



13th October 2010

By Fax and Email

Subject: Call for Halt to the PNPCA Process and Cancellation of Xayaboury Dam

Dear Mr. Jeremy Bird, CEO, Mekong River Commission,

We write to convey our complete disagreement with the initiation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA) process for the Xayaboury dam on the Mekong River's mainstream in Xayaboury province, Lao PDR that was announced in a Mekong River Commission (MRC) press release on 22 September 2010. Abundant evidence produced by the MRC itself has already demonstrated the Xayaboury¹ dam to be exceptionally destructive, and a project that should not go ahead.²

The Xayaboury dam's project documents, submitted to the MRC Secretariat by the Lao PDR government thus initiating the PNPCA, have not been released to the public and represents a complete failure of transparency; this despite the fact that a stated principle of the PNPCA is transparency.³ The PNPCA process, which is referred to in the 1995 Mekong Agreement, is stated by the MRC to be a process for the Mekong country governments "to jointly review any dam proposed for the mainstream with a view to reaching consensus on whether or not it should proceed."⁴ Official documents on the MRC's website about the PNPCA process lack a clear explanation of the actual procedure to be followed, contain wording that is deliberately ambiguous, and have no commitment to consultation with the public. As such, in reality the PNPCA does nothing but pave the way for the Xayaboury dam's construction.

We conclude that the PNPCA process is poorly prepared, fails in commitments to transparency and public accountability, and overall lacks credibility.

Rather than advising the MRC member governments that a clear, public and credible PNPCA process is not in place and that the current PNPCA fails to meet even rudimentary standards of prior consultation and transparency, the MRC secretariat has opened the way and even encouraged the PNPCA process. In other words, it has failed in its responsibility to both the MRC member governments and to the Mekong Region's wider public. This recent chain of

¹ Xayaboury is also commonly transliterated as Xayaburi, Sayabouly and Sayaburi.

² See, for example, the MRC's SEA Impact Assessment report (www.mrcmekong.org/ish/SEA.htm)

³ http://www.mrcmekong.org/agreement_95/Agreement-procedures-guidelines.htm. Additionally, the "Procedures For Data And Information Exchange And Sharing" commit the MRC to "Make available, upon request, basic data and information for public access as determined by the NMCs concerned."

⁴ www.mrcmekong.org/MRC_news/press10/MRC-receives-first-notification-22Sep10.htm

events also contradicts your previously announced recognition of the need for transparent and inclusive planning by the MRC.⁵

The Save the Mekong coalition and other civil society groups have already called on the MRC's member governments to cancel the Xayaboury Dam project. On 19th October 2009, a 23,110 signature "Save the Mekong" postcard petition calling for the Mekong River's mainstream to remain free of dams was sent to the Prime Ministers of Cambodia, Lao PDR, Thailand and Vietnam. The same petition was subsequently sent to the responsible Ministers of the MRC's Joint Council on 2nd December 2009. Additionally, on 20th October 2009 at the 5th ASEAN Peoples Forum in Cha-am, Thailand, civil society groups from throughout ASEAN called on the ASEAN governments to establish an Environmental Pillar that would cancel destructive infrastructure projects, including the dams on Mekong River's mainstream. This call was repeated at the 6th ASEAN Peoples Forum in Hanoi, Vietnam on 26th September 2010. Furthermore, on 9th September 2010, community groups representing about 24,000 people in five provinces in Thailand along the Mekong River submitted a petition letter to Thailand's Prime Minister, H.E. Abhisit Vejjajiva, asking him to cancel the plan to purchase electricity from the Xayaboury dam.

The MRC's member governments' immediate push for the PNPCA, supported by the MRC secretariat and with funding from numerous international donors, denies these legitimate concerns raised by the public.

Existing analysis from the MRC's own Strategic Environment Assessment (SEA) study demonstrates the massive impacts of the Xayaboury dam. The Xayaboury dam would inundate approximately 2,130 people from 10 villages.⁶ In addition, more than 200,000 people located near the Xayaboury dam would suffer impacts to their livelihoods, income and food security due to a loss of agricultural land and riverbank gardens, an end to gold panning activities and difficulty accessing non-timber forests products.⁷ The dam would change the aquatic habitat and ecosystem of the river by blocking a vital fish migration route that allows fish to travel to the upper reaches of Luang Prabang in Lao PDR, and Chiang Khong and Chiang Saen in Thailand, thus disrupting the lifecycle necessary for fish, including their spawning, breeding and growth.⁸ The SEA notes that the upper stretch of the Mekong River, where the Xayaboury dam is located ("zone 2"), would be most affected in terms of biodiversity. Up to 41 fish species would be at risk of extinction, including the critically endangered Mekong Giant Catfish.⁹

The SEA undertakes an analysis at the cascade level and its findings should be disseminated and considered by the region's governments and the public before any further decision-making steps are initiated.¹⁰ The results of the SEA process to date that have been discussed in regional workshops demonstrate the need for any decision on the Mekong mainstream dams to be

⁵ "... it is necessary for the planning process to be transparent, to be more inclusive and to build on local knowledge and experience." MRC Second BDP Stakeholder Meeting, Chiang Rai, October 15-16, 2009

⁶ MRC's SEA Impacts Assessment Report, p.190

⁷ MRC's SEA Impacts Assessment Report, p.203

⁸ The impacts of dams built on the Mekong River's mainstream would be felt throughout the Mekong basin, as far as the Mekong River's delta and its rich fisheries and valuable mangrove forests.

⁹ MRC's SEA Impacts Assessment Report, p.25

¹⁰ The MRC commissioned the SEA stating that "While the benefits of hydropower are potentially considerable for Mekong countries, the construction of one or more of the 11 hydropower schemes currently under consideration could have profound implications for the sustainable development of the basin and affect the lives and livelihoods of millions of people in all four member countries of the MRC."

postponed by at least ten years, or cancelled all together. The wider public of the Mekong Region has been given very little opportunity to learn of the findings of the SEA. That the PNPCA process has been initiated when the SEA report has not been finalized or released to the public and regional decision-makers can only mean that the MRC member governments and the MRC secretariat is leaving aside the SEA's findings and racing irresponsibly ahead in support of the construction of the Xayaboury dam.

Apart from not fully releasing information to the public about the Xayaboury dam, including on the MRC's website and as hard-copies for public viewing at each of the National Mekong Committee offices, the MRC has continued to disregard its responsibility to respond to civil society's concerns. For example, in your short and inadequate reply to the Save the Mekong letter dated 15th June 2010 that called for the complete release of data on the 2010 Mekong Region drought, the report referred to in your reply letter on the Mekong River's low flows that was said to be released in early August is still not available.

The MRC's failure to take even these most basic of measures demonstrates the lack of credibility of the PNPCA process and the complete failure of the MRC as an organization that should be committed to the equal and sustainable use of the Mekong River. We therefore state our strong disagreement with the PNPCA process and urge the MRC donors to urgently review their support to the MRC.

Sincerely,

Bank Information Center, US
Both Ends, Netherlands
Burma Rivers Network
Center for Water Resources Conservation and Development (WARECOD), Vietnam
Chiang Khong Conservation Group, Thailand
Dam Effected People Network, Thailand
EarthRights International Mekong School, US
Focus on the Global South, Thailand
Foreningen for Internasjonale Vannstudier (FIVAS), Norway
International Accountability Project, US
International Rivers, US
Karen Rivers Watch, Thailand
Living Rivers Siam, Thailand
Mangrove Action Project, US
Manna Gum, Australia
Mekong Alumni Network
Mekong Communities (Chiang Rai Province), Thailand
Mekong Monitor, Tasmania
Mekong Watch, Japan
Palang Thai, Thailand
PanNature, Vietnam
Rivers Coalition of Cambodia
Towards Ecological Recovery and Regional Alliance (TERRA), Thailand
Vietnam Rivers Network, Vietnam

CC:

H.E. Mr Sin Niny
Vice-Chairman of Cambodia National Mekong Committee
Member of the MRC Joint Committee for Cambodia
Cambodia National Mekong Committee

Chote Trachu
Permanent Secretary
Vice-Chairman of Thai National Mekong Committee
Member of the MRC Joint Committee for Thailand
Thai National Mekong Committee

Mme. Monemany Nhoybouakong
Permanent Secretary, Water Resources & Environment Administration
Chairperson of the MRC Joint Committee for 2009/2010
Member of the MRC Joint Committee for Lao PDR
Lao National Mekong Committee Secretariat

Dr. Le Duc Trung
Director General
Member of the MRC Joint Committee for Viet Nam
Viet Nam National Mekong Committee

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