

The 5th Regional Stakeholder Forum

First Regional Information Sharing on Pak Lay Prior Consultation Process

20-21 September 2018

Landmark Hotel, Vientiane, Lao PDR

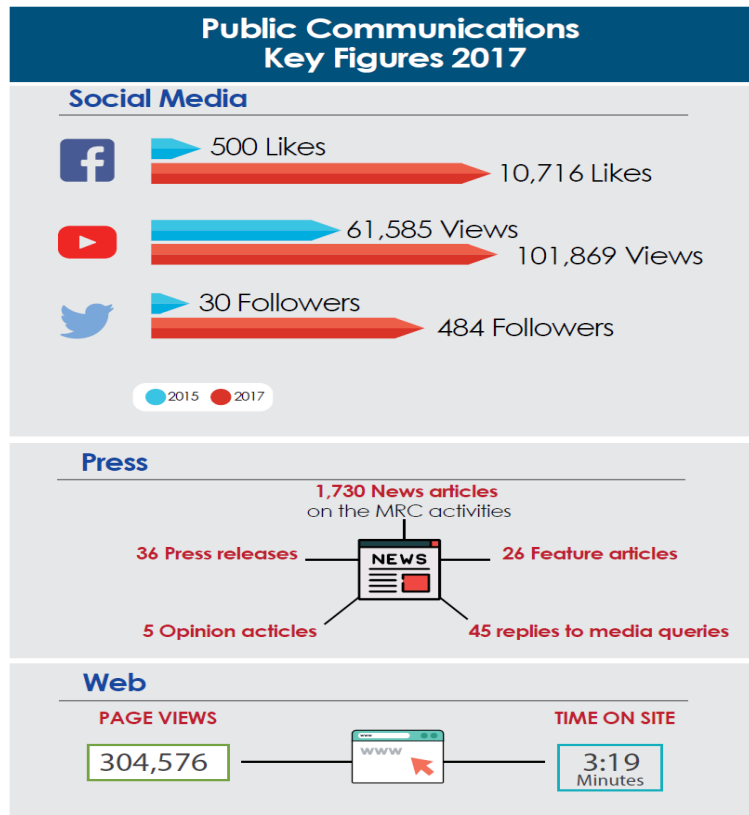


MRC Stakeholder Engagement Principles and Mechanism



Stakeholder engagement experiences

- Stakeholder engagement **has been gradually enhanced** in MRC and is **now well established**
- For the **Xayaburi's** Prior Consultation, stakeholder engagement was minimal and no regional forum took place. For **Don Sahong**, one took place and late in the process.
- For **Pak Beng**, **information was shared more timely, public communication and engagement were extensive** – e.g. two regional forums
- From 2016-2017, the MRC conducted a number of broad Regional Stakeholder Forums (RSF) and specific forums on the **Council Study, Climate Change**, Hydropower Strategy, Watershed Management, Fisheries, PDG, etc.



Stakeholder engagement experiences (con't)

- For Pak Beng, **feedbacks from stakeholders were more positive**. Yet there were **concerns regarding degree and inclusiveness of consultation at the national levels** and addressing comments by stakeholders.
- For Pak Lay, based on critical feedbacks and lessons learned, the MRC will make more efforts in the following areas:
 - *Enhanced national consultations and forums*
 - *More efforts to show clearly how comments were addressed and taken into account – and what are beyond MRC's mandate*
 - *Support proposing country to hold national consultations and consider feedbacks and recommendations from the MRCS, other countries and stakeholders*



How stakeholders comments helped improve the process

COMMENTS	IMPROVEMENTS
The need for project documents and MRCS' review to be released to the public in a timely manner well ahead of the meeting days in order to enable effective involvement	Release of documents were transparent and timely for the Pak Beng & Pak Lay.
a 6-month timeframe was a very tight schedule for stakeholders to be meaningfully engaged	The Joint Action Plan mechanism (post-PC) is meant to address this limitation.
Public consultation meetings must be arranged much earlier in the process to allow sufficient time for stakeholders to learn about the project and provide recommendations.	This has been addressed with at least two regional stakeholder forums during the PC process.
The project developer should be present at consultation meetings to provide relevant information, clarification, and subsequent feedback	Developers have been invited to all stakeholder forums and were present at RSFs. More engagement is needed at national level.
Information about the project should be translated into the riparian languages	Project fact sheets as well as summary of TRR are and can be translated. Press releases are translated.
All stakeholder involvement needs to be guided by the spirit of good faith and roles and expectations need to be clearly communicated	Efforts were made especially for Pak Beng process and will continue for Pak Lay.

Objectives of engagement (and its value)

- To provide information and reinforce common understanding of the **MRC's Prior Consultation process** under the PNPCA and the 1995 Mekong Agreement
- To provide information and understanding on the proposed **Pak Lay Hydropower Project** and potential impacts (positive and negative)
- To gain a representative range of views from **potentially affected communities upstream and downstream** – *it will be less representative if certain voices are missing*
- To reflect these views as part of the MRC Prior Consultation Technical Review Report for consideration by the MRC Joint Committee
- To provide feedback on how key concerns are addressed by the MRC Joint Committee



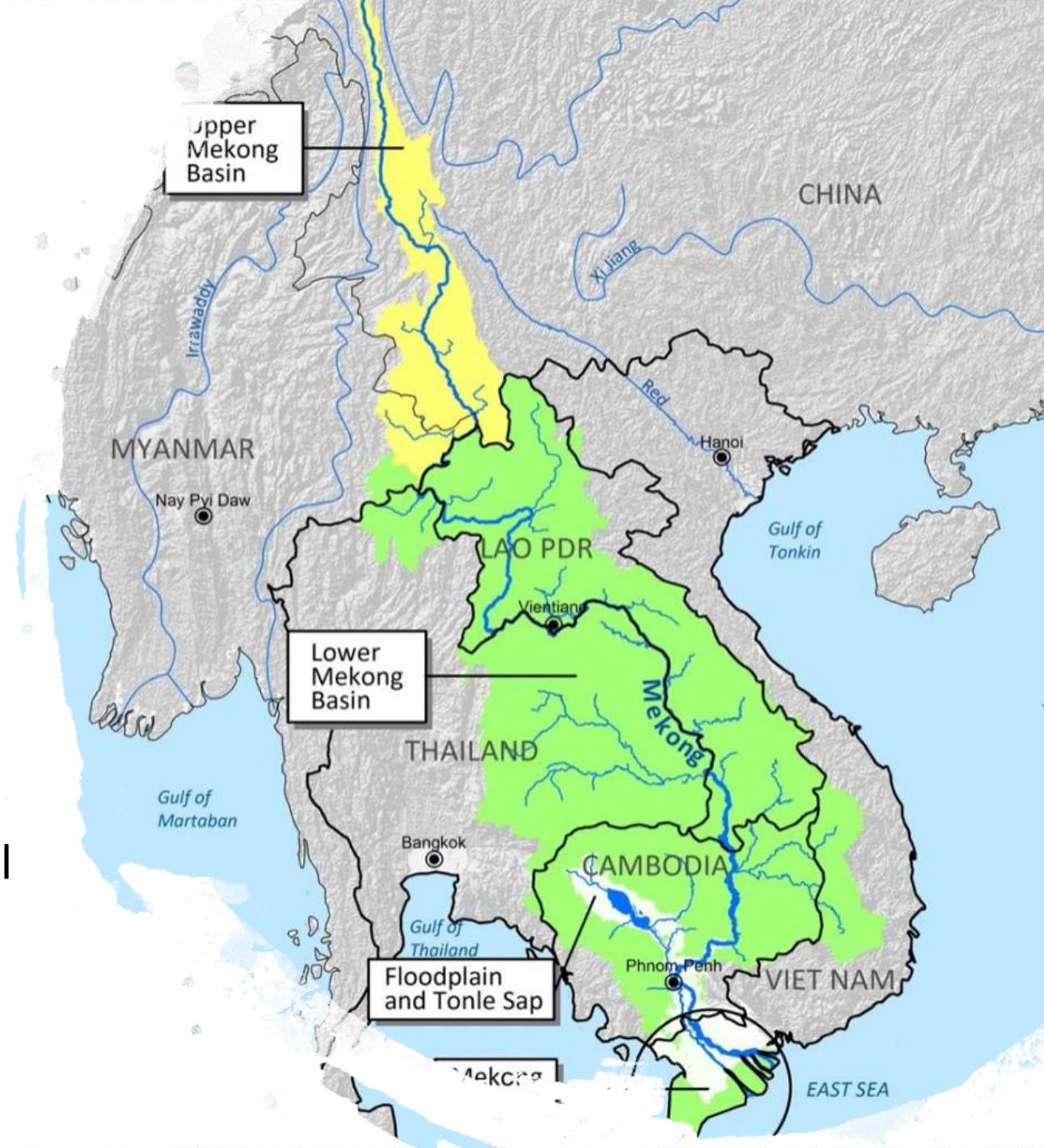


What engagement is / is not about

- **Mutual efforts** – *all sides should make efforts to engage*
- **Contributing to decision making** – *engagement brings new ideas, reinforces key points, and contributes to better informed decision making*
- **NOT about endorsement or approval of a certain project**

Scope of engagement for Pak Lay prior consultation

- The geographic scope will include **all areas potentially affected** by the proposed Pak Lay Hydropower Project.
- The substantive scope will include **direct and indirect *transboundary* impacts** (*positive and negative*) that may be caused by changes to fisheries, livelihoods, water quality and aquatic ecology, hydrology, sediment transport, navigation and dam safety.
- It should also include an **understanding of the Prior Consultation process**, as well as other issues about operation and coordination of existing dams upstream and downstream of the proposed project.



Receiving and Addressing Feedbacks

- The MRCS has a channel for web-based submissions of **stakeholders' comments on the website**
- Stakeholders can also submit their **feedback to the MRC via e-mail**
- Stakeholder comments will be documented during the regional and national meetings into **a matrix and feed into the Technical Review Report** for consideration of the MRC JC.
- Feedbacks to key comments at Regional Stakeholder Forums will be provided **in forum reports on the MRC website and at subsequent RSF meetings.**
- MRCS will **make efforts to individually follow up on critical comments** from certain stakeholders

Hydrology

	COMMENTS/SUGGESTIONS	RESPONSES	Consideration in the draft TRR
Knowledge Related	Will assessments from the Pak Beng PNPCA review be used to re-evaluate assessments undertaken for Don Sahong and Xayaburi?	Developers of the Don Sahong and Xayaburi should consider this concern.	The operations at Pak Beng should consider the previous 2 mainstream dams. There may be opportunities to optimise the cascade, but the impact of Pak Beng on flows at Don Sahong will be very small.
	Is there an improvement in the quality of documents provided for review, compared to earlier PNPCA processes?	The submitted documents of the Pak Beng were largely improved, compared to the previous Prior Consultation process.	
	There is concern that the baselines do not appropriately capture the significant variability in flows over the past ten years. The baseline may require reconsidering?	Flow pattern on the mainstream have changed about five years ago: higher flows in the dry season and lower flows in the wet season. The developer of the Pak Beng Hydropower Project should consider this recent trend.	The TRR makes this recommendation to the developer.
	What will the process be for filling data gaps relating to hydrology/hydraulics?	The engineering technique was applied to fill missing data. This was elaborated in the submitted documents.	The TRR recommends a more elaborated and accurate approach for specific missing data (e.g. historic daily discharges at the dam site).
	Reports submitted by the developer to date consider flow conditions from 2005. These flow conditions have already changed because of upstream dams. Data to 2014 can be used now.	Ministry of Lao PDR stated hydrological data up to 2015 has been used. Additionally, the flow conditions will be reassessed	Most of the design parameters so far are based on average historic hydrological conditions that cover pre-Chinese dam conditions. The TRR strongly advises on reanalyzing these parameters.

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Matrix of comments, responses, and consideration in the draft Technical Review Report (TRR) of the Pak Beng Hydropower Project

From the 1st Stakeholder Forum on the Prior Consultation Process of Pak Beng Hydropower Project, Luang Prabang, Lao PDR, 22 February 2017

The comments, questions and recommendations (and MRC responses) expressed in the plenary and group discussions on Pak Beng have been identified and recorded within the following MRC documents. They are grouped by the following issues: PNPCA process, Pak Beng Hydropower Project, Hydrology, Sedimentation, Environment and Water Quality, Fisheries, Socio-Economic, Dam Safety and Navigation.

PNPCA Process

	COMMENTS/SUGGESTIONS	RESPONSES	Consideration in the draft TRR
Knowledge Related	PNPCA as collaborative process, not cooperative. How cooperative can the process be and to what extent are the results binding?	PNPCA aims to encourage MCA to consider results based on mutual agreement. Cooperation is suggested as a deeper level of mutual agreement.	The results are not binding. The mandate of the MRC in this regard has been clarified in the 2nd draft TRR.
	Collaboration vs. compliance to procedure? Clarification was required on what 'compliance' means?	Compliance within MRC'S functions refers more to compliance with the procedures (timelines / processes) rather than compliance in relation to adherence to construction and mitigation measures. Encouraging MCAs to comply based on mutual agreement.	The draft TRR avoids the use of 'compliance' specifically in reference to the PDG. The PDG are advisory only. However, countries and developers have stated their strong commitment to follow the PDG as much as possible.
	Who decides about going ahead or not? Who decides what changes get accepted/ endorsed? Time in relation to Prior Consultation and the commencement of a proposed use.	Commitment of the proposed use is determined by the proposing country and developer after the formal period of PC is over. Lessons learnt investigations consider all aspects of the PNPCA process and	Clarified through the mandate discussion in the TRR. Given that the decision to proceed lies with the analyzing country and developer, the commitment is just to take the view of the other MCAs into account with the final design.



Summary



The MRC has gradually enhanced stakeholder engagement



Lessons have been learned and will be used for even more improvement



All this will be deployed to engage in good faith and manage expectations



Stakeholder engagement and communication had much improved - **it is not time to turn back now**



A number of stakeholder engagement and communication tools are available and will be used

Thank you

