



Mekong River Commission

MRC Guidelines on Disclosure of Data, Information and Knowledge

May 2015

MRC Guidelines on Disclosure of Data, Information and Knowledge

PREAMBLE

The MRC Disclosure Guidelines set out the administrative rules and regulations on access to data, information and knowledge held by the Mekong River Commission Secretariat and the materials available. They detail the categories of data, information and knowledge available to the general public or to interested individuals and groups and are built on a presumption in favour of disclosure. Limitations precluding the disclosure of some data information and knowledge are kept at a minimum. The Guidelines relate to all electronic and printed data, information and knowledge.

There are a number of policy relevant processes with regard to data, information and knowledge ongoing at the MRC, most importantly the Policy and Implementation Strategy being developed under the Information and Knowledge Management Programme (IKMP). These Disclosure Guidelines will act as an umbrella policy under which all other data sharing policies fall, and will be updated as the IKMP Policy and Implementation Strategy matures.

1. INTRODUCTION

1.1. Mandate and scope of the Guidelines

- 1) The Mekong River Commission (MRC) was established in 1995 through the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin between the Governments of Cambodia, Lao PDR, Thailand and Viet Nam. Sustainable development, as called for in the Agreement, can only be achieved through a transparent and open decision making process and organisation, in which all stakeholders have the widest possible degree of access to relevant data, information and knowledge. Within the MRC there is therefore a presumption in favour of disclosure.
- 2) The MRC consists of three permanent bodies: The Council, the Joint Committee and the Secretariat. The ministerial Council makes policy decisions and has overall governance of the MRC. The Joint Committee is responsible for the implementation of the policies and decisions of the Council and supervises the activities of the Mekong River Commission Secretariat. The MRC Secretariat provides technical and administrative services to the Joint Committee and the Council, and is under the direction of a Chief Executive Officer.
- 3) According to the 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin, one of the functions of the Joint Committee is to regularly obtain, update and exchange data necessary to implement this Agreement (Article 24). It also states that the Joint Committee can assign tasks and supervise the Secretariat as is required to implement the Agreement including the maintenance of databases and information necessary for the Council and the Joint Committee to perform their functions.
- 4) The Secretariat is consequently required to maintain databases of information as directed (Article 30.E.) This function is discharged through the MRC Technical Assistance and

Coordination Team (TACT) at the Secretariat. The Secretariat is also required to perform an information provision function to Member States and donors (Rules of Procedures of the MRCS, Rules 5 and 11). The Secretariat should also be a repository of knowledge on the Mekong and inform the media and general public. The MRC has provided for a Communications Unit within the International Cooperation and Communications Section whose tasks include supervising and upgrading the MRC website.

- 5) In order to facilitate and operationalise data, information and knowledge exchange between Member States and with the Secretariat, the Procedures for Data and Information Exchange and Sharing (PDIES) were adopted by the MRC Council on 1 November 2001 at its Eighth Meeting in Bangkok, Thailand (Annex 1).
- 6) The MRC Strategic Plan 2006 – 2010 tasks the MRC to work towards operating as a highly effective, transparent and innovative international river basin organisation (Goal 4, objective 1) and to enhance and maintain a common GIS-based information and knowledge management and dissemination system to support all MRC activities. (Goal 4, objective 3).
- 7) To further these goals the MRC Council, at its Thirteenth Meeting in 2006, approved the Information and Knowledge Management Programme (IKMP). The IKMP, under component 5, also provides for the development and launch of an accessible and user-friendly next generation of MRC Information System web portal. It is therefore necessary for the MRC to develop Guidelines on Disclosure of Information to govern access to information as set out in the IKMP and required by its mandate.
- 8) These Disclosure Guidelines have been prepared by the Secretariat under its Rules of Procedures (Rule 1) and endorsed by the Joint Committee. They also provide guidance for the implementation of the MRC Secretariat Administration Manual. The stipulations of the Guidelines will not change ownership and confidentiality of data and information produced under subcontracts with the MRC. For such data and information the contractual arrangements prevail.

2. DEFINITIONS

For the purposes of these Guidelines, the following terms are defined as they are in the MRC Procedures for Data and Information Exchange and Sharing:

Data: Representations of facts, expressed as measurements or statistics, suitable for communication, interpretation or processing.

Information: Data interpreted, processed and refined, and then displayed by the competent authorities having ownership or possession thereof, which is required for exchange and sharing for the purpose of the implementation of the Mekong Agreement.

Furthermore the following definitions will apply:

Document: A piece of written, printed, or electronic matter that provides data and/or information and/or knowledge.

Data processing tools: Software or interconnected suites of software to which the MRC holds propriety rights.

Knowledge: Awareness and understanding of a subject gained through the collation, organisation and analysis of information, experience, study and consultation with other individuals. Knowledge within the MRC may be held in policies, strategies, plans, guidelines, procedures, reports and other publications (hard copy and electronic), decision support tools, or within individual people.

Publication: The action of making available data, information and knowledge, generally in the form of documents, to a third party, so as to make them generally known and accessible.

3. GUIDELINES' PRINCIPLES

- 9) In order to implement a policy of transparency and disclosure it is necessary to establish relevant categories and criteria. It is also necessary to establish a process for MRC staff to publish information or data, or disseminate it outside the MRCS. Part of this internal process, in particular as it relates to Press and Publications, Correspondence, and Electronic Mail, has already been established in the MRC Secretariat Administration Manual (Parts one, two and three).
- 10) These Guidelines aim to further strengthen these processes and clearly define the parameters of disclosure and therefore access to data, information and knowledge. This classification system will also be applicable to all electronically based and computer-generated information, as well as photographic and graphic material.
- 11) The MRC's presumption in favour of disclosure will enable it to meet the goals of transparency and accountability to its Member States, donors and stakeholders. An approach encouraging the fullest possible disclosure of information has several advantages:
 - i. Increased disclosure of information encourages debate and dialogue on policies and operations, which, in turn, results in an increase in flow of information back to the MRC, providing new and varied perspectives.
 - ii. Increased disclosure of information can assist in ensuring effective local participation in decision making, leading to "ownership" of decisions by involved participants, and improving project and programme implementation and sustainability.
 - iii. An improved flow of information from the MRC helps to broaden understanding of the MRC's role among Member States, donors, NGOs, academic institutions and the public at large, ensuring both financial and intellectual support for the MRC and its mission.
 - iv. Increased availability of information helps facilitate coordination with others interested in the common goal of sustainable development of the Mekong Basin.
 - v. Finally, as a public institution, the MRC is accountable to its Member States and others providing support to the organisation, and has a responsibility to provide the fullest possible information to its supporters.

4. ACCESS CATEGORIES

- 12) These Guidelines aim to enable access to data, information and knowledge. A large proportion of such material will take the form of electronic or printed documents; the

following categorisation therefore refers to documents. The same stipulations apply to accessing data, information and knowledge in databases housed at the MRC.

13) The three access categories under the Guidelines are:

- **Unrestricted:** available to the general public.
- **Restricted:** may be released to a specific audience following the appropriate approvals.
- **Confidential:** not for release beyond the author and addressees nor to the public.

4.1 Unrestricted Access

General

14) MRC embraces a policy of transparency and disclosure; therefore the following documents and categories of documents are publicly available. The list is not exhaustive, but is intended to provide guidance to supplement the classification criteria.

- Summaries of the MRC Joint Committee and Council Meetings Documents and Reports of the MRC Informal Donor and Donor Consultative Group Meetings;
- Documents and Reports of the MRC Dialogue Meetings;
- Newsletters;
- Press releases;
- Annual Reports;
- MRC Strategies;
- MRC Annual Work Programme;
- Project / Programme Information Documents;
- Programme Strategies and Documents;
- Programme progress reports;
- Consultants' reports (final)
- Published or publishable maps;
- MRC Publication Series;
- Funding agreements and unrestricted legal information;
- MRC interagency Memoranda of Understanding;
- Historical and research information from the MRCS Documentation Centre;
- Real time data on river flows and historic hydrological and water quality data;
- Project related Environmental Impact Assessments and similar reports upon public release under prevailing national regulations.

Finance and Administration

- Annual income and expenditure and donor contributions (as published in the MRC Annual Report);
- Staffing figures (as published in the MRC Annual Report);
- Procurement rules and procedures available in the MRC Procurement Manual;
- Financial Statements;
- Income and Expenditure Statements;
- Statement of Contributions Received, Expenditures Incurred and Fund Balances by Donors;
- Procurement opportunities and tendered contract awards;
- Vacancy announcements
- Salary scales and general conditions of employment
- MRCS Headquarter agreements

15) The criteria for unrestricted access are:

- All documents that have not been proactively classified in the “confidential” or “restricted” categories.
- Standard MRC approval and quality control procedures have been completed.
- Technical data, subject to user signing the relevant data use licenses.
- Documents made available already through official website of MRC Member States.
- Information designed specifically to be shared publicly, such as information brochures on programme work, press releases etc.
- All de-classified documents.

16) Unrestricted access is the general rule at the MRC; it does not, however, imply general access free of charge. At the same time, charges should not constitute a barrier to access data, information and knowledge. The MRC pricing policy, based on a cost recovery principle, is set out in Annex 3.

4.2 Restricted and Confidential Access

17) There are some legal and practical constraints regarding disclosure of data, information and knowledge that must also be taken into account to protect the MRC’s interests and the legitimate interests of those who deal with the MRC. These constraints, which should be balanced against the MRC’s presumption in favour of disclosure, include the following:

- i. Information provided to the MRC on a confidential basis cannot be released without the prior consent or approval of the party providing such information. In some cases, such confidentiality relates to legal requirements in the jurisdiction of the party providing the information, or is governed by an agreement or understanding between the MRC and the party providing the information.
- ii. Documentation or proprietary information may be the legal property of other parties and therefore may not be released by the MRC without the permission of such owners.
- iii. Internal documents prepared by Secretariat staff, including initial negotiating positions and meeting deliberations, should be restricted to ensure the free flow of ideas. It is essential to protect the integrity of the deliberative process of the MRC, and as such, to encourage frankness of dialogue and the free flow of ideas internally. Thus, Confi-

dentiality protects these decision-making processes, and ensures that all participants can candidly express views without self-imposed limitations in anticipation of an external audience.

- iv. Legitimate business interests must be respected and proprietary information of the private sector protected.

18) The MRC has internal non-disclosure guidelines applying to confidential data, information and knowledge concerning the personal details of MRC staff.

19) The MRC cannot be made liable for any results or actions emanating from the use of data, information and knowledge made available; details in this regard are set out in the MRC website guidelines. Copyright stipulations are set out in the MRC Pricing Guidelines and Copyright Regulations (Section 3.5 of the MRC Secretariat Administration Manual).

4.2.1. Restricted access

Examples of restricted documents include

General

- Documents and Minutes of the MRC Council and Joint Committee Meetings;
- Internal correspondence (restricted to circulation within the MRCS);
- Working papers / reports and project and programme documents in progress;
- Consultants' reports before consideration by MRCS or clearance by the client or other involved party.

Finance and Administration

- Briefing notes on income and expenditure;
- Information on how the MRC uses the Management and Administration Fee;
- Specific audits requested by donors for programme activities. Donors may choose to release these audits on their own websites and should then inform the MRCS, so that it can do likewise.

20) Data or documents classified as 'Restricted' are those that can be released to a restricted audience. Such restricted audience would normally comprise of persons or entities that are part of the MRC or with which the MRC has an MOU or a working relationship within its approved Work Programme.

21) Documents classified as Restricted will be automatically de-classified after five years. Restricted documents may be accessible for research purposes upon request at the originating office and / or the MRC documentation centre.

22) Documents that come under this category need to meet at least one of the following criteria:

- Contain information that was initially intended for internal use, but that does not fall into the confidential category, and where restricted access is judged beneficial for a work process or a working relationship.
- Need prior approval by a donor, such as project / programme evaluation reports or where prior approval of a client is required.

- Contains technical data or comments considered by the Secretariat to be sensitive and where wider distribution would be prejudicial to an ongoing process.

4.2.2. Confidential

Examples of Confidential documents include:

General

- Correspondence on personnel matters;
- Performance Appraisal Reviews;
- Un-validated data;
- Minutes and summaries of discussions at internal MRCS meetings;
- Internal position papers;
- Minutes of the Preparatory Meetings of the Joint Committee;
- Commercial contracts.
- Reports where permission from the client has not been provided

Finance, administration and staffing

- The MRC's Principles of Staff Employment require the MRC to maintain appropriate safeguards to respect the personal privacy of staff members and protect the confidentiality of personal information about them. Information of a generic nature can be distributed to Joint Committee members and donors if the funding agreement so stipulates; any staff information involving personal or privacy issues is restricted solely to the relevant departments within the MRCS and the individual staff member. This information will not be disclosed without the express permission of the staff member concerned.

23) While every effort is made to keep constraints to a minimum, the MRC is bound by its rules to maintain a degree of confidentiality on some information. Certain documents may thus only be distributed to a limited internal group requiring the information they contain as part of the work process.

24) To be classified as confidential, documents need to meet at least one of the following criteria:

- Contain information that has been determined by Member States as being subject to laws and regulations concerning national defence or security as per the agreed principles of the MRC PDIES.
- Contain privileged or propriety information or are under copyright that limits or prohibits copying or distribution.
- Have been provided to the MRC under the explicit or implied understanding that they will not be disclosed outside the MRC, or that they may not be disclosed without the consent of the source.
- Come from the MRC's deliberative or decision-making process, such as internal staff memoranda, minutes and summaries of discussions at internal meetings, unless such information has been authorised for disclosure through the process set out in these Guidelines.
- Be derived from similar decision-making processes involving exchanges of ideas between the MRC and any of its members, unless the relevant body approves the release of such information.

25) Subject to restrictions placed as a result of the above conditions, confidential documents can be made available only to MRC Member Countries, MRC staff and agreed donors and partners with a demonstrated need to know the information contained in the document. Such data can only be released with the consent of the CEO, MRCS.

5. APPROVAL PROCESS

5.1 Categorisation process

26) The following section sets out the categorisation process for documents in terms of definitions, and approval of classification and de-classification.

27) Normally, a document will be considered unrestricted and any restrictive classification needs to be given careful consideration as to its impact on transparency and openness of the organisation.

28) In general, the author of a document is responsible for determining whether any restrictive access is needed and noting this on the cover page or first page of the document. For correspondence, only the classification as 'Confidential' needs to be indicated specifically. All restrictive document classifications need to be approved by the respective Division Director or Section Chief in order to retain a general preference for non-restriction. For documents produced by contractors, the contract manager will consider whether any restrictions need to be introduced to reflect terms of the contract. Those having access to or receiving confidential or restricted documents must not circulate or pass on such documents or the information contained within them.

29) Any restrictive classifications should be established in general for types of documents and will be valid for all documents of the same type. Classification as 'Confidential' will normally require additional review of the document.

30) De-classification of documents at a later point can be initiated by the author or other MRC staff subject to the approval of the respective Division Director or Section Chief. De-classification from the category 'Confidential' to another category will require approval by the CEO. If de-classification of a document originating from a third party is considered, consent of that third party for de-classification must be sought.

31) Reports and data that require approval from the four Member States under MRC procedures need to clearly indicate their status as 'pending approval' until final approval has been granted. Similarly, results of scientific studies or data that the MRCS considers technically sound, but which have not been verified by the Member States, need to clearly indicate this status when being made available.

5.2 Other Requests for Information

32) When an interested party requests additional information about an MRC project not covered by any of the preceding arrangements, that request should be relayed to the International Cooperation and Communications Section (ICCS), which, in consultation as necessary with the appropriate Programme, Division, and the CEO, will provide a response to the request, either by providing such information or indicating the reasons such information cannot be provided.

6. ELECTRONIC DATA AND INFORMATION AVAILABLE

33) Use of electronic data and information is governed by the following principles:

- All information posted on the MRC website www.mrcmekong.org is publicly available and may be used for non-profit activities, namely research, provided the MRC is properly accredited. Prior permission need not be sought.
- Digitally stored photographs may be reproduced with the specific approval of the MRC and must be accredited to the MRC. Photographs may not be used for commercial purposes.
- Information contained on the MekongInfo website is information contributed by many researchers, students, non-government organisations and others whose work involved the Mekong River Basin. MRC holds no responsibility for information posted on this site and reproduction is at the discretion of the author.
- Datasets concerning Data in a number of categories may be requested from the Mekong River Commission Secretariat.
(Visit <http://www.mrcmekong.org/spatial/spatialdata.htm> website for details).

34) To request data, users can fax or email the MRC with a brief description of their organisation, the intended use of the data and a list of requested datasets with titles quoted from the website. They can download the appropriate license and send a completed signed form with their request. Two types of licenses are available; for non-commercial data users and for commercial data users (see Annex 2 for examples).

35) Data available on the publicly-accessed section of the MRC-IS portal is free of charge or subject to the same pricing costs for datasets and subject to the user completing the appropriate data user license. Datasets currently available include:

- Administrative Boundaries
- Climate
- Culture
- Environment
- Fisheries
- Forestry
- Hydrology and Meteorology
- Inundation
- Irrigation
- Planning
- Population and human settlements
- Soils
- Topography
- Transportation
- Water Quality
- Water Resources