



**H.E. Mr. Preecha Rengsomboonsuk**

Minister of Natural Resources and Environment  
Chairperson of Thai National Mekong Committee  
Member of the MRC Council for Thailand

**H.E. Mr. Lim Kean Hor**

Minister of Water Resources and Meteorology  
Chairperson of Cambodia National Mekong Committee  
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**H.E. Mr. Nguyen Minh Quang**

Minister of Natural Resources and Environment  
Chairperson of Viet Nam National Mekong Committee  
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**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

06 December 2011

**Subject: Request MRC Council to Pass a Resolution Calling for the Cancellation of the Xayaburi Dam**

Your Excellences:

On the occasion of the Mekong River Commission's Meeting of the 18th Council, the Save the Mekong coalition, a network of civil society groups and NGOs from within the Mekong region and around the world, send this open letter urgently calling upon the MRC Council to pass a resolution calling for the cancellation of the Xayaburi Dam. This MRC Council meeting represents a prime opportunity for the Mekong country governments to demonstrate their commitment to the spirit and the legal duty of the 1995 Mekong Agreement to share the Mekong River and to prevent harm to the river's ecosystems and the livelihoods of its people.

With this letter, we also urge the governments of the Mekong region to listen to and seriously consider the significant opposition expressed by civil society and the wider public to the Xayaburi Dam over the past three years both from within the region and around the world.

Since the Mekong mainstream dams have been proposed, we have observed a large number of scientific studies and several regional processes, including the preparation of a Strategic Environmental Assessment (SEA) report, and the initiation of the Procedures for Notification, Prior Consultation and Agreement (PNPCA) for the Xayaburi Dam. These studies have now convincingly proved that the Xayaburi Dam is exceptionally destructive to the Mekong River's fisheries, ecosystem, and riparian livelihoods, that no proven technologies exist to mitigate these impacts, and demonstrate the need to cancel the project:

- The MRC-commissioned Strategic Environmental Assessment report, published in October 2010, finds that the Xayaburi Dam would disrupt the lifecycle necessary for migratory fish and threatens the extinction of 41 fish species of the Mekong River, including the Giant Mekong Catfish. The report's main recommendation is that all decisions over mainstream dams, including the Xayaburi Dam, should be deferred for ten years due to existing knowledge gaps, scientific uncertainty and institutional weaknesses. The SEA report identifies significant knowledge gaps and states that more than 50 studies are still required before a decision fully informed of the project's risks can be taken by regional governments.
- The MRC's own Technical Review of the project developer's Feasibility Study and Environmental Impact Assessment reports found that these reports lacked baseline data, lacked rigorous analysis and recommended unproven mitigation measures. The MRC's Technical Review highlights how the project's EIA report did not consider transboundary impacts of the dam. However, the review itself does document that there will be transboundary fishery impacts by stating that the migration route of between 23 to 100 fish species would be blocked and that vital sediment flows would be disrupted to downstream reaches. Numerous failures on part of the project developer to comply with the MRC's Preliminary Design Guidance for mainstream dams were also identified, despite the fact that the Lao government had reiterated its commitment to comply with these criteria in February 2011.
- In July 2011, Portland State University and Mae Fah Luang University published a study that assessed the trade-offs between the economic benefits of hydropower generation and the negative impacts due to disruptions in ecosystem services, which provide livelihoods and food security to the rural poor. In one plausible scenario, the study found that the net costs associated with the mainstream dams would be negative \$274 billion.

To date, no credible mitigation measures for the Xayaburi Dam's significant impacts have been offered by the project developer, as affirmed by the MRC's own Technical Review of the developer's studies. Furthermore, with regard to the impact on fisheries, an international panel of scientists also commissioned by

the MRC in 2008 concluded that world-wide no technologies currently exist to effectively mitigate mainstream dam's impacts on the river's fisheries.

Through the MRC process, reservations over the Xayaburi Dam have been expressed by some MRC member governments, which may provoke conflict amongst Mekong countries, thus disrupting the current harmonious usage of the shared river. For example, divisions amongst member governments have remained since the MRC's Special Joint Committee Meeting held on April 19<sup>th</sup>. At this meeting, whilst the government of Lao PDR proposed to proceed with the project, the governments of Thailand, Cambodia and Viet Nam called for an extension to the decision-making process, citing concerns about transboundary impacts and knowledge gaps that require both further study and public consultation, and Viet Nam requested a ten year moratorium on decisions over mainstream dams.

Subsequently, in May 2011, the Government of Lao PDR commissioned the consultancy firm Pöyry Energy to undertake a desk-based compliance review of the Xayaburi Dam with regard to the minimum requirements of the 1995 Mekong Agreement and the PNPCA procedures. The report was commissioned outside of the joint and cooperative legal framework of Mekong Agreement and has not been officially made public or jointly adopted by the MRC governments. Despite presenting itself as an objective study seeking to evaluate the project's compliance with regional commitments, the report failed to mention many of the requirements under the 1995 Mekong Agreement, PNPCA procedures, and Preliminary Design Guidance for mainstream dams, including on fisheries, ecosystems, sediment flows, and dam safety. Indeed, the Pöyry report incorrectly asserts that the project is in principle compliance with the MRC's requirements and that the PNPCA process is complete. This report also fails to consider the concerns that have been expressed by people who will be affected by the project. Furthermore, the Pöyry report states that the developers have no obligation to conduct a transboundary EIA on the project, despite requirements under international law that a transboundary EIA should be conducted by an independent expert. Instead, the Pöyry report has sought to justify unproven mitigation measures without adequate baseline data to fully understand the extent of the impacts in the first-place.

In recognition of the significant knowledge gaps that remain and the lack of inter-government consensus, several recent analyses by independent legal firms have demonstrated that under the 1995 Mekong Agreement Lao PDR may not proceed with the dam's construction unilaterally without providing more information about the projects impacts. Thailand, as the primary beneficiary of the dam, should be equally responsible for providing more information about the project's impacts. Also, according to international best practice, Thailand should not commit to purchase electricity from this project without first assessing all available energy policy options.

Many civil society groups, including the Save the Mekong coalition, have long sought meaningful public participation through the PNPCA process. However, we note that its public consultation period was significantly flawed and has ended in disappointment, as many people were absent from the process and those who were given the opportunity to participate were not given adequate information necessary for meaningful consultation. Despite these barriers within the MRC process, people of the Mekong region have still overwhelmingly pushed for the cancellation of the Xayaburi Dam through various petitions and letters submitted to the regional governments and the MRC. This opposition has been further supported at the international level including:

- On 30<sup>th</sup> November 2011, 22,589 people worldwide petitioned the Lao and Thai Prime Ministers to cancel the Xayaburi Dam.
- On 29<sup>th</sup> November 2011, the Network of Thai people from Eight Provinces, representing around 24,000 people, sent a letter to the Thai Prime Minister urging Thailand to not purchase electricity from the dam.
- On 29<sup>th</sup> November 2011, 3,208 community representatives from 24 provinces in Cambodia submitted a thumbprint petition to the Thai Prime Minister urging Thailand to not purchase electricity from the dam.
- On 18<sup>th</sup> April 2011, a letter from nearly 10,000 Thai villagers from eight provinces was submitted to the Lao Embassy in Bangkok and the Thai Prime Minister calling on the Lao and Thai governments to cancel the Xayaburi Dam. At the same time, a petition signed by more than 15,000 people from around the world was presented to the Embassies of Lao PDR and Thailand in Berlin and Paris, while a second petition signed by more than 2,300 people globally was also presented to members of the MRC's Council.

An earlier Save the Mekong petition of 23,110 signatures was submitted to the region's Prime Ministers in October 2009, and in March 2011 a letter from 263 nongovernmental organizations to the Prime Ministers of Lao PDR and Thailand also called for the cancellation of the Xayaburi Dam.

With this letter, the Save the Mekong coalition also concludes that the 1995 Mekong Agreement itself is in desperate need of legal and institutional reform. The regional decision-making process of the Xayaburi Dam has demonstrated the failures and limitations in the MRC's structure both as an inter-state decision-making framework and for its failure to incorporate the opinion of civil society and the public. Current and future decision-making should be based on more universally accepted standards and criteria, including for meaningful civil society participation, and that provides a legal basis based on the reality of the complex socio-ecological system of the Mekong River. We therefore call for a review of the 1995 Mekong Agreement leading towards the legal and institutional reforms necessary to ensure the sustainable and equitable sharing of the Mekong River.

The body of knowledge accumulated over the past two years has proven beyond doubt that the Xayaburi Dam represents a grave threat to the sustainable and

equitable development of the Mekong region. We therefore respectfully urge the MRC Council to use the opportunity of the Mekong River Commission's Meeting of the 18th Council to behave responsibly towards present and future generations and to decisively issue a resolution calling for the cancellation of the Kayaburi Dam.

Yours sincerely,

AID/WATCH, Australia  
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  
Australian Mekong Resource Centre (AMRC), Australia  
Both Ends, The Netherlands  
Buddhist Association for Environmental Development (BAED), Cambodia  
Cambodian Rural Development Team (CRDT), Cambodia  
Cambodia Volunteer for Society (CVS), Cambodia  
Center for Water Resources Conservation and Development (WARECOD), Viet Nam  
Chiang Sane Conservation Group, Thailand  
Community Economic Development (CED), Cambodia  
Culture and Environment Preservation Association (CEPA), Cambodia  
Fisheries Action Coalition Team (FACT), Cambodia  
Focus on the Global South, Thailand  
Global Association for People and the Environment (GAPE) Canada  
International Rivers, USA  
Khmer Farmers Association, Cambodia  
Khon Hak Namkong Community, Thailand  
Living River Siam, Thailand  
Mekong-Lanna Natural Resources Conservation Network, Thailand  
Mekong Monitor Tasmania, Australia  
Mekong Watch, Japan  
My Village, Cambodia  
Network of Thai People in Eight Mekong Provinces, Thailand  
NGO Coordinating Committee, Northern Thailand  
NGO Forum on Cambodia, Cambodia

Palang Thai, Thailand  
People and Nature Reconciliation (PanNature), Viet Nam  
Probe International, Canada  
Thai Water Partnership Foundation, Thailand  
Towards Ecological Recovery and Regional Alliance (TERRA), Thailand  
Vietnam Rivers Network, Viet Nam  
World Rainforest Movement, Uruguay  
3S Rivers Protection Network (3SPN), Cambodia

**Copy to:**

**Joint Committee of the Mekong River Commission**

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**Mekong River Commission Secretariat**

Mr. Hans Guttman, CEO

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**Save the Mekong Coalition**

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