discussions must be based on an assessment of relevant data and information.
- Participants noted that authorities should be mindful of the fact that there exist different groups of stakeholders, who might benefit from receiving project relevant information in different, specifically tailored formats. While comprehensive technical information will be of use to some stakeholders, the language employed may be overly complex for others, so that the relevant information may not be comprehensible to some important stakeholders. More importantly, not all public concerns can be answered in technical terms.
- Participants noted that greater clarity is required regarding the roles and responsibilities under the PNPCA of the MRC organs, the MRCS, national authorities and line agencies, and project developers.
- Participants suggested that many stakeholders had lost confidence in the utility of public participation after Xayaburi and, consequently, didn’t attend public consultation meetings regarding the Don Sahong project. This frustrated the good faith efforts of national authorities to facilitate engagement with stakeholders. Therefore, it is necessary to build confidence with the CSO/NGO community and the public that public consultation will be meaningful.
- Participants suggested that national authorities might engage in better public relations in respect of public consultation meetings, explaining what the meetings aim to achieve and clarifying that attendance doesn’t imply acceptance of the project in question.

¹ A “commentary” is normally understood by international lawyers as a detailed discussion document which can assist in informing and guiding implementation of a formal international instrument. See, for example, the commentary to the International Law Commission’s 1994 Draft Articles, which provided the basis of the 1997 UN Watercourses Convention: http://legal.un.org/ilc/texts/instruments/english/commentaries/8_3_1994.pdf Similarly, the UNECE has developed the ‘Guide to implementing the UNECE Water Convention’: http://www.unece.org/env/water/publications/ece_mp.wat_39.html Also, research institutes and consortia may develop such commentaries in relation to critically important international conventions. See, for instance, the ‘User’s Guide on the UN Watercourses Convention’ produced by the UNESCO Centre for Water Law, Policy and Science at the University of Dundee: <https://dl.dropboxusercontent.com/u/391260/UN%20Watercourses%20Convention%20-%20User%27s%20Guide.pdf>

- Participants' experience showed that it is impossible to conduct meaningful public consultation in a period of *circa* two months, having regard to the need to translate into local languages and interpret technical documents, *etc.*
- Members of the public generally had very limited capacity to understand technical project-related documentation or the legal and institutional role and mandate of the MRC.
- Participants acknowledged the resource constraints under which the MRCS operates and therefore stressed the need for targeted and meaningful consultation activities.

Recommendations

- That an adequate budget should be allocated to ensure a high quality of outreach activity, including organisation of an effective public forum and measures to ensure more diversity of participating stakeholders and adequate gender balance. This might require a greater level of assistance in relation to logistics and cost than the MRC is currently in a position to provide.
- That the Prior Consultation Process should be structured as a two-step process, comprising:
 1. Information Sharing, within a specifically allocated time-period (3 months); and
 2. Prior Consultation, within an allocated time-period (6-9 months).
- That, in order to improve communication with stakeholders, a specific template for a public consultation 'Reply Form' should be provided along the lines of the Reply Form provided for States (PNPCA, Annex II(B)). Also a response form for the notifying state could be developed to require a response to the issues raised in the reply form (for all).
- That the information to be disclosed for the purposes of public consultation should include information on the planned operation of the project.
- That public communication is essential during prior consultation, and also post-consultation, and that public consultation processes make arrangements for provision of follow up information with regard to concerns and issues raised.
- That stakeholders and the public concerned should have an opportunity under the PNPCA to put questions directly to notifying States and to project developers. For example, notifying States and the project developers could attend national public consultation meetings.

Theme 4: Learning from international conventions and international law cases and looking to achieving best international best practice

This thematic area set out to identify international best practice relevant to implementation of the PNPCA developed under comparable international conventional regimes and customary international law, as well as the findings of international courts and tribunals regarding the obligations of riparian States to notify, consult and negotiate in respect of proposed projects and uses. It was anticipated that such best practice might help to guide and inform effective implementation of the PNPCA.

Observations

- Participants agreed that there is currently a lack of understanding of the general practice of international water law, which should hold useful lessons for the effective implementation of the 1995 Mekong Agreement and PNPCA. Practice regarding procedural cooperation among States over major projects on transboundary basins would be of particular interest.

- Participants were particularly interested in determining what, if any, ‘value-add’ the applicable international conventions and case law might bring to the 1995 Mekong Agreement and PNPCA. In this regard, much of the discussion focused on clarifying aspects of process, specifically: what is ‘timely’ notification; what is the procedure for consultation and what happens if no agreement is reached; and, what constitutes ‘good faith’ and ‘good neighbourliness’ between countries sharing international rivers on key aspects of cooperation such as investigating potential transboundary harm and data exchange?
- Participants sought clarification on the entry into force of the UN Watercourses Convention and asked questions regarding its compatibility/differentiation with the 1995 Mekong Agreement and PNPCA, as well as its enforceability as between those who have acceded versus non-parties.
- While participants acknowledged a clear need to inform and educate both governmental officials and the public about the legal implications of the regime created under the 1995 Mekong Agreement, and about developments in international water law more generally, they also pointed out that the Mekong Agreement regime is unique and is specifically designed to reflect the particular values and requirements of the region.
- Participants noted that the development of trust between the MRC member States is essential for the effective operation of the regime created under the 1995 Mekong Agreement, while it is also important to employ a ‘common sense’ approach to the implementation of the Agreement and the PNPCA. Such trust requires that member States act in ‘good faith’ in their procedural engagement and that they pursue mutually beneficial development and protection of the Mekong system. Participants suggested that the PNPCA does not appear to be having the intended impact – the Prior Consultation processes to date have not resulted in clear decisions or outcomes, though the member States have managed to continue cooperating on other water resource management issues. On this point, at the conclusion of the session participants largely responded that they felt international water law and cases could help to clarify certain key elements of the 1995 Mekong Agreement and PNPCA.

Recommendations

- That there is a clear need to raise awareness of and develop guidance on developments internationally, in order that international best practice can help to inform practical implementation of the provisions of the 1995 Mekong Agreement and PNPCA. Such guidance might take the form of a “Commentary” on the PNPCA and/or the 1995 Mekong Agreement, which could elaborate on:
 - Key principles of international water law (equitable and reasonable utilisation; no-harm principle; general duty to cooperate; *etc.*);
 - International practice regarding procedural cooperation;
 - General understanding of ‘timely notification’;
 - Concept of ‘good faith’ cooperation;
 - Time-period for consultation;
 - Practice relating to the conduct of inter-State ‘consultation’;
 - Practice relating to inter-State dispute resolution;
 - Role of transboundary EIA;
 - Relevance of entry into force of the United Nations Watercourses Convention;
 - Role of ‘hard-law’ versus ‘soft law’ in shaping international and national practices.

Next Steps

Participants agreed that a brief report (this report) from the current Workshop, summarising the Workshop observations and recommendations on the implementation of the PNPCA, should be submitted to the next meeting of the MRC JC in March 2016.

Participants agreed that MRCS should continue working on the draft *Working Paper on Lessons Learnt from Implementation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA)*, with a view to producing a high quality 'living' document to support implementation of the PNPCA. The Working Paper should include, *inter alia*:

- Lessons Learnt and suggested improvements as shared by the Workshop participants.
- Clear and practical examples of effective arrangements internationally for inter-State procedural cooperation over international rivers, and detailed recommendations for the introduction of such arrangements in the specific context of the PNPCA;
- Discussion of the view of international water law as providing a 'culture of communication' for co-riparian States;
- Discussion of the relative merits and demerits of employing 'hard law' and 'soft law' instruments / provisions in the specific field of transboundary water cooperation.

Participants suggested that, in further developing the Working Paper, the MRCS might have regard to previous Working Papers prepared by the MRC, such as the Working Paper prepared by the Navigation Programme.

Participants agreed that, once completed, the Working Paper should be forwarded to the MRC Joint Platform, which will further develop the issues raised and report to the MRC JC.

Participants agreed that a "Commentary" on the PNPCA will be developed by the MRC Joint Platform, with assistance from the Member States and from international water law experts.



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AGENDA

Lessons Learnt from the implementation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA) and Guidelines Workshop, 25 February 2016 (Sofitel Hotel Bangkok, Sukhumvit, Bangkok)

Background

Since the PNPCA was adopted, forty-nine notifications and two prior consultations in the Lower Mekong Basin have been submitted to the PNPCA through the MRC Secretariat. In light of the PNPCA implementation, recent critique specifically in relation to the Prior Consultation process has questioned whether the process is functioning effectively to facilitate regional decision-making for the future of the Mekong River and its people. In response to this, the collection, analysis and dissemination of lessons learnt through the implementation of PNPCA is intended to support member countries in jointly managing their transboundary water and related resources, and will be included in a working paper that reflects on these lessons learnt and recommends actions to improve the implementation of the PNPCA.

Aim

It is proposed that a one-day Dialogue be held to allow for an open forum and discussion of issues relating to the implementation of the PNPCA and supporting guidelines to identify lessons learnt and a way forward to address these issues to improve the implementation of the PNPCA in the future.

Date: Thursday 25 February 2016 for a one-day Dialogue Workshop

Venue: Sofitel Hotel, Bangkok Sukhumvit, Bangkok

Participants:

- 8 Participants from each member countries
- International Experts: Professor Owen McIntyre (Environmental Research Institute, University College Cork (Independent Facilitator), Dr John Dore (DFAT), Ms Klomjit Chandrapanya (SIWI), Dr Alistair Rieu-Clarke (University of Dundee), Dr Rémy Kinna (London Centre of International Law Practice)
- Representative from GIZ
- MRC CEO, Director of PLD; and representatives of MRC Division

Documents to be circulated:

- Document 1 – Draft working paper lessons learnt from PNPCA implementation

- Document 2 – Workshop outline for the Dialogue of Lessons Learnt from the implementation of PNPCA and guidelines

Agenda:

Time	Item	Responsible Person
08:00-08:30	Registration	All
08:30-09:00	Opening session - Welcome and opening Introduction of the Dialogue agenda and how the day will be run, establishing the ground rules	MRC CEO Main Facilitator
09:00-10:00	Sharing perspectives - Introduction by all participants and group reflection on what has worked well and what improvements are required in the implementation of the PNPCA and Guidelines	Main Facilitator All participants
10:00-10:20	Presentation on the draft working paper on lessons learnt from PNPCA implementation - Presentation on the concept note and the draft working paper prepared for the purpose of discussions - Introducing the four themes on lessons learnt	Main Facilitator
10:20-10:50	Tea/Coffee break	All
10:50-11:00	Four thematic areas for Lessons Learnt from PNPCA Process explained for breaking into four groups to discuss and develop lessons learnt in detail	Main Facilitator
11:00-12:30	Four thematic areas for Lessons Learnt from PNPCA - Theme 1 – Providing clarity for the implementation of the PNPCA and Guidelines - Theme 2 – Improving the process - Theme 3 – Developing capacity and improving public perception and participation - Theme 4 – Learning from International Conventions and International law cases and looking to achieve best international best practice.	International Experts lead a theme (4) All participants (break into four thematic groups)(2 member country reps per group)
12:30-13:30	Lunch	All
13.30-14.30	Facilitated group discussion on the four themes and identification and agreement on lessons learnt	Main Facilitator All participants
14.30-15.30	Facilitated discussion on finding solutions to the identified lessons learnt	Main Facilitator All participants

15:30-15:45	Tea/Coffee break	
15:45-16:45	Next steps - developing a pathway forward towards cooperation	Main Facilitator All participants
16:45-17:00	Wrap up and Closing	MRC CEO