

**Third Workshop on River Basin Institution Development**  
**June 24, 1999, The World Bank, Washington, DC**

**EXISTING AND EMERGING BASIN ARRANGEMENTS IN ASIA:**  
**Mekong River Commission Case Study**

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**Preface - Role of International Water Law**

In April, 1995 the four national governments of the lower Mekong River basin: Cambodia, Laos, Thailand and Viet Nam, signed an historic “Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin.” Negotiations for the Agreement took place between 1992 and 1995, and the four governments had to confront many complex and contentious issues. The 37 years of experience of cooperation under the two former agreements discussed below provided a strong desire and commitment to continue their joint efforts. The Agreement represents a milestone in international water resource management treaties due to its emphasis on joint development, ecological protection, and a dynamic process of water allocation. The Agreement established the Mekong River Commission (MRC), articulated the principles of cooperation, and outlined a set of rules for the reasonable and equitable use of the basin’s water resources. The MRC has started the long-term task of implementing the Agreement and its future prospects remain bright. The upper riparian countries of the Mekong Basin, China and Myanmar, were designated “dialogue partners” in 1996 and have begun to participate in various MRC activities.

Customary international water law played an important role in the negotiations by providing a framework of principles which guided the negotiations; the negotiators accepted the basic principles of international water law and then negotiated on how to actualize the principles in the specific context of the Mekong river basin. Customary international water law is based upon general international legal principles and existing state practice in the management of international water resources. Two important general legal principles are “the sovereignty and equality of states” and “freedom from harm.”<sup>1</sup> A study of the Mekong Agreement indicates how the four countries went beyond the minimum requirements of international water law, and how international water law can be applied during implementation to give a dynamic life to the Agreement.

Three international legal organizations have conducted empirical studies of state practice and have drafted sets of rules for uses of international water resources partly based upon a codification of customary international water law, with the two above-mentioned principles at the core, and a review of existing treaties and conventions on international water resources.<sup>2</sup>

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<sup>1</sup> These two principles are interdependent as is noted by the leading jurist, Hannun, in the following statement: “The nature of territorial sovereignty necessarily implies the fundamental limitation that no state has the right to impose its will upon the territory of another state” (*sic utero tuo ut alienum non laedas*).

<sup>2</sup> The Institut de Droit (Institute of International Law, IIL) drafted and approved the 1961 Salzburg Resolution on the Use of International Non-Maritime Waters and the 1979 Athens Resolution on the Pollution of Lakes and Rivers

Most significant is the 1966 Helsinki Rules on the Uses of International Rivers prepared by the International Law Association (ILA) and widely heralded for its "codification" of international law, and the UN Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention) prepared as draft rules by the International Law Commission (ILC) over 25 year period and finalized in 1994, and adopted by the United Nations General Assembly in 1997.

Several doctrines of international water law emerged over the years, but it also must be pointed out that international water law does not recognize the doctrine of absolute territorial sovereignty (a state may use waters within its territory without regards to other watercourse states) nor the doctrine of absolute territorial integrity (a state is entitled to the natural flows into its territory). Rather customary international water law requires, as minimum, the adoption of the doctrine of limited territorial sovereignty where the reciprocal rights and responsibilities of the watercourse states are respected.

There are five general principles of customary international water law that were fundamental to discussion on a new Mekong Agreement:

1. Principle of International Waters

The ILC adopted the term "watercourse" to describe the concept of international waters. The ILC defines a watercourse to mean a system of surface and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus.

2. Principle of Reasonable and Equitable Utilization

This general principle provides that all watercourse states are entitled to the reasonable and equitable uses and benefits of an international watercourse within their territory, and by implication, have a correlative obligation not to deprive other watercourse states of their right to reasonable and equitable utilization. The Helsinki Rules and UN Convention lists some relevant factors to be considered in determining what is reasonable and equitable, but as is stated often "what is an equitable and reasonable utilization in a specific case therefore depends on a weighing of all relevant factors and circumstances" and is subject to negotiation between watercourse states. Further, this principle does not require every state to share equally in the uses and benefits of an international watercourse system, but rather in a reasonable and equitable manner with due regard to the rights of all riparians.

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and International Law. The International Law Association (ILA) drafted and approved the 1966 Helsinki Rules on the Uses of International Rivers and the 1982 Montreal Rules on Water Pollution in an International Drainage Basin. And the International Law Commission, an independent United Nations legal organization, was commissioned in 1970 to prepare an authoritative set of rules to be adopted by the United Nations General Assembly. In July, 1994 the ILC completed its work on non-navigational uses of international waters which was adopted by the UN General Assembly in 1997 as the UN Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention).

### 3. Obligation not to Cause Significant Harm

The UN Convention and general interpretation of customary international water law requires states to exercise due diligence to utilize an international water course in such a way as not to cause significant harm to other states.<sup>3</sup> Harm may occur through a number of actions such as expropriating water already utilized downstream, water pollution, increasing flood peaks, interfering with the stability of the aquatic eco-system, etc. The “due diligence” term is critical in understanding the relationship between the no-harm principle and the principle of equitable and reasonable utilization, especially with respect to consumptive water uses<sup>4</sup>.

### 4. Principle of Notification and Negotiations on Planned Measure

Many treaties contain provisions for creation of implementing organizations, such as the MRC, and adopting rules of intercourse that directly or indirectly call for some form of notice and peaceful resolution of differences. The UN Convention contain procedural requirements, albeit very weak, for planned projects in one country which may affect other watercourse states. Watercourse states have a general obligation to provide each other with information concerning the possible effects of planned measures, both positive and negative, other watercourse states. The purpose of this procedural framework is to assist watercourse states in maintaining an equitable balance between their respective uses of an international watercourse, by helping to avoid disputes and providing a context for negotiations if harmful effects are unavoidable.

### 5. Duty to Cooperate

Cooperation can take on many forms in an international river basin, and as stated above, many treaties have created an organizational mechanism to implement the agreement and facilitate cooperation, such as the IJC, IBWC and MRC. The UN Convention does not require watercourse states to establish joint management mechanisms, although it does encourage the establishment of such mechanisms, when appropriate. It does however require the exchange, on a regular basis, of “available data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological and ecological nature, as well as related forecasts.” This regular exchange of data is expected to facilitate cooperation and allow watercourse states to practice “due diligence” in their activities.

Thus, it was against the backdrop of international customary and treaty law that the negotiation team from the four LMB countries began the process of drafting a new Mekong agreement in February 1992, and against which the interpretation of many provisions in the 1995 Mekong Agreement will have to consider during implementation.

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<sup>3</sup> This is not an easy principle to either to get common agreement on its meaning nor in implementation as illustrated by the commentary to the UN Convention “...the fact that an activity involves significant harm, would not of itself necessarily constitute a basis for barring. In certain circumstances “equitable and reasonable utilization” of an international watercourse may still involve significant harm to another watercourse state. Generally, in such instances, the principle of equitable and reasonable utilization remains the guiding criterion in balancing the interests at stake.”

<sup>4</sup> Consumptive water uses are uses which permanently remove water from the watercourse system, particularly plant evapo-transpiration in agriculture.

## 1. DESCRIPTION OF THE MEKONG BASIN

### Physical Characteristics of the Basin

The Mekong River is the twelfth longest river in the world (4,173 km), and ranks tenth in terms of total volume (475 BCM/year). The basin covers 795,000 km<sup>2</sup> and encompasses six countries. As shown in Figure 1, the headwaters of the Mekong River originate in the Tibetan region of China, and the river then flows through Yunnan province in China into Southeast Asia. The Mekong forms the boundary between Laos and Myanmar for approximately 200 km and then becomes the boundary between Thailand and Laos for another 100 km before veering off into Laos. The Mekong courses through Laos for approximately 500 km before once again becoming the boundary between Laos and Thailand for another 800 km. The Mekong then passes through the southwest corner of Laos, and flows through the heart of Cambodia, where a very unique physical feature exists, the Tonle Sap River and Tonle Sap Lake (Great Lake). At Phnom Penh, the Tonle Sap river enters the Mekong, and shortly below the city, the Mekong divides into the mainstream Mekong (called the Tien River) and a smaller river (called the Bassac River), both which flow into Vietnam and empties out through the Mekong delta of Viet Nam into the South China Sea. During the wet season, the flow of the Tonle Sap reverses and the Great Lake fills and becomes a natural storage reservoir that releases its flows in the dry season, mainly to the benefit of Mekong Delta. In the Delta there is also a unique feature in that the Tien and Bassac divide into the "Nine Dragons" to deliver essential water and valuable nutrient laden sediment through the Delta. Figure 2 is of the Lower Mekong Basin, which consists of the 4 members to the early Mekong Committee and present Mekong River Commission.

Table 1 shows the geographical and hydrological contributions of the riparian countries. A striking characteristic of the Mekong River is the extent to which the river is "international" in nature; not only is it a boundary river for over 1,000 km, but it also constitutes essentially all of the water resources of Laos and Cambodia, as well as the northeast of Thailand and the Vietnamese "rice bowl" in the Mekong Delta. Another striking characteristic at the time the Mekong Agreement was being negotiated, is there were not structures on the LMB mainstream, in spite of 37 years of investigations and planning by these riparian countries.

The Mekong basin experiences a tropical monsoon climate which results in extreme seasonal variations in water availability. During the wet season, typically from July to October, torrential monsoon rains result in high flows in the Mekong and regional flooding, with maximum flows typically in the range of 30-40,000 m<sup>3</sup>/s. The dry season, usually from January to May, in contrast, is extremely dry with almost no rainfall and flow rates of around 2,000 m<sup>3</sup>/s at the most downstream location--almost half of which comes from snowmelt in the Himalayas (Mekong Secretariat, 1987).

The extreme hydrological cycles of the basin create opportunities for joint development in the construction of storage reservoirs. Reservoirs would help to moderate hydrological extremes and thereby reduce damaging floods, store water for dry season irrigation purposes, and produce hydroelectric power which can be distributed on a regional basis. Although 2,000 m<sup>3</sup>/s appears to be a considerable amount of water by world standards, most of this water must be retained for

in-stream uses to protect against salinity intrusion in the Mekong delta. The potential for developing some of the basin's water resources for mutual benefit have been long recognized<sup>5</sup>.

In recent decades, the tremendous ecological resources of the Mekong basin have been recognized (Jacobs, 1994). The tropical climate of the region combined with the abundance of water during the wet season supports an extremely productive and diverse aquatic eco-system with numerous, ecologically important wetlands. In addition to its inherent ecological value, basin states rely upon the natural productivity of the basin's fisheries to help meet the subsistence needs of many of the approximately 50 million residents of the Mekong basin.

### **Social-Economic Characteristics of the Basin**

The states of the Mekong basin appear to have ample scope for cooperation in order to address the dilemmas of common interests and common aversions. With respect to common interests, the states have incentives to cooperate in order to reap the benefits of integrated development. In terms of common aversions, they have a vested interest in protecting the environment and ecological balance of the basin. Furthermore, as it appears likely that dry season water shortages will continue to exist into the foreseeable future, the basin states may want to establish an orderly process for water allocation as the region's economy grows and competition for scarce water resources increases.

Economic development has proceeded very differently for each of the four LMB countries. First, their population differences are substantial. They are approximately: Cambodia with 8.7 million, Laos with 5.2 million, Thailand with 69 million, and Vietnam with 87 million. Only Laos and Cambodia have major cities in the basin (Vientiane and Phnom Penh, respectively), but the arid Northeast of Thailand has the largest rural population and greatest agriculture development potential for Thailand, while the Mekong Delta in Vietnam is the rice bowl of the country. Thailand is the most economically developed of the four, but is currently experiencing an economic crisis; Vietnam has great potential and has been making impressive economic gains in the last few years (particularly since the lifting of the Embargo by the US), but in the late 1980s and early 1990s was just beginning to make significant structural changes under "*doi moi*" or reform movement. Laos, land-locked and very poor, but with a small population and abundance of water and other natural resources, could make economic gains not by developing the water resources within the country, but by using the favorable physical features of tributaries for hydropower production and water storage. Cambodia is in a unique position on the Mekong. Within its boundaries is the only mainstream storage system, the natural storage in the Great Lake (Tonle Sap), which is experiencing considerable change in capacity and function due to the heavy sedimentation caused by deforestation in the surrounding tributaries to the lake. Cambodia has just emerged out of 3 decades of internal strife that has left it in the weakest capacity to address not only its nation-building problems, but also the matters of properly planning and implementing water development and management schemes within the country in relationship to their benefits to Cambodia and possible impacts on Vietnam.

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<sup>5</sup> The first report on the potential for integrated development in the lower Mekong basin was published in 1952 by the UN Economic Commission on Asia and the Far East (ECAFE), Bureau of Flood Control. The United States Bureau of Reclamation also issued a report in 1955 on the development potential of the lower Mekong Basin. These reports helped initiate the establishment of the Mekong Committee. (Mekong Secretariat, 1989)

## 2. THE BASIN INSTITUTION DEVELOPMENT PROCESS.

### Historical Background of Cooperation

In the aftermath of the Second World War, the United Nations established a number of regional bodies, including the Economic Commission for Asia and the Far East (ECAFE). ECAFE's Bureau of Flood Control investigated the potential for integrated development in the lower Mekong basin and published a report in 1952, outlining the basin's water resource development potential. In 1954, Cambodia, Laos and Viet Nam achieved independence from France under the Geneva Accords. The United States Bureau of Reclamation issued a follow-up report in 1955, confirming ECAFE's findings, and urging the formation of an international river basin organization (Mekong Secretariat, 1989).

In 1957, the four lower riparian states of Cambodia, Laos, Thailand, and The Republic of South Viet Nam, adopted the *Statute of the Committee for Coordination of Investigations of the Lower Mekong Basin* with a general, but limited, mandate to "promote, coordinate, supervise and control the planning and investigations of water resource development projects." The Statute also established the Mekong Committee (MC), composed of one member from each country. However, the Statute restricts the competence of the MC to technical matters only and formally subjects its decisions to existing or future agreements binding upon its member governments. (Chomchai, 1992). Shortly after the formation of the MC, it was determined that a Mekong Secretariat should be created to facilitate the technical and administrative work of the MC. The Mekong Committee, and its associated Mekong Secretariat, were under the auspices of the United Nations and received funding from the international donor community. The Executive Agent and Chief Financial Officer of the MS were seconded from UN agencies and paid for by the UN. China was not invited to participate in the Mekong Committee because it was not a member of the United Nations at the time, and Burma (now known as Myanmar) did not express an interest in membership due to political and geographical reasons. (Mekong Secretariat, 1989).

The Mekong Committee focused on both short-term tributary projects and longer-term mainstream projects. The development of the tributaries was regarded as the most important short-term issue because such projects could be initiated easily, required less investment, and were wholly within the territory of individual states. Construction of mainstream projects was envisaged as part of a long-term development program, requiring extensive preliminary studies, large investments, and political agreement between the riparian states. Between 1958 and 1975, funding for the Mekong Committee's planning activities varied between U.S. \$10-20 million dollars per year, while investments for tributary projects prepared by the Mekong Committee, but channeled through the respective national government, totaled almost U.S. \$400 million (in constant 1987 terms) (Jacobs, 1992). A number of small-to-mid sized national, tributary projects were constructed during this period, and while comprehensive plans were developed for a cascade of dams along the mainstream, they were never realized due to both their complexity and the uncertain international climate prevailing in Southeast Asia.

A number of attempts were made to enlarge the mandate of the Mekong Committee during the 1958-1975 period. In 1965, an effort was made to amend the 1957 Statute by changing the name of the Committee to the "Committee for Coordination of Comprehensive Development of the

Lower Mekong Basin” and expanding its mandate to include construction of development projects. This amendment was only ratified by three of the members, and thus did not come into effect. In 1971, a new Mekong Charter was presented, once again seeking to enlarge the mandate of the Committee to include construction activities, but this also was not acceptable to all of the riparian states. (Radosevich, 1995). Finally, in 1975 the “Joint Declaration of Principles for Utilization of the Waters of the Lower Mekong Basin” was accepted by the members of the Mekong Committee. The 1975 Joint Declaration cleared the way for mainstream development by allowing the Mekong Committee to create “Project Agencies” for the implementation of mainstream projects; it also required the unanimous approval of the Mekong Committee for all mainstream, major tributary, and inter-basin diversion projects.

After the signing of the Joint Declaration in March 1975, it appeared as though the Mekong Committee was going to become a full-fledged comprehensive river basin development agency. Such an evolution was long anticipated by many people, and expressed by the U.S. President Johnson in 1964, when he considered the potential of the Mekong basin to be so great, and the Committee’s enthusiasm for joint development so strong, that he predicated the Mekong Committee would one day “dwarf the TVA” in its accomplishments. At that time, one of the largest contributing donors was the U.S., strongly supporting the 1970 "Indicative Basin Plan" with its "cascade system of seven mainstream reservoirs.

Political events however transpired to dampen the Committee’s prospects, and the change of governments in Laos, Cambodia, and Viet Nam in mid-1975 cast doubt on the Committee’s future. In late 1975 the isolationist Khmer Rouge took control of the Cambodian government and deigned to participate in the Mekong Committee. However, despite the Cold War tensions between Thailand and the communist governments of Viet Nam and Laos, the three countries decided to continue their cooperation, although at a reduced scale, and in 1978 agreed to a *Declaration Concerning the Interim Mekong Committee*. The 1978 Declaration anticipated that when Cambodia requested readmission to the Committee, the IMC would be dissolved and the former Mekong Committee would be reactivated. It should be pointed out, that from its very creation to 1991, the Mekong Secretariat had held the spotlight

The Vietnamese army invaded Cambodia in 1979 in response to Khmer Rouge border intrusions into Viet Nam and to oust the genocidal Khmer Rouge regime. Although the Vietnamese incursion restored some semblance of stability to most of Cambodia, a foreign-backed civil war raged on during the 1980s between the Khmer Rouge, the Vietnamese-backed Cambodian government, and King Sihanouk’s royalist faction which had previously ruled Cambodia. The turmoil in Cambodia prevented it from rejoining the Mekong Committee. Early in 1991, the Interim Mekong Committee, at its annual meeting (with donors included), held in Luang Prabang, Laos, convened a special closed session and adopted a resolution that allowed the MS to begin working with the Cambodian National Mekong Committee (NMC) to gather data and begin exchanges of information on water uses and needs in Cambodia.

With the signing of the Cambodian Paris Peace Agreement in October 1991, Cambodia requested re-admission and reactivation of the Mekong Committee. This raised an important issues of long-standing concern among the MC/IMC members, which led to the "postponement"

by Thailand (then holding the Chairmanship of the IMC) of the January 1992 IMC meeting in Chiang Rai, Thailand, and the famous "impasse to cooperation".

All four riparian states wanted to continue their cooperation in the management and development of water resources in the Mekong basin, but there was a lack of consensus on whether to proceed under the old framework of cooperation. Circumstances had changed considerably since 1975 in a number of important respects. First, although the region seemed to be entering a new era of peace in the 1990s, the governments were no longer as closely allied to each other as they were in the pre-1975 era. Second, the viability of large mainstream dams, the impetuous for joint development efforts under the former Mekong Committee, was under question due to the potential environmental and social impacts. Third, China was in the process of implementing a large-scale hydropower development programme in the upper reaches of the Mekong River which could significantly alter the downstream flow regimes, and hence there was a perceived need to bring China into the cooperation framework. Finally, the requirement of the 1975 Joint Declaration to reach agreement through the Mekong Committee on all mainstream, major tributary, and inter-basin diversion projects appeared too restrictive for some of the riparian states (Far Eastern Economic Review, 1992).

### **International Water Law and the 1995 Mekong Agreement Negotiations**

In December, 1992 representatives of the four lower riparian countries gathered in Kuala Lumpur, Malaysia to attend a meeting facilitated by the United Nations Development Programme (UNDP) to discuss the future framework of cooperation in the Mekong River Basin.<sup>6</sup>

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<sup>6</sup> In early 1992, discussions among the four countries over an acceptable course of action to take to address member concerns about the existing basic documents and reactivation of the Mekong Committee came to a stand-still - an impasse. UNDP offered to provide neutral assistance in facilitating a solution by proposing an informal consultation, which took place in Hong Kong on 6 October 1992. The success of that meeting led to the historic meeting in Kuala Lumpur in mid-December, during which time, the four parties drafted key points that form the basis and commitment of each to work out a future framework of Mekong cooperation in a Communiqué and Guidelines, officially approved in Hanoi on 5 February 1993 at Mekong Working Group-I. This "mandate" of the MWG has served to guide the preparation of the draft agreement, along with the various subsequent papers and discussions. In the Communiqué of December 17, 1992, the commitment of each country was reaffirmed "to continue to cooperate in a constructive and mutually beneficial manner for the sustainable utilization of the Mekong river water resources," and in recognizing changes have taken place since the original mechanism was adopted, agreed to continue the dialogue to create an acceptable "future framework of cooperation."

The Guidelines drafted in Kuala Lumpur, contain many important provisions of common interest and mutual acceptance to the parties. Acknowledging the "great political, economic and social changes" that have taken place in the sub-region, the countries are "part of the most economically dynamic region of the world," but also "faced with major challenges of natural resources management and environmental protection." Further acknowledging that "the Mekong river system is a natural asset of immense value to all the riparian countries," to address the inevitable pressure from economic growth in many water related sectors of the basin, "the coordinated management of the use of the river system's resources will become ever more essential." Recognizing that "certain elements ... of cooperation already exist" that may need redefining, six elements for the future framework of coordination" were set out:

- "- A set of principles for the sustainable utilization of water resources of the Mekong river system;
- An institutional structure and mechanism for coordination;
- A definition of the functions and responsibilities of the structure and mechanism;
- The legal basis for the governance and financial operation of the structure and mechanism;
- Future memberships of the structure; and



The countries had before them three options: i) amend the existing two basic documents (1957 Statute and 1975 Declaration), ii) negotiate a new framework of cooperation, or iii) suspend cooperation in a formalized manner but still adhere to the principles of customary international water law. Following intensive discussions which included high-level foreign policy representatives from the four states, the governments agreed to work together to negotiate a new framework of cooperation while continuing the Mekong Committee Secretariat's ongoing activities. Furthermore, it was decided that once a new framework was established, China and Myanmar would be invited to participate. A Joint Communiqué was issued by government representatives from Cambodia, Laos, Thailand and Viet Nam at Kuala Lumpur which declared:

“We reaffirm the resolve of our respective countries to continue to cooperate in a constructive and mutually beneficial manner for the sustainable utilization of the Mekong river water resources....We recognize that various developments since the original establishment of the Mekong cooperation mechanism necessitate further efforts to define the future framework of cooperation. We have agreed to continue our dialogue and work towards such an appropriate framework through the process of a Working Group under the auspices of UNDP.”

The Kuala Lumpur Joint Communiqué established the political commitment of the countries to negotiate in good faith with the aim of reaching a new, mutually acceptable framework of cooperation. However, the complex task of actually formulating an acceptable agreement still confronted the countries. UNDP offered to facilitate the negotiations by providing a Senior Advisor (Dr. George Radosevich) and financial support, as well as using its good offices as a channel of communication. The four countries established a Mekong Working Group (MWG) which held five meetings and two technical drafting meeting between February 1993 and November 1994, culminating in the signing of the *Mekong Agreement for Cooperation for the Sustainable Development of the Mekong River Basin* in April 1995.

The MWG utilized the basic principles of customary international water law in formulating the Agreement. The MWG participants did not question *if* they should follow customary international water law, but rather the negotiations revolved primarily around *how* to apply the general principles to the specific circumstances of the Mekong basin. Hence, customary international water law served its function of providing a framework for negotiations as well as fall-back position in the event an agreement could not be reached. The Kuala Lumpur Joint Communiqué did not signal an end to differences in positions among the countries, but rather the start of a negotiation process which was bounded by the rules of customary international water law. Radosevich (95), in a speech delivered to the International Water Resources Asia Forum on the Mekong negotiations process stated:

“The following remarks are prefaced by the appreciation and respect of the negotiating process involving four sovereign nations who have the right, as such, to take varying positions reflecting their interests on issues regarding the development and use of the transnational waters of the Mekong River; and whose positions, in absence of mutual

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- Management of the structure.”

agreement, are subject to interpretation under the prevailing rules of international law. The unique positions of each country exist partly due to their relative locations in the Mekong River Basin, and partly as a result of 37 years of “Mekong Cooperation” under the 1957 Statute.”

Four factors assisted the MWG in its understanding and application of international water law to their specific case. First, through the long existence of the Mekong Committee and its data gathering and planning activities, the negotiators had an excellent common understanding of the physical and socio-economic characteristics of the lower Mekong basin. Second, some members of the MWG had already received training on international legal issues through participation in a Legal Studies Group in the Mekong Committee Secretariat which was funded by the Asian Development Bank (ADB) and the European Union (EU) from 1990-1992. Third, the UNDP-provided Senior Advisor to the MWG was an international water law expert. During the course of the MWG, he reviewed and explained the various tenets of customary international water law, and as well numerous existing international and federal water agreements.<sup>7</sup> Finally, some key members of the MWG were active members of the International Law Commission’s working group for the formulation of The Law of Non-Navigational Uses of International Watercourses.

The following is a chronology of key events during 21 months leading to the negotiated completion and "initialing" of the (draft) Agreement on 27 November 1994 by the Mekong Working Group in Hanoi, Vietnam, and the historic "signing" of the Agreement by the respective plenipotentiaries in Chiang Rai, Thailand on 5 April 1995:<sup>8</sup>

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<sup>7</sup> Specific Agreements reviewed by MWG in detail include: Boundary Water Treaty between Great Britain and USA (1909), Columbia River Treaty between Canada and USA (1964), Great Lakes Water Agreement between U.S. and Canada (1978), Colorado, Tijuana, and Rio Grande Treaty between U.S. and Mexico (1944), Indus Water Treaty between India and Pakistan (1960), Senegal River Convention between Mali, Mauritania and Senegal (1972 & 1978).

<sup>8</sup> For a more detailed insight into the negotiations and drafting process of the 1995 Mekong Agreement, see: AGREEMENT ON THE COOPERATION FOR THE SUSTAINABLE DEVELOPMENT OF THE MEKONG RIVER BASIN: COMMENTARY AND HISTORY OF THE AGREEMENT, prepared by Dr. George E. Radosevich, Senior Advisor/MWG/UNDP, 1996. The purpose of the Commentary was to provide an unofficial record of content and reasoning of the final draft Agreement based upon discussions on many key points, issues, problems and perspectives of the various parties raised during MWG meetings and with the SA during his visits to each national Mekong Working Group. In order to provide the parties with a "memory" of these points for present and future reference, the SA prepared an unofficial report in two parts as a "legislative history." **Part I** is a Commentary on each Chapter or Article, preceded by the text of the Agreement. **Part II** is a chronology and explanation of key events of the MWG, brief restatement of the MWG objectives and summary of relevant points of international water law. **Annexes** to the Commentary contain papers and overhead materials prepared by the SA for discussion at the MWG or TDM meetings, including a number of background papers on issues of international water law and international organizations for review by the MWG to provide a common perspective on the relative points of law. These papers may provide the reader with a better insight into what information was utilized by the MWG members during their deliberations in the formal MWG meetings and informal TDM meetings. The Commentary was prepared on a continuous basis during the discussions and negotiations, and finalized after the signing of the Agreement in April 1995. Some portions of the background discussions were omitted from the Commentary if they did not provide an understanding of the particular Article of the Agreement that was adopted by the MWG.

During the MWG and TDM meetings, the Senior Advisor shuttled between the four capitals to hold country discussions with the MWG members, would determine what issues should be addressed at the next meeting and where there was mutual agreement, difference of position, and new perspectives or issues to raise. At all times, the MWG representatives of each country greeted the process with the utmost dignity, sincerity, respect and

- 1992
- 6 Oct. Hong Kong: UNDP sponsored a consultation to discuss the impasse and offer to assist as a neutral party.
- 16-17 Dec. Kuala Lumpur: Meeting of four countries & UNDP in resulting in drafting a Joint Communiqué on a Future Framework of Mekong Cooperation for sustainable development of the Mekong River by forming a Mekong Working Group (MWG); donors meeting of 1993 Mekong Secretariat work plan.
- 1993
- 4-5 Feb. Hanoi/ MWG-I: Signed Joint Communiqué by Vice-Ministers of each country, Adoption of Guidelines for the Working Group on the Future Framework of Mekong Cooperation, set target of end of 1993 to complete MWG tasks, and approved the selection of the Senior Advisor funded by UNDP.
- 4-5 Apr. Bangkok/ MWG-II: Agreed to prepare national position papers on "principles" to govern future cooperation and begin examination of institutional framework.
- 28-29 Jun. Vientiane/ MWG-III: Agreed on "Outline" of draft Agreement, approving many provisions, and agreed to transform "outline" to "draft agreement at a Technical Drafting Meeting (TDM).
- 17-20 Aug. Bangkok/ TDM I: Refined draft agreement, approved many unresolved provisions, and improved understanding on remaining key articles.
- 7-8 Oct. Phnom Penh/ MWG-IV: Agreed to several remaining provisions, enhanced understanding of positions and agreed on finalization efforts.
- 1994
- 6-7 Jan. Vientiane/ TDM-II: Examined options to reasonable and equitable utilization of mainstream and tributary waters, and trans-mountain diversions.
- 27-29 Nov. Hanoi/ MWG-V: The four countries, through their MWG, mutually agreed on the text of the draft Agreement and "initialed" the Draft Agreement signifying the completion of the MWG mandate. They then agreed to form the Mekong Task Force (MTF) to examine transitional for making preparations for the official signing of the new Agreement and start-up needs for the new Mekong River Commission.
- 1995
- 5 Apr. Chiang Rai/ Signing Ceremony of the Mekong Agreement and Protocol establishing the Mekong River Commission.

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commitment to the mandate of preparing a "draft Mekong Agreement", and afforded the Senior Advisor an unparalleled opportunity to work closely and effectively in assisting the MWG to carry out this mandate.

After the "initialing" of the draft Agreement by the MWG, UNDP continued to provide the services of the Senior Advisor for the Mekong Task Force on transitional and start-up activities prior to and subsequent to the "signing" ceremony. The follow-up activities included the preparation and convening of the Mekong River Commission "Insight Workshop on Basin Development Plan", organizing the initial meeting establishing the Donor Consultative Group, and setting up of the Mekong Trust Fund.

### 3. THE “NEW” BASIN INSTITUTIONAL ARRANGEMENT

#### 1995 Mekong Agreement

##### *Overview*

The 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (Mekong Agreement) took 21 months to negotiate and draft (a record for a complex international agreement) and only three months for ratification by the participating four countries (an accomplishment that even exceeded the expectations of the MWG members). It is a relatively short document, consisting of six chapters with 42 articles, and complimented with the Protocol to The Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin for the Establishment and Commencement of the Mekong River Commission.

The Mekong Agreement represents a “constitution” for a framework of cooperation. It focuses on fundamental issues such as general principles, areas of functional responsibility, decision-making procedures, eligibility, and organizational structure.<sup>9</sup> The purpose of the Mekong Agreement is to establish a basis of cooperation under an institutional framework which will be robust enough to make operational decisions under a variety of future conditions. In addition to setting out substantive principles and objectives, the Agreement provided for a new international organization to implement the terms of the Agreement - The Mekong River Commission - substantially different to its predecessors. An outline of the Agreement is presented in Figure 3 and the key points are summarized below and compared with the general obligations of customary international water law.

##### *The Mekong Agreement and International Law*

In many areas, the countries went well beyond the requirements of customary international law and reaffirmed the “Mekong Spirit” which has been in existence for almost forty years.

#### **1. Concept of International Waters:**

The Mekong Agreement adopted the term “Mekong River basin waters” rather than the term “watercourse system” as utilized by the then ILC draft, partly because of past usage and it was felt that the basin terminology was more comprehensive. It also extended its reference to the entire basin, not just the LMB, even though China and Myanmar were not participating in the negotiations.

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<sup>9</sup> The 1995 Mekong Agreement replaced the two basic documents of former Mekong Committee and Interim Mekong Committee, namely: the Statute Of The Committee For The Coordination Of Investigations Of The Lower Mekong Basin, 17 September 1957; and the Joint Declaration Of Principles For Utilization Of The Waters Of The Lower Mekong Basin, 31 January 1975; and nullified the purpose of two other documents: Communiqué Concerning The Mekong Committee, 29 April 1977, and the Declaration Concerning The Interim Committee For The Coordination Of Investigations Of The Lower Mekong Basin, 5 January 1978. The MC/IMC had also adopted several other basic implementing documents which were revised by the MRC according to the new Agreement: Rules Of Procedure Of The Mekong Committee; and Rules Of Procedure Of The Interim Mekong Committee.

## 2. Principle of Reasonable and Equitable Utilization:

This principle was the most difficult to articulate during the negotiations and drafting. Each country had (and has) a different perspective of the river to meet their needs and perceived rights, depending upon their riparian location on the river and extent of contribution to its flows. The 1975 Joint Declaration had incorporate the 9 factors identified in the codification of international water law by the ILC as contained in the Helsinki Rules, and these proved difficult to address.<sup>10</sup> The MWG did not want to establish a specific division of the basin water resources, or establish a formulae for future allocations, but rather preferred to establish a process for the dynamic allocation of water over time. Moreover, they anticipated that future storage projects in the basin would increase the amount of water available in the critical dry season period. Nevertheless, there was a perceived need to make this principle more concrete, while still retaining its flexibility, and apply it to the specific characteristics of the Mekong river basin.

Further, the 1975 Joint Declaration required prior agreement for all projects on the mainstream, major tributaries, and inter-basin diversions. In the new era of cooperation, not all of the four states agreed to accept this procedural requirement as it was felt that it excessively interfered with their national sovereignties (Far Eastern Economic Review, 1992). After extensive negotiations on this issue, the four states agreed to a set of interlocking procedures for fostering reasonable and equitable utilization which are mainly embodied in Articles 5-8 and 26 in the Mekong Agreement as illustrated by Figures 4 and 5. Article 5 (actually adopted by the MWG after articles 6, 7 and 8 had been adopted) establishes the general principles of reasonable and equitable utilization, Article 6 calls for the maintenance of flows on the mainstream, and Article 26 provides the newly formed Mekong River Commission with the mandate to establish specific rules for the Article 5 and 6 provisions. Articles 7 and 8 deal with the avoidance of harmful effects and state responsibility for damages.

Table 2 displays the procedural requirements in Article 5 for utilization of the Mekong River basin waters. The key concept expressed in Table 3, is that the location (tributary vs. mainstream), type of use (inter-basin vs. intra-basin)<sup>11</sup>, and timing (wet season vs. dry season) of water use in the Mekong basin influences the potential for creating harmful effects and violating the principle of reasonable and equitable use, and thus should be subject to different standards of discussion between the countries.

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<sup>10</sup> The then draft ILC Rules on the Non-Navigational Uses of International Watercourses made reference to 4 factors in a manner that could have been further divided to cover the 9 in the Helsinki Rules, but this was of little comfort to the MWG as the rules were not a "codification" of customary international law, and when they would be presented to the UN as a convention was questionable, given the long history of drafting by the committee.

<sup>11</sup> Inter-basin use involves the transfer of water out of the Mekong River basin into another river basin, while intra-basin implies that the water is used within the Mekong River basin--often with a substantial return flow.

**Table 2: Summary of the 1995 Mekong Agreement Article 5 Provisions**

| <b><u>Mainstream</u></b>                      | <i>Use Type</i> | <i>Notification</i> | <i>Prior Consultation<br/>(Aims at Agreement)</i> | <i>Specific<br/>Agreement</i> |
|---|-----------------|---------------------|---|-------------------------------|
| <b>Dry Season</b>                             | Inter-Basin Use |                     |   | <b>XXX</b>                    |
|   | Intra-Basin Use |                     | <b>XXX</b>  |                               |
| <b>Wet Season</b>                             | Inter-Basin Use |                     | <b>XXX</b>  |                               |
|   | Intra-Basin Use | <b>XXX</b>          |   |                               |
| <b><u>Tributaries<br/>(Wet &amp; Dry)</u></b> | (Not specified) | <b>XXX</b>          |   |                               |

Article 5 makes a distinction between tributaries and the mainstream based upon two presumptions. First, since most of the tributaries are territorial, i.e. are entirely within the territory of one country<sup>12</sup>, the state through which the tributary flows has a higher, although not absolute, claim to the use of its waters. Second, the flow rates of individual tributaries are much lower than the mainstream, and hence the potential impacts to other riparians from the use of an individual tributary are limited; of course, cumulative impacts from tributary development also need to be considered. These two presumptions indicated to the MWG that a less rigorous level of initial scrutiny would be required for the tributaries and hence only the notification of proposed uses is required for the tributaries.

In the case of the mainstream, the Agreement makes a distinction between the dry and wet season, and inter and intra-basin use. Inter-basin use is considered to be potentially more harmful to other riparian interests than intra-basin use because it removes any possibility of a return flow back into the basin. Hence, the states agreed that inter-basin diversions from the mainstream should be subject to a higher-level of initial scrutiny than intra-basin uses from the mainstream. However, the level of scrutiny is predicated on the season. As described earlier, the Mekong River basin experiences a tropical monsoon climate which produces heavy rainfall during the wet season and semi-drought conditions during the dry season. Hence, Article 5 requires that wet season intra-basin be subject to notification only, while wet season inter-basin use requires prior consultation which aims at an agreement. The standards during the dry season are more strict with intra-basin use requiring prior consultation which aims at arriving at an agreement, while inter-basin diversion requires a specific agreement<sup>13</sup>.

The term “aims at reaching an agreement” is an important component of the prior consultation requirement. The term constitutes an obligation to negotiate on a good faith basis with an the objective of reaching a mutually acceptable agreement among all four states. As defined in the

<sup>12</sup> Important expectations include the Sre Pok tributary system (Viet Nam and Cambodia), the Se Khong tributary system (Laos and Cambodia).

<sup>13</sup> Article 5, paragraph 2.b also allows for the special case of dry season inter-basin diversions where “should there be a surplus of quantity of water available in excess of the proposed uses of all parties in the dry season, verified and unanimously confirmed by the Joint Committee, an inter-basin diversion of the surplus could be made subject of prior consultation.

Agreement: “Prior consultation is neither a right to veto the use nor the unilateral right to use the water by any riparian without taking into account other riparians’ rights.”

In order to achieve the objective of reasonable and equitable utilization as formulated in the Mekong Agreement, Article 5 needs to be implemented in conjunction with Article 6, “Maintenance of Flows on the Mainstream.” Article 6, mandates the maintenance of the flows on the mainstream to meet the following three requirements:<sup>14</sup>

- a) minimum monthly natural flows during the dry season;
- b) minimum flows during the wet season to enable the reverse flow of the Tonle Sap;  
and,
- c) prevention of peak flood flows greater than what would naturally occur during the wet season.

The function of Article 6.a, establishing the minimum natural flow during the dry season, is to enable the four riparian states to share any water which is in excess of the minimum flow (Radosevich, 1995). Since the Mekong River basin is still relatively undeveloped, with only limited abstractions taking place upstream of the delta in Viet Nam<sup>15</sup>, historical flow records collected under the auspices of the former Mekong Committee can be called upon to help ascertain natural flow rates. In addition, the potential exists for more storage reservoirs to be built in the basin, thus increasing the total amount of dry season water available for sharing among the riparian countries. China has recently completed the 1500 MW Manawan hydropower reservoir in the upper basin and the 4200 MW Xiaowan hydropower reservoir is currently under construction (Damming, 1995). It is estimated that the Chinese reservoir projects will increase low flow to the Mekong by perhaps as much as 555 m<sup>3</sup>/s, or 35% of the total dry season flow (Prathes, 1995).

Article 6.b, establishment of the minimum wet season flow rate, was formulated to protect the important ecological and hydrological functions of the Tonle Sap (Great Lake) in Cambodia. During the wet season from July to October, part of the flow from the Mekong River reverses and flows into the Great Lake, increasing its surface area from 2,500 km<sup>2</sup> in the dry season up to 13,000 km<sup>2</sup> in the wet season. This hydrological cycle has a critical influence on the basin’s fishery eco-dynamics. The partial reverse flow of the Mekong River brings organic matter, fish fries, and adult fish into the Tonle Sap, while the seasonal swamp forests provide habitat to a large number of endemic and migratory fish. Fish migrations from Tonle Sap into the Mekong River help restock fisheries as far upstream as Yunnan and many tributary rivers along the way. Tonle Sap is often cited as one of the most productive freshwater fisheries in the world, with the fish harvest on a per hectare basis nearly ten times higher than the North Atlantic Sea fishery (Mekong Secretariat, 1996). Since fish accounts for approximately 70 percent of the average

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<sup>14</sup> The draft commentary to the Agreement (Radosevich, 1995) acknowledges that these levels do not impose any duty upon the riparians in the maintenance of these levels during situations of severe drought or flooding.

<sup>15</sup> The most extensive development has take place on the Thai tributaries where storage reservoirs have increased the water available for irrigation in the dry season. However, a water balance study conducted in 1982 (Lower Mekong Water Balance Study, 1982) indicated that the net effect of this development on dry season flows was not significant. Viet Nam has dramatically increased its abstraction of Mekong River water over the last few decades to accomodate the increase in dry season irrigated agriculture, mainly paddy rice (Mekong Delta Master Plan, 1992). Laos and Cambodia to-date have only limited utilization of the Mekong River basin waters.

person's protein consumption in the Mekong basin, maintenance of the fisheries is an important economic as well as ecological consideration. In addition, the Tonle Sap hydrological cycle helps to reduce downstream floods in the wet season and increase downstream dry season flows because it acts as a natural retention area.

Finally, Article 6.c, prevention of unnatural peak flood flows, incorporates flood protection concerns into the operation of potential, future dams on the tributaries and mainstream. Currently, there are only a few dams in the Mekong basin that only have a minor affect on flood flows. However, in the future this situation may change and the scenario anticipated by Article 6 is one in which reservoirs store a portion of the flood flows, but still allow the natural flooding of essential wetlands and the Tonle Sap, while providing some measure of flood protection.

### **3. Obligation not To Cause Significant Harm:**

The Mekong Agreement incorporates this general principle into Articles 7 and 8. Article 7 deals with the prevention and cessation of harmful effects and to calls upon the States to "make every effort to avoid, minimize and mitigate harmful effects that might occur to the environment, especially the water quantity and quality, the aquatic eco-system conditions, and the ecological balance of the river, from the development and use of the Mekong River Basin water resources or discharge of wastes and return flows." Article 7 enjoins the parties to practice due diligence and not to cause harmful effects, but the Agreement recognizes that this may not possible in all cases and hence follows with Article 8 on "State Responsibility for Damages". When harmful effects cause substantial damage, Article 8 obligates the states to negotiate and resolve all issues in accordance with international law.

### **4. Principle of Notification and Negotiations on Planned Measures:**

As shown in Table 3, Article 5 outlines the basic procedural requirements for water utilization. However, these procedural requirements must be understood within the context of the Agreement and the principles embodied in the other Articles. Figure 4 is schematic flow chart showing the interdependencies of Articles 5, 6, 7 and 8 in an integrated fashion. Understanding these linkages will be essential when the MRCS and sub-committee attempts to formulate the specific rules for water utilization, as required by Article 26. A comparison of Figure 3 with the notification requirements of the draft ILC rules show how the general ILC principles have been elaborated upon to fit the specific circumstances of the Mekong River basin. This elaboration represents one of the triumphs of the Mekong Agreement negotiations.

### **5. Duty to Cooperate:**

The Mekong Agreement goes well beyond the minimum requirements of customary international water law in terms of both the scope of cooperation and its organizational modalities. The expression of cooperation in the Mekong Agreement is not just one of fulfillment of an international obligation, it is a statement of mutual willingness to cooperate in order to optimize the potentials of the geo-climatic conditions with the technologies and economic possibilities. In essence, the countries agreed to a "Pareto Optimum" standard as the minimum to cooperation.

The Preamble to this treaty is identified as Chapter 1, because the statements it contains are fully accepted by the member countries as part of the Agreement to taken seriously when the MRC considers modalities for implementation and cooperation. Article 1 (Chapter III) expresses the



intention of the four states to cooperate in all fields of sustainable development, utilization, management and conservation of water and related resources of the Mekong river basin, including: irrigation, hydropower, navigation, flood control, fisheries, timber floating, recreation and tourism. Moreover, Article 2 authorizes the Mekong River Commission to formulate a “Basin Development Plan” which will help coordinate water resource related activities, and where practical, take advantage of opportunities for mutual benefit.

Development activities in the basin, however, are to be tempered by due attention to the protection of the environment and ecological balance of the Mekong River basin, as expressed in Article 3, and their cooperation shall be based upon full recognition of the sovereign equality and territorial integrity of the riparian states in the use and protection of the Basin's water resources as stated in Article 4.

### **The Mekong River Commission**

The Mekong Agreement replaced the former Mekong Committee with a newly established Mekong River Commission (MRC).<sup>16</sup> The MRC is fundamentally different from its predecessor in a number of aspects. First, it is no longer under the auspices of the United Nations but rather enjoys the status of an independent international body. Second, the organizational structure has been modified to allow the MRC to address both technical and policy issues. Third, the MRC consists of three permanent bodies: Council, Joint Committee, and Secretariat (not just a Committee and Secretariat). Fourth, the Chief Executive Officer of the Secretariat is no longer drawn from the UN system.<sup>17</sup> Finally, the Mekong Agreement allows for the inclusion of the upper two riparians, China and Myanmar, into the MRC provided they accept the rights and obligations of the Agreement.

The **MRC** is an inter-governmental organization of the four lower Mekong Basin states and is composed of three permanent bodies:

- The **Council**, which is composed of one member from each state at the Ministerial and Cabinet level who is empowered to make policy decisions on behalf of his/her government. Chairmanship of the Council is according to the alphabetical listing of the four countries and rotates ever year.

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<sup>16</sup> As noted in the Commentary (see footnote 8 for reference to this document) regarding the Agreement's attached "Protocol", The Mekong Committee/Interim Mekong Committee and Mekong Secretariat had been in operational existence since 1957, and had entered into numerous legal obligations with the UNDP and UN member organizations, members of the international donor community, and with their own respective governments in planning, investigating and carrying out projects in the Lower Mekong River Basin. In order to provide the assurance to the donor community and continue with the financial and technical assistance that was being carried out under the auspices of the Interim Mekong Committee and Mekong Secretariat, it was considered essential that there be no break in continuity of operation and obligation of the member countries with the termination of the former organizations and creation of the new Mekong River Commission. The Protocol essentially provides that the MRC is established and commences operation upon the date of signing of the new Mekong Agreement, and that immediately Article 13 on Assumption of Assets, Obligations and Rights is implemented. This Protocol thus enabled the former Mekong Secretariat, now the Mekong River Commission Secretariat, to transfer all financial accounts, personnel, equipment, contracts, etc. to the MRC.

<sup>17</sup> The first CEO of the MRC Secretariat, was appointed in late 1995 for an initial three-year term, and extended to September 1999. A new CEO will be selected by the end of July 1999.

- The **Joint Committee (JC)**, which is composed of one member from each state at no less than the Head of Department level and acts as the technical decision-making and management body for the MRC, insures implementation of the policies and decisions and of the Council, and supervises the Secretariat. Chairmanship of the JC is according to the reverse alphabetical listing of the member countries and rotates every year.
- The **Secretariat (MRCS)**, renders technical and administrative services to the Council and Joint Committee. It is headed by a non-riparian CEO recommended by the JC and approved by the Council for a 3 year term, who is assisted by an Assistant CEO coming from the MRCS staff and having the nationality of the Chairman of the JC for that year. The Secretariat is now located in Phnom Penh, Cambodia after over 40 years of Mekong representation at the office in Bangkok, Thailand. The MRCS has a staff of approximately 100 including both international and riparian staff.

The JC has also established sub-committees to help it address two high-priority MRC issues: Basin Development Plan (BDP) and Water Utilization. There are two water utilization sub-committees: Water Quantity Sub-Committee and Water Quality Sub-Committee. The MRCS also renders technical and administrative services to the sub-committees.

The MRC has an annual budget of approximately \$10-\$15 million per year, which can be divided into two parts: administrative costs (\$2-3 million), and program/Project costs (\$10-12 million). Multilateral and bilateral donor agencies provide grant financing for almost all of the MRC's program/Project costs. Administrative costs are funded from contributions by MRC-member countries (\$175,000 per country in 1997), donor grants, an 8% surcharge on donor-funded projects, and treasury management.

### **National Mekong Committess:**

Each MRC-member country also has a National Mekong Committee (NMC) that formulates national policies vis-a-vis the MRC, and provides coordination between national line agencies and MRC Projects. A typical MRC Project involves the MRCS technical staff, national line agencies, and international consultants. Although the structure of the NMCs varies by country, the general arrangement is to have three bodies: (i) an inter-ministerial policy-making body; (ii) a management group consisting of key governmental departments; and (iii) a secretariat to support the NMC.

### **MRC Strategy**

In June 1998, the MRC, with assistance from UNDP, prepared its first "Strategic Plan (1999-2003)", which sets out visions, goals and strategies both for the Lower Mekong Basin and for the MRC. The Strategic Plan recognizes the changing socio-economic and financial environment in the region, and reviews the forces driving the changes in the countries, donor community and global environment. It then, within the broad MRC mandate of the Mekong Agreement, identifies five medium-term goals:

- 1) Establish the "Rules": this includes, inter alia, establishing minimum flows on the Mekong River and the review of proposed water uses.

- 2) Formulate the Basin Development Plan: To be used as a general planning tool for sustainable management and development of the Mekong Basin.
- 3) Establish MRC environmental management policies and guidelines.
- 4) Complete on-going programs and Projects, and initiate new activities.
- 5) Improve the capacity of the MRC.

To achieve the goals, the Strategic Plan identifies four Key Result Areas (KRA) or “Core Business Areas”---(i) Natural Resources Planning and Development; (ii) Environmental Management and Social Considerations; (iii) Database and Information Systems; and (iv) Organization Management and Cooperation. Specific strategies and performance indicators are defined for each KRA, which drives the formulation of the MRC five-year indicative work plan and the 1999 work program. The Strategic Plan and the priority programs were extensively discussed with key stakeholders, including national line agencies. The MRC Council approved, in October, 1998, the Strategic Plan and the work plan, which were then presented at and widely supported by the Consultative Meeting after the Council meeting.

#### **4. FACILITATING THE PROCESS, AND THE ROLE OF THE BANK IN IT**

##### **Role of UNDP**

The UN has been involved in the Mekong Basin since the mid-1950's and has been the most persistent yet patient, the most influential yet most impartial donor and friend of the Mekong. UNDP has been involved in MRC development since its pre-inception. UNDP provided key support in the negotiations and adoption of the 1995 Mekong Agreement, and recently in the development of the MRC's first “Strategic Plan (1999-2003)”, which sets out visions, goals and strategies both for the MRC. UNDP has proposed and MRC has given preliminary approval to a three-year program to support the implementation of the Strategic Plan through capacity building of MRCS and the NMCs and national line agencies. This capacity building program will be critically important for the long-term success of MRC in general and of the Water Utilization Program (WUP) in particular. The UNDP program will focus on improving overall MRC management and the Project will focus on strengthening the technical capabilities of MRCS, NMCs and the national line agencies to manage the water resources of the basin through the development of analytical tools and the adoption of “Rules”. These programs are complimentary and mutually necessary. During Project implementation, the Bank, in partnership with UNDP, will work closely with UNDP and draw support from their experience and overall strengthening program to ensure Project success.

##### **Role of The World Bank**

Prior to the Water Utilization Program, neither the World Bank nor Global Environment Facility (GEF) had regional projects with MRC.<sup>18</sup> A large portion of MRC's past and on-going programs

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<sup>18</sup> The current key donors funding MRC's activities (mostly bilateral aid programs that in some cases involve more than one MRC country) are UNDP (strategy; institutional capacity); Denmark (fishery; wetlands); Switzerland (watersheds; GIS); Sweden and UNEP (water quality monitoring; groundwater investigations); ADB (transport; power; wetlands; GIS); UNEP (GIS; water quality monitoring; environmental assessment); Japan (institutional

relate to resources inventory, surveys and database /GIS building in hydrometeorology, hydrographic atlas, water quality, fisheries, forest cover, and wetlands; and some modeling programs on salinity, groundwater and flood planning, and programs relating environment management, environmental impact assessment processing, watershed management, and soil erosion and sedimentation.

The Project Appraisal Document (PAD) which is currently in draft form provides that the WUP would help the member states of the Mekong River Commission (MRC): Cambodia, Laos, Thailand, and Vietnam, implement key elements of the 1995 Agreement on Cooperation for Sustainable Development of Mekong Basin (Agreement) over a seven year period (2000-2006). The Project's broad objectives would be to assist the MRC to establish mechanisms to promote and improve coordinated and sustainable water management in the Basin, including reasonable and equitable water utilization by the countries of the Basin and protection of the environment, aquatic life and the ecological balance of the Basin.<sup>19</sup> This would be achieved through preparation of "Rules" for water utilization (in particular, minimum in-stream flows on the Mekong River) and protocols for information exchange, notification/consultation in accordance with the Mekong Agreement.<sup>20</sup> The Project would assist in the formulation and implementation

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capacity; hydrological monitoring); Australia (institutional capacity; hydrometeorology); Finland (hydrographic surveys) and Germany (forest).

<sup>19</sup> WUP would support Sector-related Country Assistance Strategy (CAS) goals in several MRC countries. Quoting from the PAD "The Thailand CAS (18002-TH; 16 June 1998) lists, as one of its key development objectives, protection of natural resources and the environment, and proposes improvement of natural resources management as a key action to meet this objective. The related World Bank objectives include: (i) increasing efficiency of water use; (ii) improving watershed protection through establishing a framework for watershed management; and (iii) establishing clear policy and institutional frameworks. In giving priority to rural development and natural resources, the CAS indicates the Bank's desire to take a strategic approach to its assistance in these areas. To this end, the Bank has undertaken work with Government on a Rural Development Strategy (RDS), which recommends that the management of natural resources be improved, in order to ensure the sustainability of rural development, and highlights water as an important natural resource, and recommends two key actions: increased and more participatory management of watershed areas, as well as more integrated management of water supply and demand. Lao PDR is rich in two natural resources of great interest to its dynamic neighbors: timber and water resources, the latter is particularly important for hydropower generation, which is one of the country's main assets, and offers significant potential for national socio-economic development and regional integration. The Lao CAS (15284-LA, Jan. 18, 1996) in both areas is to support sustainable development: environmental sustainability is a key consideration and an integral element of all Bank interventions. It emphasizes that agriculture is the backbone of the Lao economy, yet poverty is concentrated in rural areas. Reducing slash-and-burn farming and increasing forest protection in major watersheds are important elements to preserve catchment areas of hydropower sites. The Vietnam CAS (18375-VN; Sept. 22, 1998) places great emphasis on Bank's support for improving management of natural resources, of which water resources form an important part. The Cambodia CAS (16255-KH, Jan. 28, 1997) highlights enhancing rural development and natural resources management as one of the key CAS supported areas. It states that effective management and protection of country's forest and other natural resources is a priority on which the Bank places considerable emphasis in its assistance strategy. Biodiversity protection is also an area for support. The Mekong River Basin is also partially within the territories of China and Myanmar, although they are not members of the MRC. Considerations related to China and Myanmar are discussed later in this document.

<sup>20</sup> The Project would consist of three components:

1) Developing necessary analytical tools and a comprehensive basin simulation package to support MRC's basin management decisions, determining and monitoring the "Rules"; and putting functional information sharing mechanisms in place.

of the “Rules” by facilitating consultations among the MRC-member states and helping the MRC develop a Basin Simulation Model Package and Knowledge Base. The long-term (10-year) objective is for the MRC to become a fully functioning international river basin agency responsible for sustainable management of water and other natural resources in the Mekong River Basin and with good interaction and coordination between the member states. The Project would provide the necessary tools, mechanisms and skills to achieve that objective.

The WUP key performance indicators include (i) a functional, integrated and comprehensive Basin modeling package by 2003; (ii) a functional and integrated knowledge base on water and related resources, with a communication system linking the National Mekong Committees (NMCs) with the MRC Secretariat (MRCS) by 2005; (iii) MRC adoption of protocols for information exchange, water use monitoring, and notification/consultation by 2003; (iv) MRC adoption of minimum in-stream flow “Rules” for the Mekong River by 2005; and (v) MRC adoption of water quality guidelines by 2006.

In achieving the Bank’s overall objective of poverty alleviation through sustainable development of natural resources, the Bank supports global and regional initiatives that help countries deal with transboundary issues, such as international waters. This is reflected in the Bank’s Water Resources Management Policy (1993) which directs the Bank to promote the cooperative management of international water resources, when requested. The 1995 Mekong Agreement among the four lower riparian countries reflects the goodwill of the MRC-member states to cooperate in the sustainable development of the Basin, and to create a positive foreign policy environment in the region. The Agreement sets a framework of riparian cooperation and outlines general principles and protocols, organizational arrangements of MRC and scope of authority. But as concluded in the draft PAD, the MRC still needs to make progress in implementing the provisions of the Agreement to sustain the international goodwill of regional collaboration engendered by the Agreement. WUP is in the nature of regional technical assistance to support the MRC and its member states and its outcome should contribute to natural resources protection and improved water resources utilization and management in the basin.

The Project is consistent with the policies and priorities of the GEF Waterbody-Based Operational Program. The Project would develop tools and the related knowledge base to enable the riparian countries to gain a deeper understanding of the hydrologic linkages between the natural environment, water utilization, and strategic transboundary water and environmental issues, and to formulate and implement appropriate “Rules” to ensure reasonable and equitable water use. These “Rules”, and the corresponding regional mechanisms and procedures for their implementation, provide the essential framework for preparing and agreeing on a regional development plan and for the development of compatible national plans and strategies. These linkages will be strengthened under the Project by directly involving national stakeholders, the

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2) Drafting “Rules” to establish minimum flows in the Mekong River and define water sharing and utilization; preparing detailed review and notification protocols and procedures; and assisting in negotiations and consultation during formulation of the “Rules”.

3) Strengthening institutional (regional and national) capacity to implement the “Rules”, undertaking basin management functions, coordination with upper riparians and donor agencies, supervision and monitoring of the implementation of the Project, and financial and procurement management.

respective National Mekong Committees and national institutions concerned with water and natural resource sector policy and development, in the preparation of the “Rules” and the development of the related tools and knowledge base. The Project thus addresses the key existing barriers to effective cooperative action to adopt national policies and strategies that are consistent with the protection and enhancement of the globally significant natural resource base of the Basin.

The Project would support the MRC in achieving one of its five major medium-term goals: establishing “Rules”. It would directly address the key sector issues of water utilization and ecological protection. It would provide the MRC with both the analytical tools for their Water Utilization Program (WUP), and negotiation assistance in formulating the “Rules”.

Both the indicative 5-year work plan and the 1999 annual work program highlight the WUP, together with Basin Development Plan (BDP) and the reshaping of the internal management of the Secretariat, as the key programs to implement the MRC Strategy.

WUP has been adopted by the MRC Council as a permanent program to formulate, implement and modify the “Rules”. It will be an important mandate of the MRC in providing the riparian countries with the basic tools to implementation of the Agreement and in achieving sustainable resources management in the basin. It is intended to be an umbrella program, under which priority activities of the two MRC Subcommittees (Water Quantity; Water Quality) would be implemented. WUP provides a foundation for BDP and MRC’s resources programs. However, international water management is a long-term, dynamic and often contentious process. The objective of the WUP and the process of river basin management will be evolutionary and may take a long time to mature.

BDP, which preparation has just started, will provide a basin-wide framework for sustainable socio-economic development. One BDP’s critical input is WUP, and the timing of the two Projects is seen to be mutually beneficial. Several donors conditioned their future financial support to the MRC on demonstrated progress in these two key areas.

Establishing the WUP and formulating the BDP are supporting exercises in three ways: i) the BDP will use the databases and modeling tools developed by WUP; (ii) the “Rules”, developed under WUP, particularly the dry season minimum flow “Rules”, will establish constraints on future water resource developments; and (iii) by analyzing water-related Projects under different development scenarios, the BDP will provide valuable information to the MRC when it reviews proposed water uses under the notification “Rules” formulated under WUP.

Article 26 of the Mekong Agreement mandates the Joint Committee to prepare “Rules for Water Utilization and Inter-Basin Diversions” pursuant to Articles 5 and 6 of the Mekong Agreement. Article 5 contains the general principle of “reasonable and equitable utilization” of the waters of the Mekong system, and outlines the conditions for notification, consultation, and agreement on proposed water uses. Article 6 calls for the maintenance of flows on the mainstream with respect to i) natural dry season flows, ii) wet season flows sufficient to enable the acceptable natural reverse flow of the Tonle Sap, and iii) peak flood flows. In order to implement Articles 5 and 6 of the Mekong Agreement, and adhere to the principles of Article 3: “Protection of the

Environment and Ecological Balance,” and Article 7: “Prevention and Cessation of Harmful Effects,” additional “Rules” on water use monitoring, information and data exchange protocols, and water quality are needed.

In summary, there are five sets of “Rules” for water utilization anticipated to be formulated under the Project:

Procedural “Rules”

1. Protocols for information exchange and monitoring.
2. Protocols for monitoring water use and diversions in the Mekong Basin.
3. Protocols for the notification, consultation, and agreement of proposed water use.

Physical “Rules”

4. Maintenance of flows on the mainstream.
5. Water quality-related “Rules”.

The MRC places a high priority on drafting a coherent and integrated set of water utilization “Rules” in an expeditious, yet scientifically sound manner. The strategy pursued in the Project is to facilitate and support a flexible, yet structured process in formulating the “Rules” for water utilization. Moreover, in a manner consistent with the principle of adaptive management, and in light of the prevailing uncertainties in some key data, the “Rules” will be adopted on an interim basis, subject to review and revision according to the conditions promulgated by the MRC

This Project will mark the starting point of the long term MRC’s WUP. While it has a 7-year span, it should be seen as a first step along a long road, aiming to provide an opportunity to bring the riparians together for meaningful dialogue on improved basin management. The “Rules” will provide a critically needed regional framework for the preparation of national plans and strategies that are consistent with the principles agreed by the riparian countries in the Mekong Agreement. By directly involving the NMCs, and the respective line agencies responsible for sector plans and policies, in the development of basin analytical tools, building the basin knowledge base, and in the formulation of the “Rules”, the Project will create the enabling environment for policy reform and action at the national level essential to achieving the regional goal of sustainable development of the natural resources of the Mekong Basin.

**Value added of GEF and Bank support in this Project:**

Promote regional cooperation and consultation. The process of formulation of “Rules” would be not only technically challenging but politically sensitive, and will involve many parties. GEF support would promote and facilitate extensive consultations among the member countries during the sensitive negotiations process, and contribute to awareness and reaching consensus on basin management issues among interested parties in and outside the region, and to providing incremental benefit to the regional cooperation on international rivers.

Play catalyst role. There is no shortage of donor interest in supporting the MRC. But an increasing concern from the donor community has been the lack of coordination among various MRC and donor supported programs. More often, these programs have been conducted

independently with practically no common interface, or audit of desired outcomes. There are also different political priorities of individual donors, as well as the element of uncertainty of funds which are sometimes not managed directly by MRC but come in the form of visiting experts from donor countries, or studies carried out by donor teams. In mid-1996, MRC efforts to independently negotiate the “Rules” also quickly bogged down due to a dispute between Vietnam and Thailand over how to address water quality issues, especially seawater intrusion in the Mekong Delta. During dialogue with donors, MRC and several donor agencies expressed their wish to see the Bank take play a role in regard to these sensitive water sharing issues, due to the Bank’s technical competence and experience with complex international water management issues. MRC has welcomed Bank/GEF involvement in the Project, as it has been seen in playing a catalyst role in coordinating MRC programs, various stakeholders and donors, and providing funds to be managed and implemented directly by MRC and NMCs.

Provide technical expertise. The Project is complex as there are a number of issues under debate among the riparian countries, including integration of water quality and quantity, establishment of low-flow requirements and subsequently determining the minimum flows, utilization of surplus waters, and monitoring and procedures for notification and consultation on proposed development schemes. Bank technical contributions and its stream-lined procedures for Project preparation, monitoring, evaluation and supervision would add value to MRC’s capacity building. The Bank/GEF has extensive experience in dealing with international waters in Central Asia, South Asia, North and Southern Africa and Eastern Europe. Lessons and expertise can be drawn to help dealing with these issues (section D.3).

Facilitate dialogue with riparians. Unlike many other donors such as UNDP, DANIDA, Japan and ADB, the Bank has so far played a low key role with MRC in Mekong regional activities. Given the significance of the Mekong Basin in the region, and the financial situation and the Bank’s long term interest in the region, the Project would provide an opportunity for promoting regional cooperation and help identify investment opportunities.

## **5. CONCLUSIONS AND RECOMMENDATIONS**

A series of questions were raised by the Guidelines for preparation of the case studies that will be responded to in short answers.

### **✓ What “type” of basin arrangement was developed?**

The Mekong Agreement heralded the beginning of a new era of cooperation in the Mekong River basin, and as reviewed above, customary international water law played an instrumental role in shaping the framework of cooperation. Clearly, the interests of the respective states played an important role in adjusting and clarifying the principles embodied in customary international water law, but the general principles were never challenged. Now that the governments of Cambodia, Laos, Thailand and Viet Nam have signed the Agreement, they are bound by its terms under the principle of pacta sunt servanda--treaties are binding upon the



parties to it, the terms must be performed by them in good faith, and they are required to abstain from acts calculated to frustrate the object and purpose of the treaty<sup>21</sup>.

The Mekong Agreement represents a type of “constitutional contract” for an international governance system which specifies areas of responsibility, general principles, decision-making procedures, eligibility, and organizational structure. A constitutional contract develops a “political space” for cooperation and dispute resolution, but in and of itself an international treaty does not guarantee long-term success. As recognized by Bruhacs (1993):

“International treaties and conventions are only partially appropriate to meet the challenges of international relations originating from the uses of international watercourses. Thus it may occur that...., the application of concluded treaties or conventions may be frustrated, important items may be omitted from an agreement, the legal arrangements may be achieved only minimally, and changes in respective circumstances may give birth to new demands.”

In accordance with the classification of RBOs contained in the introduction to these two case studies, the MRC as an organization represents the second basic form by function, i.e., a planning and management commission type, and the second type by global classification of RBOs, i.e. a "River Basin Commission" type.

✓ **Is this an “ultimate” design?**

No, there should be no ultimate design for a dynamic river basin as this would give the illusion of perfection of both the substantive terms of agreement between riparian countries and organizational structure and operational processes. The institutional framework for sustainable water and related resources development and environmental management in an international river (or groundwater) basin must be constantly alerted to the needs for change. Thus it is imperative to have an excellent monitoring and database system networked to the basin organization and member countries so that this framework can evolve and its capability even precede the issues and problems that arise.

✓ **How efficient, effective and sustainable is it thought to be?**

The MRC is now 4 years old, and it has the 37 years of experiences of its predecessor organizations (MC and IMC) to help guide it through implementation of the Agreement. However, both the conditions under which its predecessor organizations operated and the terms of the applicable agreements are considerably different, as is the technology and state of global cooperation.

At the present time, the MRC has experienced typical maturing problems, particularly in the MRCS. It has accomplished much in the past 4 years, and now is beginning to grapple with the difficult task of implementing the key provisions of the Mekong Agreement - the BDP and Rules

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<sup>21</sup> This principle is articulated in Article 26 of the Vienna Convention on the Law of Treaties (ILC, 1966, Vol. II, p.2111)

to implement Articles 5 and 6. The prospects are good that it will greatly improve in efficiency and effectiveness. Given the past experience of cooperation in the Mekong, there is little doubt that the MRC will be sustainable - this will be insured through the commitment of the Mekong countries and their desire to keep alive the spirit of Mekong cooperation.

✓ **Key lessons learned from the MRC and reflected in Project design?**

Negotiations for the 1995 Mekong Agreement were difficult and time-consuming, and UNDP negotiation assistance was necessary for the parties to reach consensus on a new framework of cooperation. Early attempts in 1996 by the MRC alone to formulate subsidiary agreements related to water utilization were unsuccessful due to the disagreements on flow sharing between Vietnam and Thailand. The design of the Project therefore calls for a structured and consultative approach to formulating the “Rules”.

The BDP preparation process, supported by UNDP, Switzerland and Danida, provided some lessons. Its progress has been slow and produced less than expected results. Project preparation has taken a two-phase approach. Phase-1: formulation of Project concept and consultations on MRC and country consensus. Phase-2: formulation of detailed Project components. Recently, other donors also modified some of their approaches by introducing a similar two-phase approach to the preparation of the BDP.

Another lesson was to avoid duplication and to enhance coordination among MRC programs. MRC has already set up five major databases: (1) Wetlands (wetland surveys in each country), (2) Fisheries (one of the biggest databases in MRC, containing information on sustainable catch and basic statistical data), (3) Socio-economic, (4) Land use (forest covers and agricultural use), and (5) GIS mapping. It also has three on-going monitoring programs on hydrology, water quality and groundwater. These databases and information systems were reviewed and found sufficient enough to start developing a basin-wide modeling package. The modeling effort should link the different MRC programs together and identify areas where further data collection is necessary to support management decisions.

✓ **How replicable is this approach, in the same or other countries?**

There are several aspects of the MRC case that are applicable to international and national river basin. The first is the need for a clear agreement of principles and implementing mechanism. The second is that where there are strong differences between the parties, there should be a common and mutual commitment to address these differences to come up with an acceptable approach and within a reasonable time frame. The third is not to make the resolution of differences a "legal" battle of who is right and who is wrong, but rather to negotiate the points of common interest through both formal and informal meetings. The fifth is to acknowledge the value of outside assistance to facilitate in the process of establishing the institutional framework, and to implement the agreement and strengthen the capacity of the implementing organization(s). The role of the UNDP and the World Bank/GEF in this regard are excellent illustrations of two types of timely assistance.

✓ **Compare with other cases?**

If one examines the evolution of agreements and implementing organizations in other international and even national river basins, it is patently obvious few riparians have been able to substantively and maturely address their common interests and differences as well as the four riparians on the lower Mekong. Not even the US and Canada or the US and Mexico have been able to address these issues as quickly and resolutely as the MRC members. But of course the circumstances are dramatically different in those two cases. But a quick look at the dilemma of cooperation on the Nile, and the difficulties in making progress on the Senegal and Niger, let alone the sharing crisis of water in the Middle East, make the case of the Mekong as one of most successful. And the prospects look very bright that this will continue and excel in the future.

✓ **How should the Bank approach governments in these cases?**

The involvement of the Bank in the MRC activities has already been a timely intervention. The Bank not only is bringing a substantive program to the MRC, but is also bringing its excellent process of project implementation and monitoring experience. The Bank has the opportunity of providing many experiences and process to river basin governments, and as illustrated by the case of the Mekong, can most often be most effective where its involvement is needed and requested. When it does become involved, however, it should not deviate from its principles of supervision, transparency and accountability.

The Mekong River Commission, as mandated by the Mekong Agreement, has initiated two key program areas: formulation of the Basin Development Plan and Rules for Water Utilization. These activities contain the seeds of both conflict and cooperation, and the MRC will attempt to manage these tensions within the framework created by the Mekong Agreement. The ultimate success of the Agreement will depend primarily on the political goodwill of the governments involved--but international law both in terms of the obligations of the Mekong Agreement and the general rules of customary international water law, will constantly remind them of their ethical and legal obligations.

The prospects remain bright for continued cooperation in the Mekong River basin, and international law will remain important factor in moderating the interests of individual states and offering an accepted set of principles upon which to resolve disputes. As noted by Young (1989) "states generally comply with the rights and rules of international institutions." Successful implementation of the Mekong Agreement would represent an historic effort in international river basin management and the progress of the Mekong River Commission warrants close attention by scholars and practitioners interested in the sustainable management of shared natural resources.

## ✓ Recommendations

A number of recommendations are provided in summary form, that are especially applicable to the MRC, but generally applicable to other similar situations:

- 1) Strengthening MRC's internal structure and functions, including its capability for working with the national Mekong Committees and the line agencies in the member countries.
- 2) Developing and improving a highly integrated and networked information management system, including data base development and management, monitoring, modeling, planning, forecasting and decision support system. To implement the Mekong Agreement, particularly as the prospects for developments of substantial nature mature into reality, such as rehabilitation of previously irrigated lands in Cambodia, the sharing and analysis of data and information in a timely manner will be the most effective tool to avoid or minimize differences and misunderstandings.
- 3) Ensuring that not only the physical/ technical and institutional components are addressed, but also the financial components to Mekong basin development and management are addressed, and in particular, the role of the donors in providing technical assistance and funding.
- 4) Increasing public awareness and participation in water resources management in each member country in a manner that there is a more common awareness of not only their own needs and desires, but those in other countries.

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## Annex 2: MRC's past and on-going donor supported programs

| Donor        | Sector       | Project  | Timeframe |
|--------------|--------------|--|-----------|
|              | 1.           | <b>Natural Resources Planning and Development</b>                |           |
| UNDP         | Plan         | Mekong Delta Master Plan   | 90-93     |
| Denmark      | Fishery      | Assessment of Mekong Fisheries & Impact of WRM                   | 97-01     |
| Denmark      | Fishery      | Support for Fishery Management                                   | 97-99     |
| Denmark      | Fishery      | Management of Reservoir Fishery                                  | 95-99     |
| Denmark      | Fishery      | Extension for Aquaculture in the Mekong Delta                    | 98-00     |
| Switzerland  | Watshds      | Strategy study for dev. of watershed management/ forestry sector | 98-99     |
| Netherlands  | Agri.        | Sustainable Irrigated Agriculture Project Consolidation          | 97-99     |
| Germany      | Resour.      | Sustainable management of resources in the lower Mekong Basin    | 97-99     |
| Korea        | Flood        | Flood Control Planning for the Development of the Mekong Delta   | 97-99     |
| France, UNEP | Resour.      | Natural Resources based development strategy for Tonle Sap area  | \ \       |
|              | 2.           | <b>Environment Management/Social Considerations</b>              |           |
| Switzerland  | Watshds      | Watershed classification in the lower Mekong Basin               | 92-99     |
| Germany      | Forest       | Assessment and monitoring of Mekong forest cover                 | 93-99     |
| UK           | Env.         | Pilot Study of Water Resources & Environmental Management        | 98-99     |
| Denmark      | Env.         | Environmental Policy and Guidelines                              | 98-00     |
| UNEP         | EIA          | Environment Assessment in the Greater Mekong Region (I-II)       | \ \       |
| Sweden       | Wtld         | Envl. Mgmt of Plain of Reeds (VN) & Flood Plains (Cambodia)      | 93-98     |
|              | 3.           | <b>Database and Information Systems</b>                          |           |
| Denmark      | Wetld        | Inventory and management of the Cambodian wetlands, Phase I      | 97-99     |
| Finland      | Map          | Updating Hydrographic Atlas; Surveys; Mapping                    | 96-99     |
| Sweden       | Ground-water | Groundwater Investigation – Phase I                              | \ \       |
| Sweden       | ..           | Groundwater Investigation – Phase II                             | 97-99     |
| Netherlands  | ..           | Groundwater modeling in the Mekong Delta                         | 98-00     |
| Japan        | Monit.       | Improvement of Hydro-meteorological Network - Component I        | \ \       |
| Australia    | Monit.       | Improvement of Hydro-meteorological Network - Component II       | 97-00     |
| Sweden,unep  | Qlty         | Water quality/acidity monitoring in Mekong Delta (I)             | 87-95     |
| Sweden       | Qlty         | Water Quality/acidity monitoring in Mekong Delta (II)            | 95-98     |
| ADB          | GIS          | Geographical Information Systems                                 | \ \       |
| Swiss        | ..           | Geographic Information System                                    | \ \       |
| UNEP/Gric    | ..           | Geographic Information System                                    | \ \       |
|              | 4.           | <b>Organization Management and Cooperation</b>                   |           |
| UNDP         | Institution. | Strategic Planning and Capacity Building                         | 98-01     |
| Sweden       | Institution. | CTF for studies, training  | 96-99     |
| Denmark      | Institution. | CTF for Capacity Building  | 97-00     |
| AusAid       | Institution. | MRC Cooperation  | 97-99     |