PNPCA Commentary from the PNPCA Lessons Learnt
1995 Mekong Agreement and the Procedures

- Agreement to cooperate for sustainable development
- Underlying international water legal principles:
  - Sovereign Equality and territorial integrity
  - Reasonable and Equitable utilization
- Protection of the environment
- Establish the Mekong River Commission
1995 Mekong Agreement and the Procedures

- **PDIES**: Procedures for Data and Information Exchange and Sharing (2001)
- **PWQ**: Procedures for Water Quality (2011)
- **PWUM**: Procedures for Water Use Monitoring (2003)
Procedural Rules for Mekong Water Diplomacy

Procedures for Notification, Prior Consultation and Agreement (PNPCA)

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Prior Consultation Process Framework

- Set of three separate processes:
  - Notification
  - Prior Consultation
  - Specific Agreement

- Undertaking for certain projects related to water use on the Mekong
- Achieve optimum use of water resources while mitigating adverse impacts

MRC

- Council: Policy making body
- Joint Committee: Management body
- Secretariat: Operational body
- Proposing Country

Type of River

- Mainstream
- Tributary

Parties:

- Cambodia
- Lao PDR
- Thailand
- Viet Nam
Lot of attention and involvement from stakeholders on PNPCA

Important to learn from this experience, to improve subsequent implementation

Provide greater certainty and clarity for all member countries and other key stakeholders about the PNPCA
From lessons learnt to Commentary

• 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
Purpose, scope and approach of the PNPCA Commentary

• Supplement the current Guidelines on the Implementation of the PNPCA
• Clarify the key provisions and procedural aspects of the PNPCA in the context of the 1995 Mekong Agreement and other MRC procedures and guidelines
• Inspired by international best practice in the field
• Provide clarity around the PNPCA process
• Engagement and consultation with the riparian countries
Commentaries development process

Inception phase - Literature Review and work plan

- Inception report
  - Regional consultant

Draft Commentary

- Draft Commentary
  - Experts
  - National
  - Regional

Consultation and validation phase – round of consultation with expert, national and regional on draft commentary

- Consultation and validation phase
  - Regional consultant

Reporting phase – Commentary capturing feedback from national/regional consultations and MRCS

- Reporting phase
  - Commentary (working paper)

Timeline:
- Mar-Apr 17
- May 17
- Jun 17 – Jun 18
- Jul – Sept 18
## 19 Key Commentaries

<table>
<thead>
<tr>
<th>1995 MA Key Principles and International Practices and Norms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commentary 1: <strong>Treating 1995 MA and PNPCA in their Entirety</strong></td>
</tr>
<tr>
<td>Commentary 2: <strong>A Duty to Promote Mutually Beneficial Cooperation</strong></td>
</tr>
<tr>
<td>Commentary 3: <strong>Purpose of PNPCA and Inter-dependency</strong></td>
</tr>
<tr>
<td>Commentary 4: <strong>Sovereign Equality and Territorial Integrity, Reasonable and Equitable Use and No Significant Harm</strong></td>
</tr>
<tr>
<td>Commentary 5: <strong>Aiming at Achieving Equity and Reasonableness for all</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PNPCA Procedural Provisions and Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commentary 6: <strong>Proposed Use Subject to Notification Requirements</strong></td>
</tr>
<tr>
<td>Commentary 7: <strong>Timely Notification Requirements</strong></td>
</tr>
<tr>
<td>Commentary 8: <strong>Completeness of Notification Documentation</strong></td>
</tr>
<tr>
<td>Commentary 9: <strong>Notification Institutional Mechanism</strong></td>
</tr>
</tbody>
</table>
## 19 Key Commentaries (cont.)

<table>
<thead>
<tr>
<th>PRIOR CONSULTATION</th>
<th>Commentary 10: Proposed use under prior consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commentary 11: Available” and “Relevant” Data and Information for PC</td>
</tr>
<tr>
<td></td>
<td>Commentary 12: Timely Notification Requirements under PC</td>
</tr>
<tr>
<td></td>
<td>Commentary 13: When and how PC deems to be complete</td>
</tr>
<tr>
<td></td>
<td>Commentary 14: Good Faith and Due Diligence Obligation During PC</td>
</tr>
<tr>
<td></td>
<td>Commentary 15: Prior Consultation Institutional Mechanism</td>
</tr>
<tr>
<td>SPECIFIC AGREEMENT</td>
<td>Commentary 16: Specific Agreement</td>
</tr>
<tr>
<td>OTHER PROCEDURAL ISSUES</td>
<td>Commentary 17: Monitor and Address of Absence of Notification</td>
</tr>
<tr>
<td></td>
<td>Commentary 18: Addressing Differences and Disputes</td>
</tr>
<tr>
<td></td>
<td>Commentary 19: Roles and responsibilities of other Key Stakeholders</td>
</tr>
</tbody>
</table>
Key recommendations

• 1995 MA and PNPCA provisions should be considered in their entirety rather than standalone as provisions

• Mutual respect of sovereign equality and territorial integrity is needed

• Confirm need for timely notification and adoption and application of a transboundary EIA guideline and relevant design guidelines

• Avoidance of preparatory activities prior to completion of PC by the developer

• MRCS encouraging the notifying agency to share project information at least several months before the PC process commence

• Improvement of public participation and communication during Prior Consultation to Post Prior Consultation process
Thank you