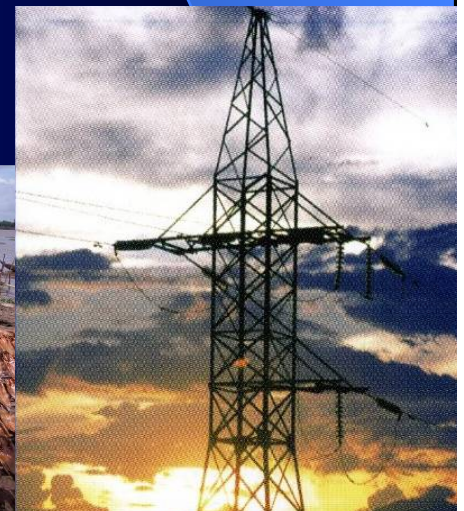


Conference for Sustainable Hydropower Financing in the Mekong River Basin Bangkok, September 24, 2010



Regulatory processes at regional and national levels – focus on the 1995 Mekong Agreement

Jeremy Bird,
CEO, MRC Secretariat



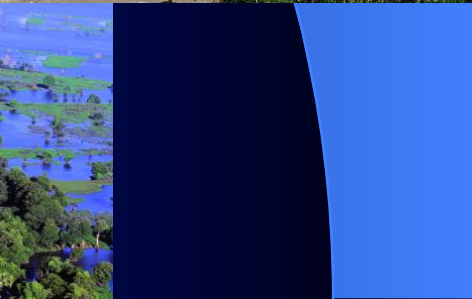
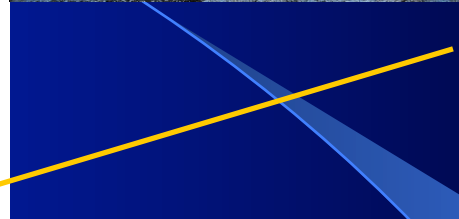
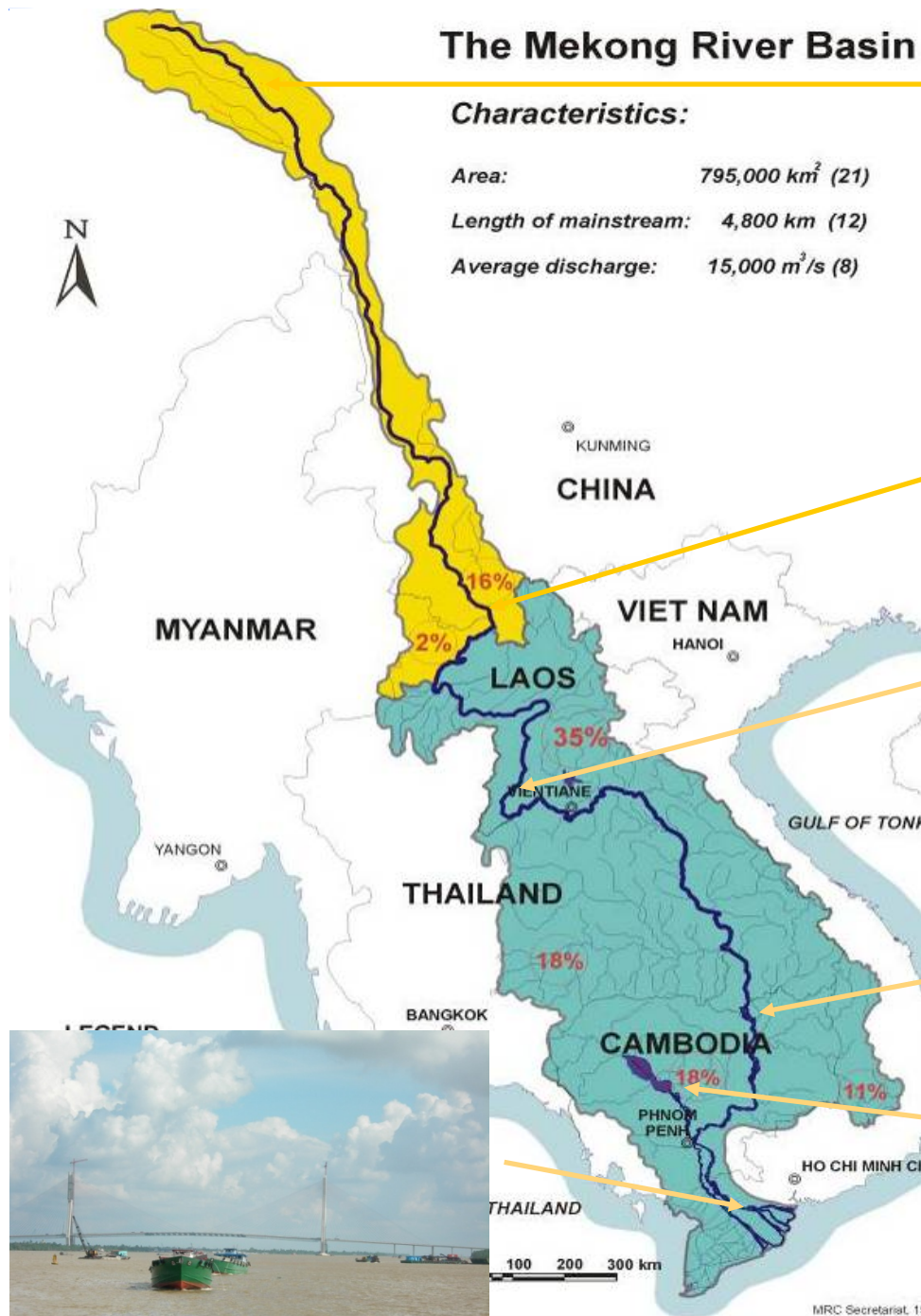
The Mekong River Basin

Characteristics:

Area: 795,000 km² (21)

Length of mainstream: 4,800 km (12)

Average discharge: 15,000 m³/s (8)



Content

- The 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin
- National regulatory frameworks (in brief)
- Procedures for Notification, Prior Consultation and Agreement (PNPCA)
- Strategic Environment Assessment of Proposed Mainstream Dams



Government of
CAMBODIA



Government of
LAO PDR



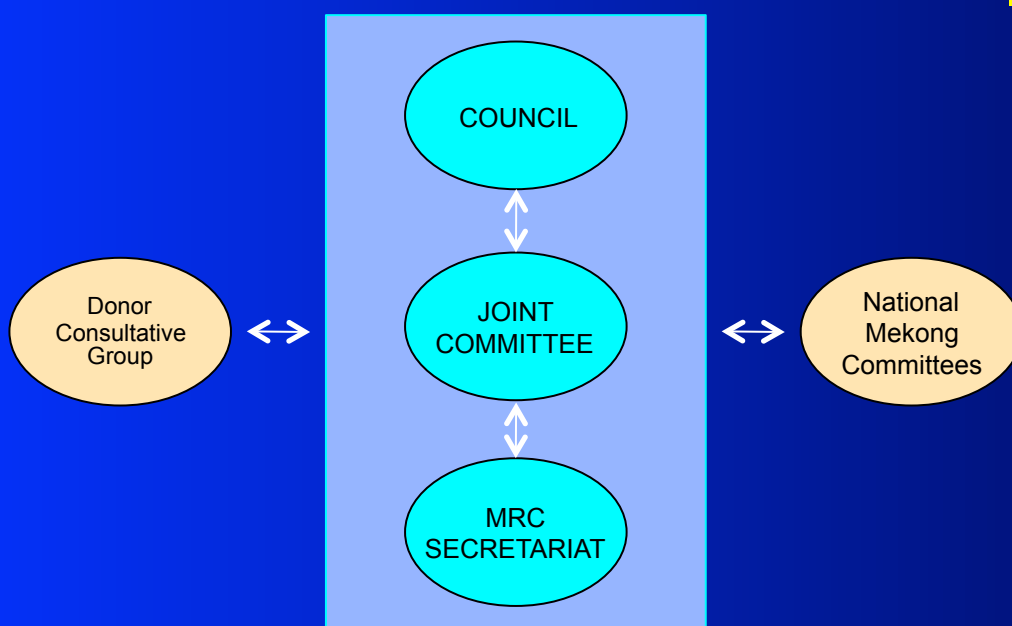
Government of
THAILAND



Government of
VIET NAM



Institutional Framework of MRC



Dialogue Partners



China

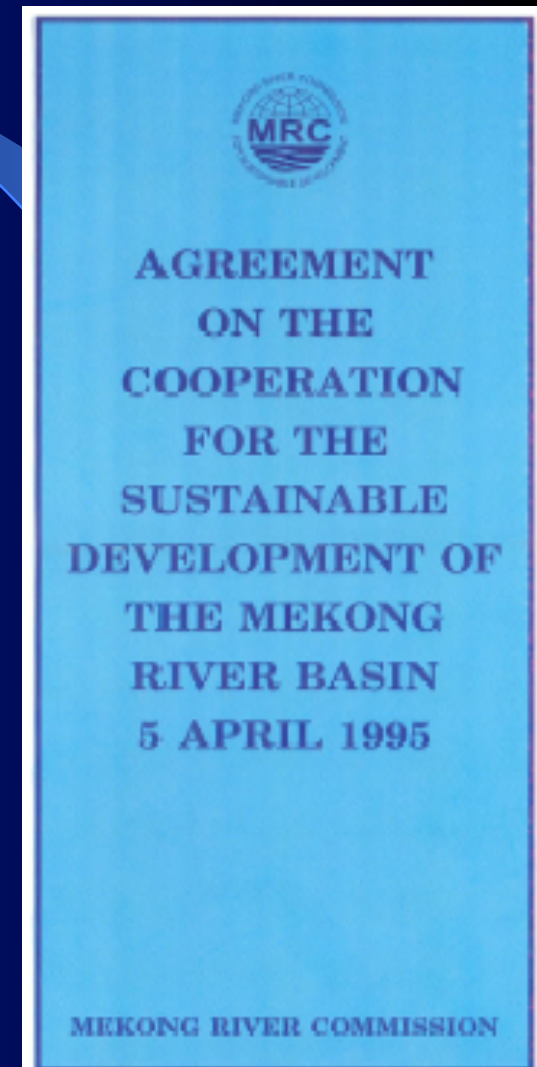


Myanmar

Character and Principles of the 1995 Mekong Agreement



- Advisory in nature agreement but with specified procedures
- Focus on basin-wide benefit-sharing – spirit of cooperation
- Joint planning and information sharing
- Based on rights, interests and responsibilities of riparian states for water utilization





Key articles...

Art. 1: Areas of cooperation

Art. 2: Projects, Programmes and Planning

Art. 5: Reasonable and Equitable Utilization

Art. 6: Maintenance of Flows on the Mainstream

Art. 3 (and 7): Protection of the Environment and Ecological Balance

Art. 26 Rules for water Utilization and Inter-Basin Diversion

National regulatory framework

Environment

- Environmental Impact Assessment (EIA)
- Strategic Environmental Assessment (SEA)
- Social and Environmental Policy
-

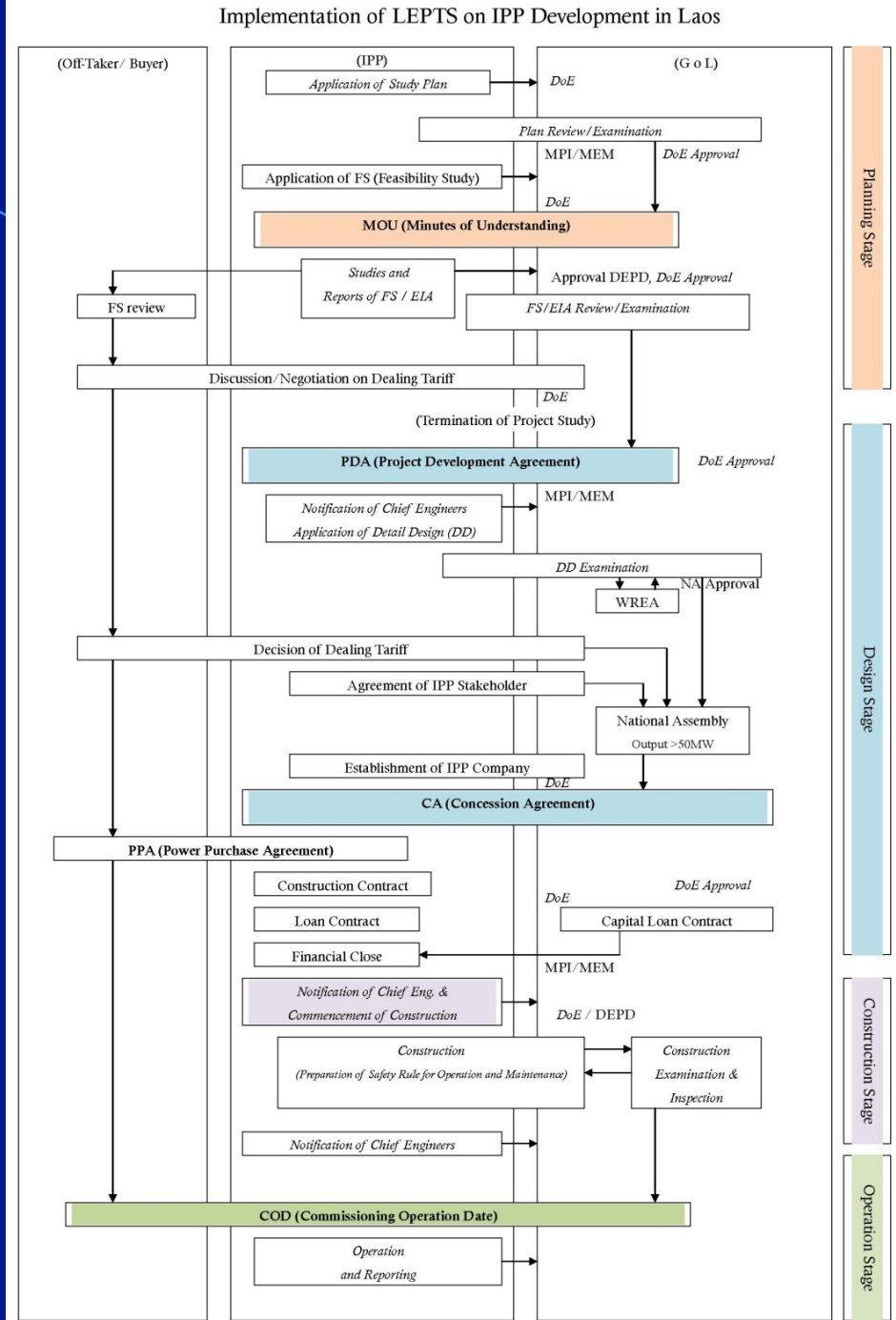
Water

- Licensing of water infrastructure
- Water quality standards
-

Investment

- Feasibility Study Approval
- Concession Agreement
- Power Purchase Agreement
-

IPP Projects - flowchart



MRC Procedural Rules

Approved and Draft MRC Procedures

PDIES (2001); Guidelines (2002)

Procedures for Data and Information Exchange and Sharing

PWUM (2003); Guidelines (2006)

Procedures for Water Use Monitoring

PNPCA (2003); Guidelines (2005)

Procedures for Notification, Prior Consultation and Agreement

PMFM (2006)

Procedures for Maintenance of Flows on the Mainstream

PWQ (JC endorsed draft)

Procedures for Water Quality

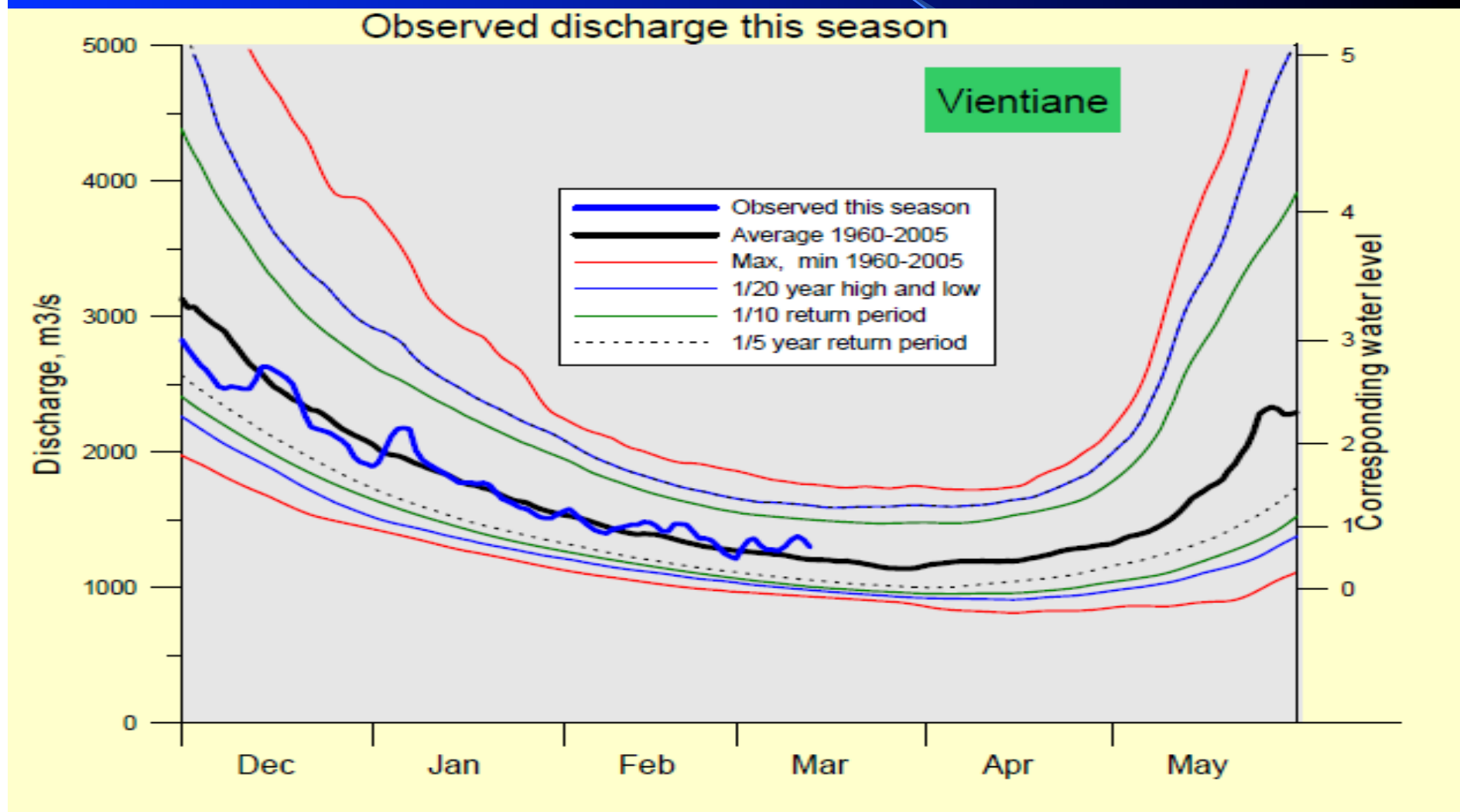


*1995 Mekong Agreement
and Procedural Rules*



Meeting the Need, Keeping the Balance

Procedures for Maintaining Flows on the Mainstream



Article 5 A and B: Reasonable and Equitable Utilization – PNPCA

Tributary hydropower

- *subject to notification to the Joint Committee*

Mainstream hydropower

- *subject to prior consultation **which aims at arriving at an agreement by the Joint Committee***

Article 5 A and B: Reasonable and Equitable Utilization

	Notification	Prior Consultation	Agreement
A. <u>Tributaries:</u>	XXX		
Wet & Dry Season			
B. <u>Mainstream:</u>			
1. Wet Season			
- Intra-basin Use	XXX		
- Inter Basin Div.		XXX	
2. Dry Season			
- Intra-basin Use		XXX	
- Inter-basin Div.			XXX

Under the 95 MA any hydropower development on the Mekong Mainstream requires a Prior Consultation

Rationale of PNPCA

.... for Member States to timely receive sufficient information on proposed use, and to:

- optimize and sustainable water use;
- determine whether greater benefits can be derived through cooperation and trade-offs;
- establish the right of claim by the proposing party against further proposed uses;
- assess the potential impacts on multi-stakeholder rights and interests;
- avoid inter-state disputes through established due process;
- provide for planning security

PNPCA - experience to date

- Developments so far on tributaries
- 33 notifications to date
- Initial information on mainstream dams by Lao PDR, Cambodia and Thailand
- Prior consultation on one mainstream hydropower initiated on 20 September 2010 by Lao PDR

PNPCA

Prior Consultation Requirements

- When?

Owner: Compile Submission	Line Agency: to NMCS	NMCS check: - Complete - Consistent	NMCS submit to MRCS	MRCS check: send to JC; cc: NMCs	JC decision	Project Start?
			1 month	6 months		
?	?	?	7months			
			JC can extend			

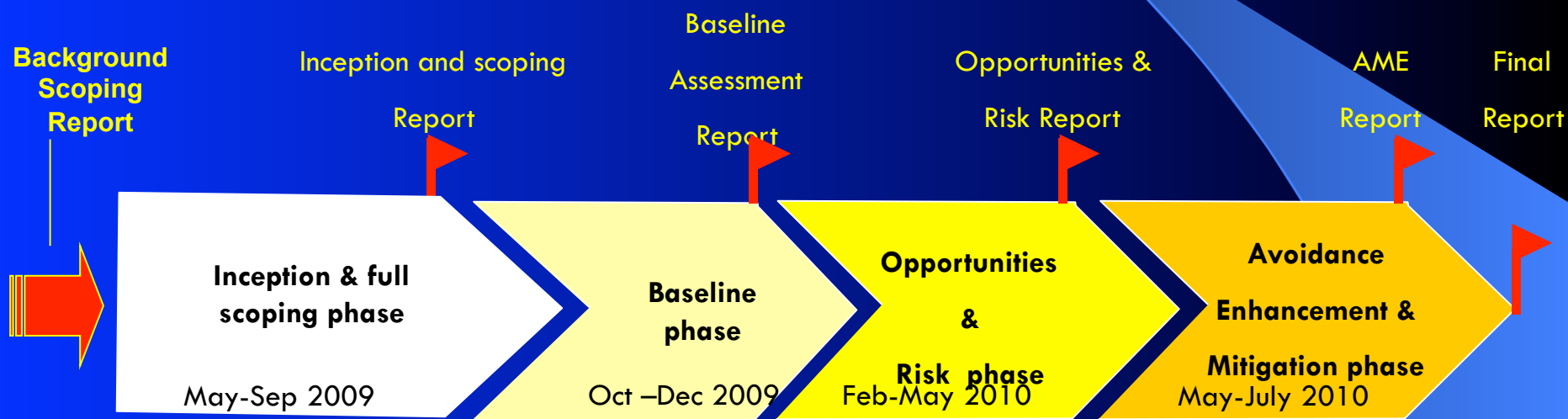
M/S reply: Form A II B
(via NMCs: includes LAs)

SEA of proposed mainstream dams

- To improve the sustainability of development decisions – including to help avoid or minimise their negative economic, social and environmental effects and improve benefits
- To ensure that leaders are well informed about the positive and negative effects of strategic options – ie that they are aware of the consequences and risks of their decisions before they make them

- Stakeholder dialogue focused on mainstream proposals
- Assess the regional distribution of opportunities and risks (with China & ADB GMS engagement)
- Provide a framework for individual mainstream proposals including impact, avoidance, mitigation / enhancement
- Inform how to support to Member Countries when PNPCA is triggered
- Integrate into longer-term Basin Development Planning process
- Feed into MRC Work Plan priorities 2011-2015

SEA process: 4 phases



Avoidance, Enhancement and Mitigation Assessment

4 Options:

1

- No mainstream dams

2

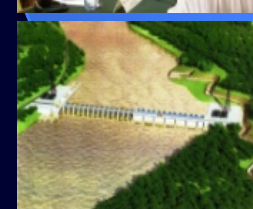
- Deferred decision on all mainstream dams for a set period

3

- Gradual development of mainstream power

4

- Market driven development of the proposed projects



Two worlds: Water resources – Energy resources

- IWRM
- Dublin principles
- sustainability
- poverty reduction
- MDGs
- participation
- public finance
- ...

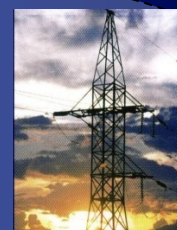
Water resources planning



Procedures for prior consultation

**Basin Development Plan,
Strategic Environmental
Assessment,...**

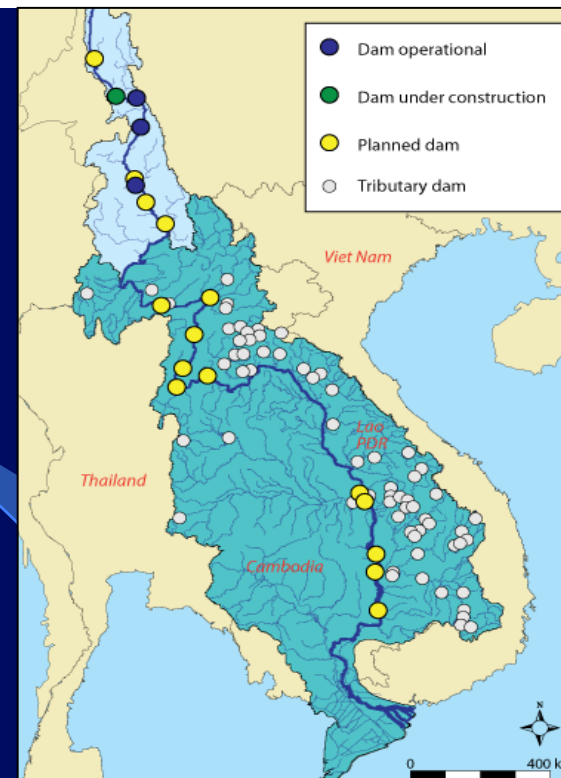
Energy sector planning



- Concession agreements
- power purchase agreements
- tariff negotiations
- regional trading
- peaking power
- ...



Key question – How will PNPCA address Hydropower vs. Fisheries & Livelihoods?



World's largest inland fishery

- 2 to 3 million tons per year
- > \$2.5 billion per year
- supports livelihoods of tens of millions people
- 47-80 % of animal protein intake

High diversity – 2nd after Amazon

- 60-70 commercially important migrant species
- 40-70% of fish catch depends on long distance migration

Cultural importance e.g. Giant catfish

“Battery of Asia”

- 30,000 MW hydropower potential
- approx 50% on Mekong mainstream

Foreign exchange = socio-economic development

- support to poverty reduction programmes

Renewable source of energy

- reduce reliance on fossil fuels



www.mrcmekong.org