



# Mekong River Commission

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No. L-OSV 187/16

9 May 2016

Dear Mr Ghezraoui,

**Subject: Letter from the Office of the High Commissioner for Human Rights with regard to the Don Sahong Hydropower project in Lao PDR**

Reference is made to the communication from the Special Procedures Branch from the Office of the High Commissioner for Human Rights on the allegations of human right valuation in connection to Don Sahong Hydropower project in Lao PDR.

I note the information provided in the communication with regard to the allegations of human rights violations against the population living along the banks of the Lower Mekong River (which spans Cambodia, Lao PDR, Thailand and Viet Nam) as a result of the Don Sahong dam project in the territory of Lao PDR. I also note that a letter concerning this case has been sent to the Government of Lao PDR and Mega First, the private Malaysian company responsible for the construction and operation of the Don Sahong Hydropower project. As requested, I have also shared this communication with the other members of the Mekong River Commission: Cambodia, Thailand and Viet Nam, as well as Lao PDR.

The Mekong River Commission (MRC) considers the issues raised in the communication with regard to allegations of human rights violations as a result of the Don Sahong dam project of high importance especially in terms of extraterritorial issues raised. This letter attempts to provide information wherever possible with regard to the issue, within the mandate and role of the Mekong River Commission. The communication specifically requested that the MRC provide information with regard to three areas of focus. So, please find the MRC's response to this request for information below (and in the attached tables).

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**Mr. Karim Ghezraoui**  
Chief a.i.  
Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Palais Des Nations  
221 Geneva 10, Switzerland

## **1. Provide additional information and/or comments on the allegations.**

The communication raises detailed issues with regard to human rights including rights to information, participation, food, health and housing, as well as their cultural rights, and the rights of indigenous peoples in the area due to the Don Sahong Dam. Attached in Table 2 is the MRC's response to the specific issues raised in the communication. In the case of any development within the Lower Mekong Basin it is the responsibility of the Member Country undertaking a development project within their respective state to adhere to all relevant legislation, both domestic and international. The MRC becomes specifically involved where the 1995 Mekong Agreement applies.

In understanding the MRC's roles and responsibility in the case of the Don Sahong Hydropower project the following information needs to be considered:

- MRC - mandate, structure and function of the MRC under the Mekong Agreement
- Procedures for Water Utilisation in the Lower Mekong Basin
- Procedures for Notification, Prior Consultation and Agreement
- Process followed for Notification and Prior Consultation for Don Sahong Hydropower project
- Technical Review of the Don Sahong Prior Hydropower Project
- Public Consultation for the Don Sahong Prior Consultation process
- Conclusion of the Don Sahong Prior Consultation process

This information is detailed further below.

### *Mekong River Commission – mandate, structure and function*

On April 5 1995, in Chiang Rai, Thailand the four riparian nations of the Lower Mekong Basin – the Governments of the Kingdom of Cambodia, the Lao People's Democratic Republic, the Kingdom of Thailand and the Socialist Republic of Viet Nam – signed the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (1995 Mekong Agreement) and Protocol for the Establishment and Commencement of the Mekong River Commission.

The MRC is an independent intergovernmental organisation and is able to enter into agreements and obligations with the donor or international community. There are three bodies that comprise the MRC – the Council, the Joint Committee and the Secretariat. The MRC Council makes policy decisions on behalf of Member Governments that are necessary to the successful implementation of the 1995 Agreement. The MRC Council which is represented by cabinet ministers of the four Member Countries, meets once a year. The MRC Joint Committee (JC) implements the policies and decisions of the Council and performs other tasks as assigned by the Council. The Joint Committee, which meet twice a year to discuss and approve budgetary and strategic planning matters, is represented by senior government officers. The MRC Secretariat, provides technical and administrative support and currently has 90 staff members.

The 1995 Mekong Agreement provides a framework that enables and requires the MRC to adopt and refine, as needed, rules and procedures to carry out its work in close cooperation and coordination with relevant agencies and people of the Member Countries. It identifies key activities and mechanisms that support the sustainable equitable use, utilisation and protection of the Mekong's water and water related resources for Member Countries.

