

Water Governance of the International River Basin: Case Study of the Mekong River

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Issues to be addressed

1. Water Governance in the context of International River Basin
2. Principles of International Water Law and Administration
3. Framework on the development cooperation within the Mekong Basin
4. Perspective on future cooperation

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Water/Good Governance

1. Legal - นิติธรรม เป็นธรรม ไม่เลือกปฏิบัติ
2. Transparency - ความโปร่งใส ตรงไปตรงมา
3. Accountability - ความรับผิดชอบตรวจสอบได้
4. Participation – การมีส่วนร่วม ร่วมคิด ร่วมทำ
5. Effectiveness – มีประสิทธิผล คำนึงค่าสูงสุด
6. Morality – มีคุณธรรม ยึดมั่นในความถูกต้อง

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Principles of International Water Law and Administration

Sources: Article 38 of Statute of ICJ

- a) inter'l conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
- b) Inter'l customs, as evidence of a general practice as accepted as law;
- c) General principles of law recognized by civilized nations;
- d) ...judicial decisions & teachings of the most highly qualified publicists, as subsidiary means for the determination of rules of law.

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Principles of International Water Law and Administration

- 1815 Congress of Vienna: (internationalized the rivers of Europe)
- 1921 Barcelona Convention (waterways)
- 1950 Helsinki Rules on the Uses of the Waters of Inter'l Rivers, Inter'l Law Assoc. (ILA)
- 1972 Stockholm Conference
- 1977 UN Water Conference of Mar del Plata
- 1970 UN GA -1997 UN Conv. on the Non-navigational Uses of the Inter'l Watercourses (ILC)

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Principles (con.)

- "International Convention" – corresponds to the terms: treaty; agreement; protocol; pact; charter; compromise; exchange of notes; final act; *modus vivendi*; or other international instruments.
- Generally written & constitute the most common procedure for creating rules of conduct and binding obligations between sovereign states.
- Substantive issues include allocation of the water or regulation of use.
- Procedural issues include definition & identification of systems of control of uses, machinery for mutual consultation, rights of inspection, procedures for solution of differences arising from the interpretation and application of the convention.

International Customary Water Law

- Duty to cooperate and to negotiate with genuine intention of reaching an agreement;
- Prohibition of management practices likely to cause substantial and lasting injury to other states;
- Duty of prior consultation;
- Equitable utilization of shared water resources

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WHAT IS THE MEKONG RIVER COMMISSION (MRC)?

- Intergovernmental river basin organization built on a foundation of over 50 years of regional cooperation, knowledge & experiences
- Formed on 5 April 1995 under the “Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin”
- An advisory body, not a supra-national governing body
- Commitment from the highest political level
- Decisions based on consensus
- It is the only platform for regional dialogue on water resources management issues



MRC Governance Structure

- Council
- Joint Committee (JC)
- MRC Secretariat (MRCS)
- 4- National Mekong Committees (NMCs), Implementing/Line Agencies (I/LAs)
- 2- Dialogue Partners
- Development Partners



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MRC COOPERATION: 1995 MEKONG AGREEMENT

- 1.,2. Promote/support/cooperate & coordinate for sustainable development, utilization, conservation & management of Mekong water & related resources >> basin development process/plan
3. Protection of environment & ecological balance Reasonable & equitable utilization
4. Sovereign equality & territorial integrity
5. Reasonable & equitable utilization
6. Maintenance of flows
7. Prevention & cessation of harmful effects
8. State responsibility for damages
9. Freedom of navigation 10. Emergency situation

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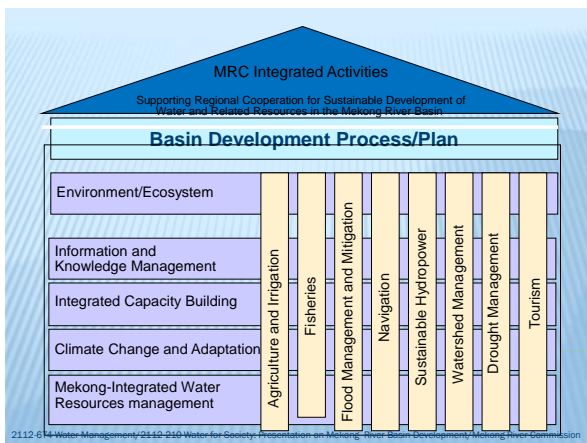
MRC PROCEDURES: "WATER UTILIZATION RULES/PROCEDURES"

A set of 5 procedures were required under the 1995 Agreement.

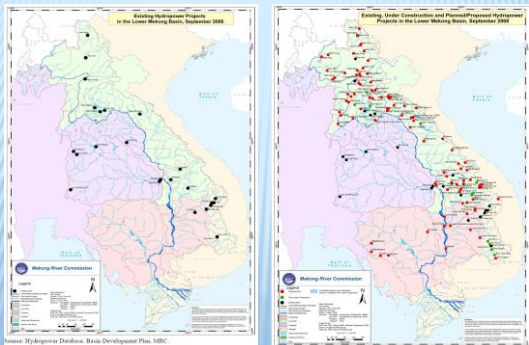
Developed by the MRC and agreed upon by the four Member Countries

1. Procedures for Data and Information Exchange and Sharing (PDIES, 2001)
2. Procedures for Water Use Monitoring (PWUM, 2003)
3. Procedures for Notification, Prior Consultation and (Specific) Agreement (PNPCA, 2003)
4. Procedures for Maintenance of Flows on the Mainstream (PMFM, 2006)
5. Procedures for Water Quality (PWQ, 2011)

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EXISTING (2006) VS PROPOSED HYDROPOWER PROJECTS IN LMB



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Bank Protection Project along the Mekong River at Vientiane, Lao PDR



WHAT WILL BE ITS **IMPACT(S)** ON THE OTHER SIDE OF THE RIVER BANK? WILL IT CAUSE TRANSBOUNDARY CONFLICT?

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Perspective on Future Cooperation

1. Water Governance:
 - TNMC's responses to public ???
2. International Water Law:
 - 1995 MA + 1997 UN WC + others ???
 - TbEIA/SEA/CIA
3. Framework on the development cooperation within the Mekong Basin:
 - "Real-world" Transboundary Impacts ???
 - Mekong-Lancang Cooperation vs MRC ??
4. ???

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