



H.E. Mr. Noulinh Sinbandhit

Minister of the Ministry of Natural Resources and Environment
Chairperson of Lao National Mekong Committee
Member of the MRC Council for the Lao PDR

20 April 2012

Subject: Request for Clarifications on the Prior Consultation for the Xayaburi Dam

Your Excellency Mr. Noulinh Sinbandhit:

Four months after the MRC Ministerial Meeting in Siem Reap, Cambodia on 8 December 2011, the Save the Mekong coalition is encouraged that the MRC Member States and Secretariat are designing "further study" on the impacts of hydropower development on the Mekong Mainstream. However, we remain concerned about the ambiguities that have been left unanswered with respect to the future of the Xayaburi Dam and other Mekong Mainstream Dams.

To our knowledge, no agreement has been reached to close the prior consultation process on the Xayaburi Dam, and no agreement has been reached on whether to approve the Xayaburi Dam. The project developers have not conducted an assessment of the Xayaburi Dam's transboundary impacts, nor have they carried out further public consultation, as requested by the MRC Member States during the April 2011 Joint Committee meeting. Much still needs to be done to ensure that a decision on the Mekong Mainstream Dams will be well-informed by scientific evidence and the opinion of the public.

Nevertheless, recent hearings in Thailand reveal that the Thai government and several Thai companies continue to push forward with the project. A senior official of the Electricity Generating Authority of Thailand (EGAT) who attended a 4 February 2012 Thai Senate Sub-Committee hearing under the Thai Senate Standing Committee on Corruption Investigation and Good Governance, on behalf of EGAT's governor, confirmed that EGAT and the Xayaburi project developer had signed a power purchase agreement on 29 October 2011. This violated the Thai government's own commitment not to sign such an agreement until after the four MRC Member States agreed to close the prior consultation on the Xayaburi Dam.

Meanwhile, preliminary construction on the Xayaburi Dam has continued despite the lack of regional agreement. At an investigation meeting of the National Human Rights Commission of Thailand by the Sub-Committee of Community Rights and Natural Resources on 21 February 2012, the state-owned Krung Thai Bank and three private Thai banks confirmed that they had already provided financing for the project after receiving permission from the Thai Cabinet. We

believe that such actions violate the 1995 Mekong Agreement and urge the Thai government to immediately withdraw all involvement in the Xayaburi Dam.

In light of these developments, we request clarification from you on the following matters before the 15th of May:

1. **Has any agreement been reached to build the Xayaburi Dam?** We request confirmation that no agreement has been reached under the MRC or any intergovernmental process to proceed with building the Xayaburi Dam.
2. **Will construction on the Xayaburi Dam halt while the “further study” is underway? If so, what action does the MRC plan to take to ensure that construction work is halted?** If all construction activities do not stop, it will not be possible to gather the baseline data necessary to fully understand the impacts of hydropower development on the Mekong Mainstream. Many of the impacts of the Xayaburi Dam will be irreversible, including the loss of migratory fish species.
3. **Will other Mekong Mainstream Dams be allowed to begin their own prior consultation processes while the “further study” is underway?** The further study, if designed carefully, could allow better decision-making around the proposed Mekong Mainstream Dams. Allowing other projects to be initiated before the study is completed, however, will weaken the prior consultation process and undermine the baseline data that still needs to be collected, therefore threatening the sustainability of the Mekong River.
4. **Will the “further study” include a review of the institutions and procedures that govern the development of the Mekong River?** In light of the procedural ambiguity that has accompanied the proposed development of the Xayaburi Dam, the Save the Mekong coalition strongly believes there is need for a discussion on how to strengthen and clarify the regional institutions governing Mekong River development.
5. **In what ways will the “further study” provide an opportunity for public participation and input?** The Save the Mekong coalition strongly believes that for the study to be seen as legitimate in the eyes of the public, and to accurately reflect what is at stake in the Mekong River Basin, there must be ample opportunities for public consultation and input into the studies at the local, national and regional levels.

People throughout the region and internationally have long expressed their opposition to the Mekong Mainstream Dams and have demanded that they be cancelled. In March 2012, more than three hundred civil society representatives and dam-affected community members from across ASEAN member countries signed a statement at the ASEAN People’s Forum calling for cancellation of the Xayaburi Dam. Scientific evidence to date overwhelmingly supports our position that these dams will cause significant and irreparable damage to the Mekong River and the people who depend on it. We hope that the MRC’s prior consultation process and “further

study” will lead to a sound decision-making process based on robust scientific knowledge and open public debate. We look forward to your prompt response.

Yours Sincerely,

Assembly of Sub-district Community Organizations in Amnacharoen Province, Thailand

Assembly of Sub-district Community Organizations in Bueng Khan Province, Thailand

Assembly of Sub-district Community Organizations in Loei Province, Thailand

Assembly of Sub-district Community Organizations in Mukdahan Province, Thailand

Assembly of Sub-district Community Organizations in Nakorn Phnom Province, Thailand

Assembly of Sub-district Community Organizations in Nong Kai Province, Thailand

Assembly of Sub-district Community Organizations in Ubon Ratchathani Province, Thailand

Both Ends, The Netherlands

Buddhist Association for Environmental Development, Cambodia

Cambodian Rural Development Team, Cambodia

Cambodian Volunteers for Society, Cambodia

Center for Social Research and Development, Vietnam

Center for Water Resources Conservation and Development (WARECOD), Vietnam

Chris Lang, Indonesia

Community Economic Development, Cambodia

Community Resource Centre, Thailand

Culture and Environmental Preservation Association, Cambodia

EarthRights International, USA

Fisheries Action Coalition Team, Cambodia

Foreningen for Internasjonale Vannstudier (FIVAS), Norway

Focus on the Global South, Thailand

Global Association for People and the Environment (GAPE), Canada

GreenID, Vietnam

HELVETAS, Laos

International Rivers, USA

Khmer Farmers Association, Cambodia

Khon Hak Namkong Community, Thailand

Living River Siam, Thailand

Manna Gum, Australia

Mekong-Lanna Natural Resources Conservation Network, Thailand

Mekong Monitor Tasmania, Australia

My Village, Cambodia

Network of Thai People in Eight Mekong Provinces, Thailand

NGO Forum on Cambodia, Cambodia

NGO Forum on the ADB, The Philippines
Palang Thai, Thailand
People and Nature Reconciliation (PanNature), Vietnam
Save the Vulnerables, Cambodia
The Corner House, United Kingdom
Towards Ecological Recovery and Regional Alliance (TERRA), Thailand
Vietnam Rivers Network, Vietnam
3S Rivers Protection Network, Cambodia

Copy to:

MRC Joint Committee Members
MRC Development Partners

Save the Mekong Coalition

C/O 409 Soi Rohitsuk (Ratchadapisek Soi 14), Pracharajbampen Road, Huay
Kwang, Bangkok, 10320 THAILAND. Tel: (66) 02 691 0718-20 Fax: (66) 02 691
0714 Email: info@savethemekong.org