MEKONG RIVER COMMISSION

RULES OF PROCEDURE

OF THE JOINT COMMITTEE

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REVISED

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1 Revisions in this revised version are made to the original Rules of Procedures of the Joint Committee of the Mekong River Commission signed by the Council on 3 August 1995 in Phnom Penh, Cambodia.
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Pursuant to Article 25 of the AGREEMENT ON THE COOPERATION FOR THE SUSTAINABLE DEVELOPMENT OF THE MEKONG RIVER BASIN, signed in Chiang Rai, Thailand on April 5, 1995, hereinafter referred to as the "Agreement," the previous Rules of Procedures for the Joint Committee of the Mekong River Commission were adopted by the Joint Committee on 30 June 1995 and approved by the Council on 3 August 1995 with one amendment in October 1996 to Rule 6, for the purpose of governing the procedural aspects of the Joint Committee in the implementation of the Agreement.

This review and revision started in early 2013 following instruction of the MRC Council. The revision was made with an intention to improve efficiency and effectiveness of the functioning of the MRC Joint Committee, taking into account the past operations of the Joint Committee, the development and changes taken place in the MRC, including the approval of a set of Procedures by the Council and their Technical Guidelines approved by the Joint Committee under Article 26 of the Agreement.

I. ORGANIZATION

Rule 1
Permanent Members and Powers

In accordance with Article 21 of the Agreement, the Joint Committee shall be composed of one member from each participating riparian country at no less than Head of Department level. Each respective government shall appoint its Permanent Member by name and position to the Joint Committee and notify the Chairperson of the Joint Committee in writing through the Secretariat of the appointment four weeks prior to any Joint Committee meeting at which the change of permanent member is to take place. The Permanent Member shall have authority to act on behalf of his/her government in carrying out the functions of the Joint Committee as specifically set forth in Article 24 and as otherwise provided in the Agreement and decisions of the Council, and to coordinate his/her efforts with his/her respective National Mekong Committee. In respect to his/her participation at any meeting of the Joint Committee of which he/she is not the Chairperson, the participating permanent members or alternates shall review at least the past Minutes of the Joint Committee and the proposed agenda and documents that are provided. The Joint Committee Members are to be prepared before the scheduled Joint Committee meetings and be ready to vote on behalf of their represented country on matters that come up at the Joint Committee meetings.
Rule 2
Alternate Member

The respective governments may appoint Alternate Members from among the members of their National Mekong Committee at no less than Head of Department level by name and position, provided that such appointment is in writing and is submitted to the Secretary (Chief Executive Officer) of the Joint Committee.

Rule 3
Chairpersonship

In accordance with Article 22 of the Agreement, the Chairpersonship of the Joint Committee shall be for a term of one year beginning 1 January through the end of December, and shall rotate according to the reverse alphabetical listing of the member countries. The Permanent Member of the respective government appointed to the Joint Committee shall serve as Chairperson unless the respective government notifies the other governments in writing of Chairpersonship by the Alternate Member or any change in appointment.

Rule 4
Secretary, Agenda and Minutes of Meetings

At all meetings of the Joint Committee, the Chief Executive Officer shall serve as Secretary of the meeting. The function of the Secretary is to assist the Chairperson of the Joint Committee in applying these Rules of Procedure to the meeting, carrying out each agenda item and recording the proceedings that will be incorporated into the Minutes of the Meeting. The Chairperson shall direct the Chief Executive Officer to prepare and transmit to Joint Committee members the Notice of Session, provisional agenda and relevant documents four weeks prior to a regular session and ten days prior to a special or an emergency session. Each agenda shall have as its final topic to be addressed. Any topic, issue or matter not previously discussed and is raised or suggested to drop by any Joint Committee member at the meeting needs to be agreed by all Joint Committee. The JC members could not discuss revising the draft agenda of the MRC Council.

Written Minutes of each session and any resolution of the Joint Committee shall be recorded and signed by the Permanent Members or Alternate Member of the Joint Committee. Five original copies shall be signed and maintained by the Secretariat Registry as Joint Committee Records and at each National Mekong Committee Secretariat. In the event that one or more members of the Joint Committee are unable to sign the minutes of the meeting due to the un-agreed point of any specific subject matter, the Chairperson with support of the MRC Secretariat will follow up with other Joint Committee members to finalise the Minutes as soon as possible after the meeting. While waiting for the Minutes to be agreed and signed, all agreements and decisions made except the matter that could not be reached the consensus will be implemented.
Rule 5
Ad hoc and Permanent Sub-Committees

Pursuant to Article 25 of the Agreement, the Joint Committee may form ad hoc and/or permanent sub-committees or working groups to coordinate, monitor and evaluate, supervise or otherwise address specific issues, problems or other tasks as it deems necessary. These sub-committees or groups shall carry out their functions based on their Terms of References to be adopted by the Joint Committee.

The Joint Committee established an MRC Joint Platform to review and recommend revision of Procedures and Technical Guidelines as required by Article 26 of the Agreement, based upon the experiences and challenges encountered in their implementation since the dates of approval and adoptions of such Procedures and Technical Guidelines.

Rule 6
Assistance and Advisory Services

The Joint Committee shall be assisted by the Secretariat for logistical and administrative services in carrying out its functions. Pursuant to Article 25 of the Agreement, the Joint Committee may select and appoint special advisors as it deems necessary for technical, financial, organizational, legal or other aspects related to carrying out its functions, except as may be provided otherwise in the Council’s Rules of Procedure or decisions.

II. SESSIONS

Rule 7
Regular Sessions

In accordance with Article 23 of the Agreement, the Joint Committee shall convene two regular sessions every year, the first session during the 1st quarter of the year, and the second session during the 3rd quarter of the year, unless notified otherwise by the Chairperson at least four weeks prior thereto, in which event a mutually-accepted alternate date shall be scheduled. The first session shall be held in the country of the Chairperson of the Joint Committee, and all other sessions of the Joint Committee, whether second, special or emergency sessions, shall be held alternately at the Offices of the Mekong River Commission Secretariat in Vientiane, Lao PDR and Phnom Penh, Cambodia.
Rule 8
Special Sessions

At the request by one or more of the Joint Committee members, or Member State, after consulting with the remaining Joint Committee members, with ten days' notice to the other Joint Committee members, the Chairperson of the Joint Committee may convene a special session to resolve any problem that have arisen under the implementation of the Agreement or for any other purpose which the Joint Committee deems necessary. Such special session shall take place at an appropriate time and designated venue.

Rule 9
Emergency Session

When there occurs a situation which requires immediate action of the Joint Committee under the Agreement, an emergency session may be called by the Chairperson at the request of any Joint Committee member or Member State. Once such request is received, the Chairperson shall promptly convene the session at the earliest practicable date and an appropriate venue or instead may arrange for an electronic communication meeting that would include the participation of the Secretary (CEO) in order to prepare minutes of such emergency session.

Rule 10
Private Meeting

The Joint Committee members could hold a Private Meeting prior to Regular or Special Session to discuss any issue of mutual concern and interest for the sake of the enhanced organisational efficiency and effectiveness.

Rule 11
Payment of Session Expenses

The travel and related expenses to attend all sessions of the Joint Committee shall be provided at a rate set according to the MRC Manual to seven delegates from each National Mekong Committee, and plus the Chairperson.
Rule 12
Attendance, Assistants, Advisors, and Observers

Except as herein provided, sessions of the Joint Committee shall be closed.

A. Sessions shall be attended by all Permanent Members and their delegates and presided over by the Chairperson. They shall also be attended by the CEO and the Assistant CEO, who shall serve as Secretary and Assistant Secretary to the sessions, respectively.

B. The Permanent Member appointed as Chairperson may assign his/her Alternate Member, or a delegate in his/her country delegation upon approval by his/her government, to act in his/her member capacity for the sessions.

C. In the absence of a Permanent Member, the Alternate Member may attend any session in his/her member capacity. In the absence of the JC and Alternate Member, a designated representative at an appropriate level, whose identity shall be communicated by the respective country to the meeting, may attend the meeting on his/her behalf.

D. The Permanent Member or Alternate Member may be assisted by other members of their National Mekong Committee, and/or by other national experts and advisers as deemed necessary to carry out the functions of the Joint Committee.

E. Alternate Members and advisors of a member may attend any session as deemed necessary by the respective Permanent Member, with expenses for attendance paid according to the provisions of Rule 11.

Proposals for admission of observer status should be submitted by the MRC Secretariat and approved by the Chairperson (in consultation with Permanent Members) prior to the dispatch of invitation letters. Expenses for attendance of observers to the JC Sessions will not be a responsibility of the MRC. The Chairperson could take final decision in case there are different views amongst the JC Members.

III. DECISIONS

Rule 13
Unanimity Rule

Pursuant to Article 27 of the Agreement, all decisions of the Joint Committee shall be by unanimous vote except for those issues and procedural matters which the Joint Committee specifically predetermines can be made by consensus or majority vote. There shall be only one vote per Member State.
Rule 14
Implementation of Policies and Decisions of the Council

The Joint Committee shall address and implement in a timely manner all policies and decisions of the Council. Issues that require regular reporting to the Council include, but shall not be limited to, matters related to Article 2, 3, 5, 6, 7, 8, and 26 of the Agreement.

Rule 15
Requests for Approval

The Joint Committee shall submit to the Council requests for approval of its actions and decisions pursuant to Articles 5, 6, 24, 25, 26 and 29 of the Agreement, and shall provide any explanation and additional documentation requested by the Council. In the event the Council refers a request back to the Joint Committee for additional action consistent with its decisions, such reference will be addressed in a timely manner.

IV. DEVELOPMENT PARTNER SUPPORT

Rule 16
Financial Assistance

The Joint Committee shall review and may approve financial assistance contracts and grants, except that it shall refer to the Council for approval all major investment assistance contracts, and as otherwise provided in the Council’s Rules of Procedure or decisions. The Joint Committee shall review annually all development partner assistance programs of the Mekong River Commission and submit a report of its review to the Council.

Rule 17
Development Partner Provided Personnel Services

The Joint Committee shall review the qualifications and credentials of the candidates and make the selection of the candidate based upon the terms of reference and criteria for the post to be filled for all technical assistance provided by development partners, which includes professional personnel services. The Secretariat shall prepare the contract for services consistent with the personnel manual requirements and conditions agreed upon by the Joint Committee for appointment to the post.
Rule 18
Development Partners Consultative Group

Pursuant to a request of the Council for the international donor community to form a Development Partners Consultative Group (DPCG) for the purpose of coordinating technical and financial assistance for functions and activities of the MRC pursuant to the Agreement, the Joint Committee shall confer, provide information, and negotiate with the DPCG and its members in the identification, preparation and finalisation of projects, programs and activities, and maintain necessary contacts and working relationships with the development partners during the implementation stages.

V. GENERAL PROVISIONS

Rule 19
Secretariat Supervision and Organization

The Joint Committee shall supervise, assign tasks, and review the activities of the Secretariat in the carrying out of its functions. The Joint Committee may delegate authority to the CEO, whose appointment shall be for an initial term of three years, which may be extended for an additional like term, to sign contracts and agreements relative to projects and programs approved by the Council and/or the Joint Committee; to fulfill administrative, management and other tasks as it deems appropriate within its scope of authority or as directed by the Council; to make decisions regarding all staff and consultants and to make recommendations to the Council (and Joint Committee) for approval regarding the locations, organisation, operations and management of the Secretariat as provided in Articles 24, 29, 30, and 33 of the Agreement.

Rule 20
Database and Information

Under the supervision of the Joint Committee, the Secretariat shall maintain and provide annual and other reports on data, information and analysis necessary to serve as a decision-support system for the Council and Joint Committee. Such reports, or summaries thereof, including an annual MRC report, may be made available by the Secretariat to governments, international organisations and others, according to directions of the Joint Committee and the Communication and Disclosure Policy of the MRC. A permanent set of data shall be preserved in the Registry archives of the MRC. The types, timing and processes for identifying and gathering of data and information of the MRC are further set out in the Procedures for Data and Information Exchange and Sharing (PDIES).
Rule 21
Procedures for Cessation of Harm and Determining Damage

Pursuant to Articles 7, 8 and 10 of the Agreement, and provided that they are not inconsistent with other technical Procedures adopted by the Council, procedures for the determination of the cause and the cessation of substantial harm and determining country responsibility for damages caused by that Country shall be as follows:

1. After receiving due notice with proper and valid evidence from the harmed Country, the Chairperson of the Joint Committee shall inform immediately the Country that is alleged to have caused the substantial harm and/or damage;

2. Upon the request of the harmed Country(ies), as soon as possible, the Chairperson shall consult that Member State(s) and the State(s) alleged to have caused harm, and submit the matter to or convene an appropriate regular, special or emergency session under Rule 7, 8 or 9 for timely determination of the nature and the cause of the harm and of damage, if any, and the cessation thereof, if it has ceased. The Country alleged to have caused the harm shall cooperate with the parties concerned in carrying out fact-finding in order to determine the nature and the cause of the alleged harm and its responsibility for damages caused, if any.

Rule 22
Resolution of Differences and Disputes

Upon receiving a written note from any member of the Joint Committee of a difference or dispute concerning any matter covered by the Agreement, the Chairperson shall inform and consult other Joint Committee members and submit the matter to an appropriate regular, special or emergency session as provided for in Rule 7, 8, or 9 for timely and satisfactory resolution by the Joint Committee. If the Joint Committee fails to resolve the issue, it shall promptly submit the issue to the Council for resolution in accordance with the provisions of Articles 24.F and 34 of the Agreement.
Rule 23
Amendments to Rules of Procedure

These Rules of Procedure of the Joint Committee may be amended or revised as deemed necessary by the Joint Committee, and such amendment or revision shall then be submitted to the Council for approval.

Rule 24
Language of Sessions

All sessions of the Joint Committee shall be in English.
These revised Rules of Procedure of the Joint Committee were approved by the Council on 14 January 2016 at its Twenty-second Meeting in Phnom Penh, Cambodia.

H.E Mr. Lim Kean Hor
For The Kingdom of Cambodia

H.E Mme. Monemany Nhoybouakong
For The Lao People’s Democratic Republic

H.E. General Surasak Karnjanarat
For The Kingdom of Thailand

H.E. Mr. Chu Pham Ngoc Hien
For The Socialist Republic of Viet Nam