

# Statement on the Prior Consultation Process for the Luang Prabang Hydropower Project in Lao PDR



## Statement on the Prior Consultation Process for the Luang Prabang Hydropower Project in Lao PDR

1. The Joint Committee of the Mekong River Commission (MRC) convened a Special Session (the Meeting) on 30 June 2020 via video conference to discuss the Luang Prabang Hydropower Project ([LPHPP](#)) submitted by Lao PDR for Prior Consultation.
2. As provided for in Article 5 of the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the 1995 Mekong [Agreement](#)), and Article 5.4.3 of the Procedures for Notification, Prior Consultation and Agreement ([PNPCA](#)), the MRC Joint Committee aimed to reach an agreement on the LPHPP, and to propose measures that should be considered in the ongoing development and operation of the Project.
3. The MRC Joint Committee noted that the 1995 Mekong Agreement signed by the Governments of Cambodia, Lao PDR, Thailand and Viet Nam, set out cooperation in all fields of sustainable development, utilisation, management and conservation of the water and related resources of the Mekong River Basin. The Meeting also recognised that all four MRC Member Countries reaffirmed their commitment to the Objectives and Principles of the 1995 Mekong Agreement at the last three MRC Summits in 2010, 2014 and 2018, in Hua Hin of Thailand, in Ho Chi Minh of Viet Nam and in Siem Reap of Cambodia, respectively.
4. The MRC Joint Committee also recalled that in 2016, the MRC adopted the Basin Development Strategy 2016-2020 for the Lower Mekong Basin. This [Strategy](#) recognises mainstream hydropower as one of the development opportunities and the enhancement of regional benefits while any potential transboundary adverse impacts should be avoided, minimised and mitigated.
5. The MRC Joint Committee recognised its mandate to evaluate the proposed LPHPP with the aim of arriving at an agreement. The Meeting noted that the notified Countries ([Cambodia](#), [Thailand](#), and [Viet Nam](#)) had submitted individual Official Reply Forms on the proposed LPHPP. The MRC Joint Committee also noted that Lao PDR had also submitted a [Statement](#) to the Special Session of the MRC Joint Committee.

6. The MRC Joint Committee appreciated the spirit of cooperation and responsibility of all Member Countries during the Prior Consultation process and noted with gratitude that efforts were already made by Lao PDR to address some of the Member Countries' concerns.
7. The MRC Joint Committee noted that the MRC Secretariat had prepared a Technical Review Report ([TRR](#)), guided by the PNPCA Joint Committee Working Group and informed by feedback from national consultation/information sharing discussions and regional stakeholder forums. The MRC Joint Committee also noted the responses to the second and final drafts of the TRR prepared by the Developer and forwarded to the MRC Secretariat via the Lao National Mekong Committee.
8. Having considered the TRR, the outcomes of the national consultation/information sharing discussions and regional stakeholder forums, and the Official Reply Forms from the notified Countries, the MRC Joint Committee resolved as follows.

#### **The Joint Committee of the Mekong River Commission:**

- I. **Taking into account the Statement of Lao PDR as the notifying country, requests the Government of Lao PDR to take into consideration the comments and recommendations made in the Official Reply Forms submitted by the notified countries and in the Technical Review Report in pursuance of their oversight of the Project's Developer.**
- II. **Calls on the Government of Lao PDR to make every effort to address any potential transboundary adverse impacts of the LPHPP by considering *inter alia* the following measures in the ongoing development and future operation of the proposed Project, and in the same spirit of cooperation that has characterised the Prior Consultation process:**
  1. *The inclusion of the following regarding hydrology and hydraulics:*
    - a. The impacts of climate change, climate variability and the operations of all upstream dams of the LPHPP on the hydrology within the Lower Mekong Basin.
    - b. The spillway capacities of the upstream dams in the determination of flood peaks as is required by Lao national standards (e.g. Lao Electric

Power Technical Standard [LEPTS] 2018) and international good practices.

*2. Addressing the preservation of critical habitats in the remaining free-flowing section of the river between the LPHPP and the backwater of the Xayaburi HPP by considering:*

- a. The potential for scouring of the riverbed in the free-flowing reach just downstream of the LPHPP to the backwaters of the Xayaburi HPP, due to the potential reduction of sediment transport both in the Mekong mainstream and the Nam Ou tributary.
- b. Special measures to protect critical habitats for those species that migrate and breed in this section of the mainstream in the Lower Mekong Basin.

*3. Improving the fish passage facilities by:*

- a. Updating the fish passage design based on the monitoring of the fish passage from the Xayaburi HPP.
- b. Ensuring that the entrances to the fish passage facilities remain submerged at all possible flows, after considering the impacts of climate change, climate variability and the operations of the upstream HPPs, particularly in the light of the record low flows noted in the mainstream in recent years.
- c. Exploring practical measures to reduce the risk of trapping larger fish on the debris screens, to minimise the risk of fish mortality through the turbines as well as to ensure the optimal size of the fish crowders.

*4. Addressing dam safety concerns by:*

- a. Establishing an independent Dam Safety Review Panel before the construction.
- b. Adjusting the design of the infrastructure to comply with Lao national standards (e.g. LEPTS 2018) and international good practices.
- c. Developing an Emergency Preparedness Plan before construction and ensuring dissemination of information to relevant stakeholders.

*5. Increasing the safety and reliability of the navigation facilities by:*

- a. Improving the sustainability and reliability of the filling and emptying systems as recommended in the TRR.
- b. Improving the visibility inside the channel and reducing the risk that vessels may be pushed towards the spillway.

- III. **Requests the Government of Lao PDR to actively engage the MRC in a post Prior Consultation process through the implementation of a Joint Action Plan in the same spirit of cooperation and engagement that has characterised the Prior Consultation process.**
- IV. **Requests the Government of Lao PDR to share any additional data and information collated during the ongoing development and operation of the LPHPP in accordance with the MRC Procedures for Data and Information Exchange and Sharing ([PDIES](#)).**
- V. **Requests the Government of Lao PDR to work with the MRC in the development of cascade operating rules that respects the sovereign decision making of the Government of Lao PDR and balance the financial viability of the upper Lao Cascade HPPs, while making every effort to minimise the risk of potential transboundary adverse impacts. This should aim to identify measures that address, *inter alia*:**
  - a. The regular flushing of coarse-grained sediments through the impoundments by adjusting the operating rules.
  - b. The routing of sediments through the impoundments during natural flood events.
  - c. The downstream drift of aquatic species larvae and eggs during critical migration periods.
  - d. The potential impacts of extreme flood and drought events in line with the provisions of the Procedures for the Maintenance of Flows on the Mainstream ([PMFM](#)).
  - e. The risks of multiple failure of infrastructure on the upper mainstream.
  - f. Early warning of rapid increases in inflows and large water releases to the downstream HPPs and affected communities, the MRC Secretariat and downstream countries.
  - g. The preservation of any remaining free-flowing habitats between the proposed Sanakham HPP and Chiang Saen of Thailand.
  - h. The provision for a River Information System to improve the safety of navigation and reduce the waiting times for shipping at the navigation facilities.
- VI. **Requests the Mekong River Commission Secretariat to support the preparation of a Joint Action Plan (JAP) that outlines a post Prior Consultation process that:**

- a. Provides for ongoing engagements throughout the final design, construction, and initial operations of the LPHPP.
- b. Works towards a set of measures for the operational phase of the LPHPP that can be agreed by the Joint Committee, and which can be included in the implementation of the Procedures for Water Use Monitoring.

**VII. Recognises the importance of exploring the possibility to establish a financing mechanism, subject to agreement by all Member Countries, which can support measures to minimise any adverse impacts of all developments including but not limited to irrigation, hydropower, navigation, tourism and fisheries, on people's livelihoods and well-being in the Lower Mekong Basin.**

**VIII. Requests the MRC Secretariat to incorporate the key findings and lessons learnt from the Prior Consultation processes into its efforts to improve the implementation of all the MRC Procedures through its work in the MRC Joint Platform.**

The MRC Joint Committee notes that the list of recommendations above may be updated based on additional information provided during the post Prior Consultation process.

The MRC Joint Committee will continue its dialogue on the LPHPP in order to avoid, minimise, and mitigate the potential transboundary adverse impacts of water resources development while promoting opportunities for sharing the benefits of that development in all the Member Countries.



**Mekong River Commission Secretariat**

P.O. Box 6101, 184 Fa Ngoum Road

Unit 18, Ban Sithane Neua, Sikhottabong District, Vientiane 01000, Lao PDR

Tel: +856 21 263 263. Fax: +856 21 263 264

[www.mrcmekong.org](http://www.mrcmekong.org)

© Mekong River Commission