MEKONG RIVER COMMISSION

REVISED

RULES OF PROCEDURE

OF THE COUNCIL

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[1] Revisions in this revised version are made to the original Rules of Procedures of the Council of the Mekong River Commission signed by the Council on 3 August 1995 in Phnom Penh, Cambodia.

RULES OF PROCEDURE
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MEKONG RIVER COMMISSION

Pursuant to Article 19 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 Council of Mekong River Commission were adopted in August 1995 with one amendment in October 1996, to Rule 5, for the purpose of governing the procedural aspects of the Council 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 Council, taking into account the past operations of the Council, 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
Members and Powers

In accordance with Article 15 of the Agreement, the Council shall be composed of one permanent member from each participating riparian Country at the Ministerial and Cabinet level, at no less than Vice-Minister level, who is empowered to make policy decisions on behalf of his/her government once it has signed the 1995 Mekong Agreement. Each of the respective governments shall appoint its permanent member by name and position to the Council and notify the Chairperson of the Council in writing through the Secretariat of the appointment. In respect to his/her participation at any meeting of the Council of which he/she is not the Chairperson, the participating permanent members or alternates shall review at least the past Minutes of the Council and the proposed agenda and documents that are provided. The Council Members are to be prepared before the scheduled Council meetings and be ready to vote on behalf of their represented country on matters that come up at the Council meetings.

Rule 2
Alternate Member

Alternate members may be appointed by the member Countries at the time of appointment of their permanent member to the Council. Members shall have plenipotentiary authority to hold discussions, make decisions and make commitments on behalf of his/her governments in carrying out the functions of the Council, as set forth in Article 18 of the Agreement.

Rule 3
Chairpersonship

In accordance with Article 16 of the Agreement, the Chairpersonship of the Council shall be for a term of one year beginning 1 January through the end of December of the respective year,

and shall rotate according to the alphabetical listing of the member countries. The member of the respective government appointed to the Council shall serve as Chairperson unless the respective government notifies the other governments in writing of any change in appointment at least thirty days in advance of any regular meeting, except in the case of force majeure.

Rule 4
Agreements and Obligations

In accordance with Article 11 of the Agreement, the Chairperson of the Council shall act on behalf of the Mekong River Commission upon consultation with and consent of the other Council members, or with their consent to delegate such authority to the Chairperson of the Joint Committee, in entering into agreements and obligations with the development partners, international community and member governments, including headquarters and operating agreements with the host and member government.

Rule 5
Assistance and Advisory Services

Each permanent member may be assisted by its national experts and advisers duly appointed by the government concerned. Pursuant to Article 19 of the Agreement, the Council may select and appoint, as it deems necessary, special advisors for technical, financial, organisational, legal or other aspects related to carrying out its functions.

II. SESSIONS

Rule 6
Regular Session

In accordance with Article 17 of the Agreement, the Council shall convene one regular session every year, which session shall take place during the 4th quarter of the year in the country of the Chairperson unless notified otherwise by the Chairperson at least four weeks prior thereto and provided that a-mutually-accepted alternate date is scheduled.

Rule 7
Special Session

At the request of one or more of the Council members, or the Chairperson of the Joint Committee, after consulting with the other Council members, the Chairperson of the Council may convene a special session to address and attempt to resolve any problem that has arisen in the implementation of the Agreement or for any other purpose which the Council deems necessary, and such special session shall be at an appropriate time and venue.

Rule 8
Emergency Session

When there is a situation which requires immediate action of the Council under the Agreement, an emergency session may be called by the Chairperson at the request of any Council member or the Chairperson of the Joint Committee. Once such request is received, the Chairperson shall promptly convene the session at the earliest practicable date and an appropriate venue. The Chairperson may also consider to convene an emergency session of the Council by electronic communication with other Council members, JC Chairperson and the Chief Executive Officer.

Rule 9
Private Meeting

The Council 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 10
Payment of Session Expenses

The travel and related expenses to attend sessions of the Council shall be provided for no more than seven persons for each member state as well as for the Chairperson, at a rate set according to the MRC Manual.

Rule 11
Notice and Agenda

The Chairperson shall direct the Chairperson of the Joint Committee to prepare and transmit to Council members the Notice of Session, provisional agenda and relevant documents at least four weeks prior to a regular session and, as appropriate, ten days prior to a special session or an emergency. The Agenda shall be adopted at the opening session of the Council. Each agenda shall have as its final topic to be addressed. Any topic, issue or matter not previously discussed and which has been or is raised or suggested to drop by any Council member, needs to be agreed by all Council members.

Rule 12
Attendance, Assistants, Advisors, and Observers

The Council regular session shall be divided into two sessions: the first session and the second session. Except as herein provided, sessions of the Council shall be closed to public attendance and participation:

A. The first session of the Council shall be attended by all Council members, the Joint Committee and their delegates, and the Chief Executive Officer, who shall serve as Secretary, and other relevant staff of the Secretariat and shall be assisted by the Secretariat, under the supervision of the Joint Committee, for logistical and administrative services in convening sessions.

B. At both sessions, in the event the appointed permanent member of a country is unable to attend a session, an alternate at the Ministerial and Cabinet level, at no less than Vice-Minister level, may be appointed by the government upon notification to the Chairperson of the name and position of the alternate twenty days prior to the session date, except under circumstances of force majeure.

C. At both sessions, the member appointed as Chairperson may, upon approval by his/her government, assign a delegate in his/her country delegation at no less than Vice-Minister level to act in his/her member capacity for that session.

D. For the Second Session of the Council, which is the Joint Session with the Development Partners (Development Partner Consultative Group Meeting), the Council may invite through the Council Chairperson the representatives of governments, international organisations, and designated agencies and/or individuals

to attend the Second Session in the capacity of observers, as he/she deems necessary. Observer status may, if appropriate, and subject to the unanimous consent of the Council members, be granted to the following organisations and international bodies: (i) those that have active MOU or partnership agreements with the MRC; (ii) UN agencies and international financial institutions that strengthen regional cooperation; (iii) qualified[2] NGOs working on environment, water resources management, nutrition, community development and humanitarian issues at the local, national and regional levels; (iv) organisations and bodies with specialised technical or scientific competences relating to the goals of the MRC; and (v) research and scientific institutions conducting researches on a range of environmental and social issues applicable to the sectors MRC is working to address.

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

III. DECISIONS

Rule 13
Unanimity Rule

Pursuant to Article 20 of the Agreement, all decisions of the Council shall be by unanimous vote except for those issues which the Council specifically predetermines may be made by consensus or majority vote, with only one vote per member state.

Rule 14
Minutes, Resolutions and Records

Written Minutes of each session of the Council or any resolution of the Council shall be recorded and signed by all the Permanent or alternative members of the Council. Five original copy shall be signed and maintained by the Secretariat Registry as Council Records and at each National Mekong Committee Secretariat.

In the event that one or more Council members is unable to sign the prepared Minutes of the sessions at the close of the Council meeting, the Chairperson with support of the MRC Secretariat will follow up with other Council 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.

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[2] To be considered as "qualified" organisation some general criteria should be taken into consideration such as: 1) the mandates or expertise of the organisation (nominee)) relate to water resources planning and management (e.g., in navigation and transport, agriculture, fisheries, industry, food and energy security, sustainable development, health, disaster risk management and biodiversity and conservation); 2) the nominee agrees and supports the objectives and principles of the Mekong Agreement; 3) the importance of coordination and communication between the MRC and the nominee to achieving the goals and objectives of The Mekong Agreement; 4) the capacity for the nominee to make a practical and valuable contribution to the work of the MRC; 5) that nominee has a structured, permanent administration; 6) that the appointed representative of the organisation has a mandate to speak on behalf of the organization; 7) that the nominee has signed an Agreement or Memorandum of Understanding with the MRC setting out the basis for cooperation; 8) that the nominee has a regional or basin-wide perspective and will promote this perspective.

Rule 15
Implementation of Policies and Decisions

The Council shall instruct the Joint Committee by special reference and according to a specific timetable, regarding specific policies and decisions to be carried out by the Joint Committee on issues that require timely and constant consideration by the Joint Committee and regular reporting to the Council, including, but not limited to issues arising under Article 2, 3, 5, 6, 7, 8, and 26 of the Agreement.

Rule 16
Requests for Approval

The Council shall act upon all requests for approval submitted by the Joint Committee pursuant to Articles 5, 6, 24, 25, 26 and 29 of the Agreement at the next Council session or at any earlier time following submission of a request. The Council may request the Chairperson of the Joint Committee to provide an explanation and additional documentation, and the Council may refer the request back to the Joint Committee for additional action consistent with its directives.

IV. DEVELOPMENT PARTNER SUPPORT

Rule 17
Financial Assistance

The Council may approve major investment assistance contracts, and shall annually review the development partner assistance programs of the Mekong River Commission.

Rule 18
Development Partner Consultative Group

The Council may request the international development partner community that is providing or offering to provide technical and financial assistance for functions and activities of the Mekong River Commission pursuant to the Agreement to form or rename their existing arrangement into a Development Partners Consultative Group (DPCG) for the purpose of coordination of such assistance.

V. GENERAL PROVISIONS

Rule 19
Resolution of Issues, Differences and Disputes

Pursuant to Article 18.C and 24.F of the Agreement, upon receiving a written note from a Council member or the Joint Committee on a difference or dispute with regards to the interpretation or implementation of the Agreement, the Chairperson shall inform and consult other Council members and submit the matter to an appropriate regular, special or emergency session as provided for in Rule 5, 6 or 7 for timely and satisfactory resolution by the Council. If the Council cannot reach a satisfactory resolution in a timely manner, the Chairperson shall refer the matter to the Governments of the concerned Parties within 15 days to take cognizance for further resolution as provided for in Article 35 of the Agreement.

Rule 20
Amendments to Rules of Procedure

These Rules of Procedure of the Council may be amended as deemed necessary by the Council.

Rule 21
Language of Sessions

All sessions of the Council shall be in English.

Adopted 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