



# Mekong River Commission

## For Sustainable Development

## TERMS OF REFERENCE

### 1. CONSULTANCY SUMMARY

<b>Title:</b>	Regional Water Policy and Planning Expert
<b>Consultancy Type:</b>	Service Contract (SC)
<b>Division:</b>	Planning Division
<b>Duration:</b>	12 months from 01 May 2023 to 30 April 2024
<b>Duty Station:</b>	MRC Secretariat, Vientiane, Lao PDR
<b>Reporting to:</b>	Director of Planning Division
<b>Expected Deliverables:</b>	Please refer to Section 5 below.

### 2. INTRODUCTION AND BACKGROUND

#### 2.1. MRC Procedures and Joint Platform, and Prior Consultation Process for proposed mainstream dams

Cambodia, Lao PDR, Thailand and Viet Nam signed the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin on 05 April 1995 (the 1995 Mekong Agreement). The 1995 Mekong Agreement reaffirmed and expanded the globally known “Spirit of the Mekong Cooperation” nurtured since 1957 by setting forth the framework for cooperation in a constructive and mutually beneficial manner for the sustainable development, utilisation, conservation and management of the Mekong River Basin (MRB) water and related resources.

The 1995 Mekong Agreement rests largely on the implementation of the MRC’s five Procedures, namely (1) Procedures for Data, Information Exchange and Sharing (PDIES); (2) Procedures for Water Use Monitoring (PWUM); (3) Procedures for Notification, Prior Consultation and Agreement (PNPCA); (4) Procedures for the Maintenance of Flows on the Mainstream (PMFM); and (5) Procedures for Water Quality (PWQ). All procedures have been approved by the Member Countries and are being implemented.

Furthermore, the Joint Committee (JC) agreed to establish the MRC Joint Platform to support the implementation of the MRC Procedures at its 36<sup>th</sup> Meeting in October 2012. Its original Terms of Reference was approved in December 2013 and was further revised and approved by the JC at its 48<sup>th</sup> meeting on 24-25 April 2019. The purpose of the MRC Joint Platform is to bring all relevant experts from Member Countries to discuss and find a better way to improve the MRC Procedures implementation and to share experiences and lessons learnt from the implementation of the MRC Procedures and their Technical Guidelines.

Under the PNPCA, five mainstream hydropower projects (HPPs) have been completed with the Prior Consultation (PC) processes, including Xayaburi (2011), Don Sahong (2015), Pak Beng

(2017), Pak Lay (2019), and Luang Prabang (2020). Prior Consultation processes for Sanakham is currently being carried out and Phou Ngoy Project has been submitted by Lao PDR for PC process and is being discussed by Member Countries for its commencement. Amongst the five completed PC processes, joint Statement and Joint Action Plan (JAP) have been developed and being implemented for three HPPs, including for Pak Beng, Pak Lay and Luang Prabang. The MRC Secretariat will provide support to the MCs in facilitating and implementing these PC processes and JAPs.

## **2.2. Exploration of establishment of Mekong Fund**

Exploration of a Mekong Fund is one of the key deliverables of the Basin Development Strategy (BDS) 2021-2030. The BDS highlights an exploration of the fund which could be considered to attract funding from multiple sources to finance identified (joint) social and environmental investment opportunities of transboundary significance, as well as water-related disaster recovery.

To date, following agreement on the concept note for exploration of the Mekong Fund, a final draft of the financing mechanism case study as well as a draft policy paper have been prepared and consulted with Member Countries in December 2022. The concept note outlines four elements/windows for the funds including livelihood, ecosystem, water-related infrastructure, and water-related disaster relief. At the early stage of implementation, it is recommended that the fund could first focus on projects or activities related to improvement of livelihoods and ecosystem. MRC Secretariat is currently working with potential Development Partners to support the start-up (trial) implementation of the Mekong Fund especially for the first two elements/windows.

## **2.3. Transboundary river basin planning of joint projects**

MRC Secretariat supports Member Countries to implement transboundary joint projects identified under National Indicative Plans (NIPs) 2021-2025 that involve two or more countries. The joint projects are a key means to address the shortcomings of the national plans. They are always founded on a win-win outcome for the participating countries. Most joint projects lead to a joint or coordinated investment, underpinned by an appropriate legal framework, governance structure and budgets. They seek to contribute to higher levels of transboundary cooperation and regional integration. MRCS is currently implementing 9C-9T joint project for basin planning for flood and drought management between Cambodia and Thailand (known as Stung Mongkol Borey in Cambodia and Tonle Sap sub-basin in Thailand. Masterplan has been developed and being implemented through its defined five components including review and update of the masterplan, nature-based solution measures for urban and rural flood and drought management, information and knowledge exchange, early warning, and capacity building. Replication of river basin planning approach and tool will be made to Sekong, Se San and Sre Pok sub-basin (known as 3S).

## **3. OBJECTIVES OF THE CONSULTANCY**

The specific objective of this consultancy is to provide technical and coordination support to the MRCS Planning Division (PD) for the implementation of the MRC Procedures and Joint Platform, PNPCA Prior Consultation Processes including JAP implementation, exploration of the establishment of Mekong Fund, and transboundary river basin planning of joint projects.

#### 4. EXPECTED RESULTS

In consultation with the Chief River Basin Planner of the MRCS PD and close collaboration with other technical expert teams comprising of the MRCS and International Team, the consultant will provide technical support to the MRCS PD as follows:

- ☐ Implementation of the MRC Procedures and Joint Platform including a review note on the MRC Procedures implementation and proposal for their implementation enhancement
- ☐ Implementation of PNPCA Prior Consultation processes for submitted projects namely Sanakham and Phou Ngoy and implementation of agreed JAPs
- ☐ Review and improvement of PNPCA technical guidelines
- ☐ Exploration and arrangement for the implementation of the Mekong Fund
- ☐ Implementation of transboundary river basin planning of joint projects for the 9C-9T flood and drought management and replication to 3S sub-basin

#### 5. DELIVERABLES AND CONCRETE TIMELINES

The Regional Water Policy and Planning Expert will produce the following deliverables:

No.	Deliverables	Indicative Timeline*
<b>I. Implementation of MRC Procedures, Joint Platform and PNPCA Prior Consultation Process including agreed JAPs</b>		
1	12 <sup>th</sup> MRC Joint Platform meeting	01 Aug 2023
2	A review note on the MRC Procedures implementation and proposal for their implementation	30 Sep 2023
3	Technical support to the implementation of PNPCA PC Processes for the submitted hydropower projects namely Sanakham and Phou Ngoy HPPs including facilitation and inputs to the preparation of Technical Review Report, joint Statement and JAP as well as facilitation of meetings with Member Countries	Continuous from Apr 2023 to Mar 2024
4	Technical support to the implementation of agreed JAPs of the projects undergone PNPCA PC processes, including preparation of annual progress report on the implementation of the JAPs	Continuous from Apr 2023 to Mar 2024
5	Updated PNPCA Technical Guidelines based on lesson learned from previous implementation	31 Dec 2023
<b>II. Exploration of the establishment of Mekong Fund</b>		
6	Technical support for the exploration and arrangement for the implementation of the Mekong Fund	Continuous from Apr 2023 to Mar 2024
7	Final report on financing mechanism case study	30 Jun 2023

8	Final policy paper on options for a Mekong Fund mechanism through multiple partnerships and financing sources for the benefit of environmental assets and vulnerable social groups	31 Dec 2023
<b>III. Transboundary river basin planning of joint projects</b>		
9	Technical support to the implementation of transboundary river basin planning of joint projects for 9C-9T flood and drought management between Cambodia and Thailand and replication approach to 3S river basin	Continuous from Apr 2023 to Mar 2024
10	Technical inputs to the preparation of funding proposals to global funds (i.e. GEF, GCF, and other relevant sources) to implement the 9C-9T masterplan and its replication to other basins.	Continuous from Apr 2023 to Mar 2024
<b>IV. Other deliverables</b>		
11	Other deliverables assigned by the Chief River Basin Planner and PD Director	Continuous from Apr 2023 to Mar 2024
<b>Total working months</b>		<b>12 months</b>

**Notes:** *\*These timelines are indicative and can be adjusted.*

## 6. REQUIRED TASKS AND RESPONSIBILITIES

The Regional Water Policy and Planning Expert will undertake the following tasks:

### A. Implementation of MRC Procedures, Joint Platform and PNPCA PC Processes including agreed JAPs

- ☐ Prepare and conduct the MRC Joint Platform meetings;
- ☐ Prepare a review note on the MRC Procedures implementation and proposal for their implementation (comprehensive technical proposal for enhanced implementation of MRC Procedures)
- ☐ Provide technical support to the implementation of PNPCA PC Processes for submitted hydropower projects namely Sanakham and Phou Ngoy HPPs including facilitation and inputs to the preparation of Technical Review Report, joint Statement and JAP as well as facilitation of meetings with Member Countries
- ☐ Provide technical support to the implementation of agreed JAPs of the projects undergone PNPCA PC processes, including preparation of annual progress report on the implementation of the JAPs
- ☐ Prepare updated PNPCA Technical Guidelines in cooperation with national and international experts
- ☐ Support the technical dialogues process with the notifying country and its line agencies and consultations with notified countries and relevant stakeholders, including organising meetings, workshops or stakeholder forum;
- ☐ Improve and update the already established database/inventory lists of the projects submitted including operationalising it online.

## **B. Exploration of the establishment of Mekong Fund**

- ☐ Provide technical support for the exploration and arrangement for the implementation of the Mekong Fund including working with experts (KfW) and others;
- ☐ Finalize a final report on financing mechanism case study;
- ☐ Finalize a final policy paper on options for a Mekong Fund mechanism through multiple partnerships and financing sources for the benefit of environmental assets and vulnerable social groups

## **C. Transboundary river basin planning of joint projects**

- ☐ Provide technical support to the implementation of transboundary river basin planning of joint projects for 9C-9T flood and drought management between Cambodia and Thailand and replication approach to 3S river basin
- ☐ Provide technical inputs to the preparation of funding proposals to global funds (i.e. GEF, GCF, and other relevant sources) to implement the 9C-9T masterplan and its replication to other basins.

The Regional Water Policy and Planning Expert would expect some other relevant tasks to be assigned by the Chief River Basin Planner, and PD Director.

## **7. PAYMENT MODALITY**

Monthly payment will be made based on the submission of monthly timesheet and all deliverables must be satisfactorily accepted by the MRCS Planning Division.

## **8. INTELLECTUAL PROPERTY RIGHTS**

Intellectual property rights - IPR: 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.

## **9. DECLARATION OF NON-FRAUDULENCE AND PROTECTION OF PERSONAL DATA**

The Subscriber shall adhere to the MRC's relevant rules and regulations of the MRC on personal data protection, business exclusion, and fraud prevention and anti-corruption principles, and shall be under strict disciplinary measures should any violation occurs.

## **10. WORKING ARRANGEMENT**

**Communication line:** Overall, the Consultant will work under the direction of the Chief River Basin Planner and the strategic guidance of the Director of the Planning Division. Furthermore, the consultant will work in close collaboration with other technical expert teams which include both the MRCS and International Experts.

## 11. QUALIFICATIONS AND REQUIREMENTS

The regional water policy and a planning expert will have the following qualifications and requirements:

- University degree(s) (Master or higher) in development planning, water resources management, or relevant field;
- A minimum of fifteen (15) years of relevant work experience holding the position of increasing responsibility for river basin planning and management in international river basin;
- Proven experience in facilitating technical dialogue on sensitive water management issues; and
- A deep understanding of the MRC Procedures and the implementation of PNPCA Prior Consultation processes undertaken to date.

## 12. SIGNATURE BLOCK

MRCS:

Full Name: Mr. Theerawat Samphawamana  
Title: Director of Planning Division

Consultant:

Incumbent's Full Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Incumbent's Signature: \_\_\_\_\_

Date: \_\_\_\_\_