



Mekong River Commission

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TERM OF REFERENCE

1. Consultancy Summary:

Consultancy Title:	Fish Impact Mitigation Measures International Expert to Support the implementation of the PNPCA Prior Consultation process of a hydropower project to be submitted under PNPCA Prior Consultation process
Consultancy type:	Special Service Agreement (SSA)
Duration (# of days):	22 working days, 1 May to 31 December 2020
Division/OC:	MRCS Planning Division
Working station:	Homebased, and a travel to the Mekong Country
Total budget: (for lumpsum)	

2. General background:

2.1. Background and objective/s of the consultancy

The MRC Procedures on Notification, Prior Consultation and Agreement (PNPCA) which was adopted in 2003 is a set of three separate processes undertaken by Member Countries for certain projects using water from the Mekong Basin, which may significantly alter water flow or water quality of the Mekong mainstream. The three processes include Notification, Prior Consultation, and Agreement.

The PNPCA Prior Consultation process allows the other member countries to discuss and evaluate the impact of the proposed use upon their uses of water and any other effects, with the aim to avoiding, minimizing and mitigating harmful effects, which is the basis for arriving at an agreement.

Since 2010 the MRC has completed carrying out four Prior Consultation processes of Lao mainstream hydropower projects. These include the Xayaburi (XHPP), Don Sahong, Pak Beng (PBHPP), and the Pak Lay (PLHPP) hydropower projects conducted in 2010-2011, 2014-2015, 2016-2017, and 2018-2019, respectively. Currently, the fifth prior consultation process for Luang Prabang hydropower project is being conducted and due to complete on 07 April 2020.

For 2020, it is expected that another hydropower project will be submitted for Prior Consultation process. As part of the Prior Consultation process, the MRC Secretariat will support the PNPCA Joint Committee Working Group (JCWG) to review the submitted documents, especially in formulating the Technical Review Report (TRR) in which the MRCS will review the developer's impact assessments and the likely effectiveness of the proposed mitigation measures. This may lead to additional recommendations with a view to further avoiding, minimizing and mitigating transboundary environmental and social impacts. The TRR will be submitted to the MRC Joint Committee (JC) through the JCWG for consideration and arriving at a conclusion. The relevant MRC Divisions will review the developer's impact assessments and the effectiveness of the proposed mitigation measures, and make recommendations with a view to avoiding, minimizing and mitigating transboundary environmental and social impacts.

Based on previous experience, the MRC Secretariat is expected to provide support to the Member Countries in conducting the technical review of the submitted HPP, and facilitate the PC process. Therefore, the MRCS will need to utilize the MRCS experts as well as commission a team of international and national experts to support this.

The objectives of this consultancy is to review and assess to the extent possible the effectiveness of the proposed measures to avoid, minimize and mitigate adverse fisheries and environment impacts as part of the transboundary fisheries and environment impact assessment and identification of proposed mitigation measures of the proposed Submitted Hydropower Project, and to provide other support related to fisheries and environment impact to be identified and agreed based on consultation between the MRCS and the consultant.

2.2. Expected final product

The Fish Impact Mitigation Measures International Expert will produce a final technical report on the assessment of the proposed Hydropower Project related to fish impact mitigation measures.

3. Required deliverables, timelines and responsibilities

3.1. Deliverables and concrete timelines:

No.	Deliverables	Number days	Target date ¹
1	1 st draft technical report on the assessment on fish impacts and mitigation measures of the Submitted Hydropower Project, including compliance/alignment assessment of the submitted report with the PDG and its revised	6 days	June – July 2020
2	Join site visit and a PNPCA Joint Committee Working Group (JCWG)	5 days	August 2020
3	2 nd draft technical report on the assessment on fish impacts and mitigation measures of the Submitted Hydropower Project	3 days	August 2020
4	Final draft technical report the assessment on fish impacts and mitigation measures of the Submitted Hydropower Project including an Executive Summary	2 days	October 2020
5	Final technical report	1 day	November 2020
6	Other ad hoc support on technical review and recommendation related to the PBHPP, PLHPP, LPHPP and other related issues.	5 days	May – Dec. 20
Total Working Days		22 Days	

3.2. Required tasks and responsibilities:

The Fish Impact Mitigation Measures International Expert will be responsible to fulfill the following tasks:

- To check compliance/alignment of the submitted project with the PDG and/or revised DGs² regarding fish mitigation measure

¹ This proposed target date is only indicative. They can be adjusted.

² Currently, the revised PDG (DG) is being discussed and finalized.

- Provide assistance and advice to the PNPCA JCWG to elaborate the MRC PC Review Report in relation to the submitted hydropower project EIA and Feasibility Study regarding fish impact mitigation measures;
- Deliver a technical review report regarding mitigation/compensation measures (including fish passage, aquaculture development and fisheries restoration and stock enhancement programmes) related to possible impacts on fisheries, ecology of fish species and fish migration in order to:
 - a. Review mitigation measures proposed by the developer and advice on their likely effectiveness.
 - i. Identification and assessment of the likely effectiveness of the various proposed mitigation measures for both upstream and downstream passage of migratory fishes, including all life stages;
 - ii. Identification and assessment of the likely effectiveness of the various proposed mitigation/compensation measures for other identified impacts on fisheries/fisheries ecology than interrupted migration;
 - iii. Propose additional mitigation measures as required to cover fish passage, flow impacts, water quality impacts, and other environment impacts of the dam on aquatic ecology;
 - b. Review and propose mitigation measures on fisheries enhancement.
 - c. Outline criteria that would determine success or failure of mitigation measures and the indicators to be used in the evaluation of alternative options;
 - d. Compile an overall catalogue of environmental mitigation/compensation measures regarding impacts on ecosystem functioning, fisheries, fisheries community ecology and fish migration that have been listed.
 - e. The catalogue should include risks and uncertainties in relation to impact assessment as well as the proposed mitigation measures.
 - f. In respect to the above, contribute to a technical review of the submitted PC documents and a cross-check of the findings of the EIA with the MRC Preliminary Design Guidance to estimate the level of impact;
- Compile all outcomes of the PNPCA JCWG to compile a final MRC Prior Consultation Review Report; including an executive summary in line with the structure of the MRC PC Review Report;
- Participate in meetings with government agencies, hydropower developers, as needed.

4. **Working Arrangement:**

4.1. Director supervisor: Director of Planning Division

4.2. Communication line: The Fisheries Impact Mitigation Measures International Expert will work under the direction of the Chief River Basin Planner and Chief Environment Officer and the strategic guidance of the Director of the Planning Division. Furthermore, the consultant will work in close collaboration with the regional and international water policy consultant and other technical expert teams.

5. **Payment mode:** Payments will be made based on number of days used with the condition that the MRCS Planning Division will satisfactorily accept all deliverables.

6. **Qualifications and Requirements:**

The Fish Impact Mitigation Measures International Expert will have the following qualifications:

- 15 years of international experience in river fisheries ecology;
- High level knowledge of and experience on mitigation/compensation measures to respond to impacts of dams on fisheries communities, including mitigation measures;

- Knowledge on monitoring mitigation/compensation measures and designing appropriate joint monitoring programmes is beneficial;
- Demonstrated ability to write technical reports which can be readily understood by decision makers and the public;
- Familiarity with the LMB and Mekong River Commission but particularly in developing countries would be beneficial;
- Able to communicate effectively, verbally and in writing with a wide range of people;
- Excellent written and oral communication skills in English;

7. Intellectual property rights: Information, data, database, knowledge resources in the forms of briefings, reports, proceedings, articles, essays, etc. issued by and for the MRCS will be the MRCS property. Any utility, announcement and disclosure that are without MRCS highest levels of authority' permission is considered illegal and will be charged by relevant local and international legal procedures.

In addition, due to the nature of the prior consultation process, the consultant shall not communicate or provide any documents/results to third parties before they are made officially available within the MRC framework through the MRCS and/or the MRC Member Countries.

8. Signature Block

<p>MRC Secretariat Division: Planning Division Name of OIC for PD: Thim Ly</p> <p>Signature: -----</p>	<p>Date: -----</p>
<p>Consultant Name of consultant:</p> <p>Signature: -----</p>	<p>Date: -----</p>