

NGOs' Joint Statement on Concerns about *Procedures for Notification, Prior Consultation and Agreement (PNPCA)* for Don Sahong Hydropower Project



វេទិកាសម្រាប់ការចងចៃដន្យកម្ពុជា អង្គការអន្តរជាតិ
 The NGO Forum on Cambodia
 ធ្វើការរួមគ្នាដើម្បីការប្រែប្រួលវិជ្ជមាន
 Working Together for Positive Change

The Rivers Coalition Cambodia (RCC), together with international conservation groups Conservation International (CI), Oxfam, World Wide Fund for Nature (WWF), and other 15 local NGOs and International NGOs (INGOs) hereby raise our strong concerns over the Procedures for Notification, Prior Consultation and Agreement (PNPCA) process for the Don Sahong Hydropower Project (DSHPP).



With this statement, our joint concerns were shared to the National Consultation Meeting on Don Sahong Hydropower Project, on 12 November 2014, at the Phnom Penh Hotel, in Cambodia.



Background

"Prior Consultation" is a key component of the Mekong River Commission's (MRC) *Procedures for Notification, Prior Consultation and Agreement (PNPCA)* process, which forms the basis of the 1995 Mekong River Agreement between Cambodia, Laos, Thailand and Vietnam, meant to govern shared use of the trans-boundary Mekong River. As part of the Agreement, infrastructure projects that have transboundary impacts on water resources planned on the Lower Mekong mainstream must go through the full PNPCA process prior to any construction taking place.



However, this process has failed since Lao PDR forged ahead with the construction of the Xayaburi dam in 2012 despite strong and clear feedback from MRC governments against the construction of the dam after consultation. Since then, clear definitions and agreements on the MRC processes have not been successfully re-established, and the PNPCA has remained fractured.



Severe Problems with the PNPCA Process for Don Sahong Hydropower Project

As members of civil society, the NGOs undersigned share strong concerns about the following problems with the Don Sahong dam:

- 1 The potential negative impacts of the DSHPP to Cambodian communities, the environment and biodiversity are potentially very significant, and we do not believe the precautionary principle has been sufficiently applied.
- 2 There is a lack of independent, science-based and *trans-boundary* social and environmental impact assessments (SEIA) for the Don Sahong dam. There is an urgent need for a study conducted by experts independent to the project developer, on the trans-boundary potential impacts for DSHPP, to cross-reference with the only EIA that is commissioned by the dam developer Mega First Corporation Berhad (MFCB).



Oxfam





- 3 Mitigation measures have been assessed by three international fish passage experts at the request of NGOs. They concluded that the studies are not up to international standards, and that fish passage solutions have not been demonstrated.¹
- 4 The mitigation measures that Mega First claimed to have developed have not been tested nor proven to work. Critically, the fish bypass is simply mentioned but not justified by previous success cases or demonstrations that it can work in the particular context of the DSHP. This should be a requirement in the Prior Consultation.
- 5 The scope and expected outcome of the prior consultation process has not been clearly communicated. It is not clear what the consultation entails, and what we can hope for as a result if we participate.
- 6 There was no representation from DSHP's dam developer to attend the Consultation workshops at sub-national and national level to present details of the project, hence evading their responsibility to ensure that the participants were clear on this project regarding to project documents, mitigation measurements and other studies.
- 7 The consultation process failed to address more sustainable options, such as the Thako Water Diversion Project, which would generate similar amount of electricity, at a cheaper price, and with far lesser impact on fisheries and dolphins.
- 8 Repeatedly, the Government of Lao & Mega First have insisted publicly² that the Don Sahong project would be constructed regardless of the outcome of the consultation. While the PNPCA process is still taking place, preliminary construction to prepare for building the dam has not stopped - this is going against the principles of the PNPCA Without handling the disruptive position of the project proponents, the ongoing process cannot be meaningful.
- 9 Provincial-level consultations³ in Cambodia have largely failed their core purpose of helping participants to understand the project, its implications and discussions fully, which were too technical and complex at many points. Specifically, printed documents are mostly in English. Both presentations and printed documents contained many technical words that were not properly explained to the participants. Multiple participants gave feedback that they could not fully understand the presentation. Presentations were also rushed through. Not enough time was given for feedback and/or questions from participants to clarify parts they did not understand, leading to further confusion.
- 10 Representation of "multiple stakeholders" was not meaningfully achieved, running the danger of appearing as though local communities have been adequately informed and consulted, when they have not. Local community members were especially under-represented. Specifically, out of about 80 invited participants, only six were local community members, each from different provinces Only six NGO representatives were invited out of more than 80 participants. Yet, organisers referred to them as organisations representing civil society along the entire Mekong River.

¹ "SUMMARY OF SCIENTIFIC REVIEWS FROM THREE INTERNATIONAL FISH PASSAGE EXPERTS ON THE DON SAHONG DAM EIA AND TECHNICAL REPORTS RELATED TO PROJECT DESIGN AND MITIGATION MEASURES, Feb 2014. Download at http://awsassets.panda.org/downloads/wwf_scientific_review_by_3_fish_passage_experts_finalrevised12mar.pdf

² Laos is acting responsibly on Mekong dam project, Viraponh Viravong, 24 Oct 2014, The Nation.

<http://www.nationmultimedia.com/opinion/Laos-is-acting-responsibly-on-Mekong-dam-project-30246103.html>

³ Sub-national level consultation workshops were held separately in two provinces - Stung Treng on 16-18 Oct and in Battambang on 30-31 Oct, 2014.

- 11 Very little time and no resources were provided for participants to process the workshop documents and prepare for comprehensive and meaningful feedback at sub-national consultation. Documents were sent out only 3 days before, giving no time for NGOs and communities to conduct feedback from members. Invited representatives were not provided any resources or assistance to disseminate the information prior to the workshop.



NGOs Recommendations to the Mekong River Commission:

- 1 Enforce immediate suspension of construction for Don Sahong dam, including preliminary construction of roads and bridges until all project documents and further assessments on impact studies have satisfied concerns of all stakeholders, including MRC governments, civil society and local communities of the Lower Mekong region.t
- 2 Ensure all project documents on the DSHPP are shared in the written and spoken national language of the country in consultation, and are disseminated 30 days in advance.
- 3 Conduct a separate, independent and trans-boundary EIA, with greater focus given to trans-boundary fisheries impacts and impact on dolphins in deep pools below the dam.
- 4 Consider existing alternative options such as the Thako Water Diversion Project that has far lesser impact than DSHPP and can yield about the same amount of electricity..⁴
- 5 Representation of NGOs and local communities should be substantial at consultation workshops.
- 6 Representatives of communities should have access to independent qualified experts to support them throughout the consultation process.
- 7 Facilitate meaningful prior public consultation in advance to sub-national and national level consultations. For example, in Cambodia, there should be commune-level consultations to adequately reach out to potentially affected communities, inform them about the potential dam and collect their feedback.
- 8 All concerns and suggestions of CSOs and communities should be duly noted in all consultation processes, and shared in official reports for all participants to review and provide feedback. These recorded concerns and suggestions must be taken into consideration in all decision-making processes for the Don Sahong Hydropower Project.
- 9 The MRC and the member governments should clearly identify the objectives and criteria for PNPCA before the consultation begins.
- 10 Communicate to participants a clear process, enough time in advance, indicating what would be their role and level of engagement, expected outcome of the consultation with clear timing for each step and a transparent monitoring system.
- 11 Prior Consultation process should not conclude until trans-boundary studies, further impact assessments have been completed.
- 12 All of the Lower Mekong countries need to agree on a same understanding of the procedures under the 1995 Mekong Agreement, and strictly respect their implementation.



⁴ Don Sahong Dam - Sustainable Solutions Exist, Jan 2014.
http://awsassets.panda.org/downloads/alternative_to_don_sahong___thako_project.pdf



Endorsement by Rivers Coalition in Cambodia (RCC) and other NGOs/INGOs:

- The NGO Forum on Cambodia (NGOF)
- 3S Rivers Protection Network (3SPN)
- Fisheries Action Coalition Team (FACT)
- Culture and Environment Preservation Association (CEPA)
- My Village Organization (MVi)
- Conservation International (CI)
- World Wide Fund for Nature (WWF)
- Oxfam
- Cambodian Volunteers for Society (CVS)
- Save Vulnerables Cambodia (SVC)
- Community Economy Development (CED)
- Cambodian Human Rights and Development Association (ADHOC)
- Khmer Farmer's Association (KFA)
- Northeast Rural Development Organization (NRD)
- Ponlok Khmer (PKH)
- Cambodian Rural Development Team (CRDT)
- Community Legal Education Center (CLEC)
- Mlub Prumvihearhor Center (MPC)
- Environmental Cooperation and Tourism Organization (CETO)
- Conservation and Development on Cambodia (CDCam)
- EcoSun Cambodia
- Action For Development (AFD)
- Heinrich Böll Stiftung Cambodia (HBS)

Cc:

- Ministry of Water Resources and Meteorology (MOWRAM)
- Cambodia National Mekong Committee (CNMC)
- Lao National Mekong Committee (LNMC)
- Vietnam National Mekong Committee (VNMC)
- Thai National Mekong Committee (TNMC)
- Mekong River Commission (MRC)
- Ministry of Mine and Energy (MoME)
- Ministry of Environment (MoE)
- Ministry of Agriculture, Forestry, and Fisheries (MAFF)
- Ministry of Tourism (MoT)
- Ministry of Rural Development (MRD)
- Cambodia Development Council (CDC)
- Ministry of Economic and Finance (MEF)
- Ministry of Interior (MoI)
- Ministry of Women Affair (MoWA)
- Ministry of Foreign Affair and International Cooperation
- Development Partners
- International and National Media

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