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## **Transboundary River Cooperation and the Regional Public Good: The Case of the Mekong River**

### **Introduction**

An increasing number of water-based cooperation projects have emerged in mainland Southeast Asia since the conclusion of the Cambodia conflict in 1991, which ended the Cold War in East Asia. Three of these projects have been well publicised and have attracted a lot of international attention as to the quick development of the economies in the Mekong region. These projects are the Greater Mekong Subregion (GMS) of 1992, the Mekong River Commission (MRC) of 1995 and the Quadripartite Economic Cooperation (QEC) or Golden Quadrangle of 2001.

The paper will analyse if and how these schemes are designed to produce a regional public good. Doing so, it will analyse the public goods from a foreign policy perspective in order to judge whether or not foreign policies of member states are tuned to the achievement of a regional public good through multilateral cooperation mechanisms based on an international river. The paper will address the problem of overlapping institutions and how these might enforce or prevent the production of a regional public good.

Importantly, the three programmes share a number of characteristics, but they also divert in crucial points. The most obvious common feature is that all three projects involve several countries and are based on the Mekong River. They are therefore transboundary projects based on a transboundary river. The most striking difference is that the MRC is based on an extra-regional initiative, which brought the concept of Integrated Water Resources Management (IWRM) to mainland Southeast Asia and with it ideas of economic development that take into consideration environmental impacts. However, the IWRM agenda of the MRC is far from being implemented. It could thus be argued that the MRC represents a failed attempt of Mekong cooperation due to the fact that its founding initiative did not come from the region and incorporates development concepts that stem from European governance ideals. However, looking at the QEC and GMS, both initiatives came from the region and do not include ideas of environmental protection. Instead, they are designed to achieve unrestrained economic development. Interestingly, however, while the GMS thrives, the QEC failed owing to escalating conflicts between member countries on the central government and civil society levels and Thailand's withdrawal from the project in 2003.

This paper looks at the commonalities and differences of all three of the projects and analyses the reasons for failure or success. The following parameters will be under scrutiny: first, the internal or external origin of the initiative for establishment; second, the rationale and agenda on which the project is based; third, the institutional structure from a multi-level governance perspective.

Looking at these parameters shall answer the following questions: why are some projects successful, others not? What are the factors that impede or facilitate cooperation? What lessons can be learned for effective sustainable river cooperation in mainland Southeast Asia, in which compromises can be negotiated to fulfil the interests of actors on multiple levels:

non-state (farmers, river-side communities); local (provincial governments); central (central government)?

The paper follows the argument that three factors need to be in place for water cooperation to be effective in mainland Southeast Asia, that is, to produce a regional public good: first, home-grown initiatives, which produce agendas that stem directly from regional concerns and governance experience and are therefore grounded in the political culture of the area; second, a civil society that represents the interests of communities affected by water construction projects, and that is able to negotiate compromises with government agencies within multi-level governance structures for the project to move on instead of failing (QEC) or stalling (MRC); third, trust between national governments to negotiate compromises on the national level for the project to move on instead of failing (QEC) or stalling (MRC).

In order to advance these issues, the paper will discuss the three cooperation initiatives of the QEC, MRC and GMS along the parameters introduced above. Being the oldest multilateral cooperation mechanism in mainland Southeast Asia, the Mekong River Commission will make the start.

## **Initiative for establishment and rationale of the three projects**

### **MRC**

The Mekong River Commission was founded in 1995 as predecessor of the then defunct Mekong Committee, which was created in 1957. The foundation of the MRC produced a mission drift from the economic rationale of the Mekong Committee to the concept of Integrated Water Resources Management (IWRM) under the new commission. Myanmar and China are not members of the MRC (they also were not members of the Mekong Committee), but a cooperation dialogue exists since 1996. The MRC mandate is confined to the management of the water resources of the Mekong Basin. The expectations of member countries are diverse:

Thailand as a relative upstream country is interested in irrigation of its arid northeast in order to diversify economic development away from Bangkok. Laos is interested in the development of its ample hydropower resources. Cambodia is concerned over the well being of its Tonle Sap. Vietnam is interested in both hydropower development in the Sesan basin, a Mekong tributary, and concerned over the well being over its Mekong delta, which produces roughly 50 percent of Vietnam's annual rice crop (Osborne, 2000a: 237; Hirsch and Jensen, 2006: 14).

However, this mission drift reduced the regional standing of the MRC in comparison to the Mekong Committee: the introduction of the Western concept of sustainable development at a time when countries in the region were emerging from war and, being freed from Cold War cooperation constraints, were thence focussing on economic reconstruction after being freed from Cold War cooperation constraints. Since then, the MRC has seen successive Chief Executive Officers (CEO), each focussing on different aspects. The first CEO in September 1995 was Yasunobu Matoba from Japan's Ministry of Agriculture, Forestry and Fisheries. His successor, Joern Kristensen, focussed primarily on environmental protection. While this made sense from the perspective of industrialised countries, it did not make sense from the perspective of riparian countries, and disagreements ensued therefore between the CEO and

the member countries. Olivier Cogels, who succeeded Kristensen from 9 August 2004 to 9 August 2007, was an expert on river modelling. The new CEO, Jeremy Bird, who took office on 9 April 2008, will be more open to NGOs but put the focus on investment. In this way, Bird will continue the path Olivier Cogels had started.

The MRC has no territorial rights in member countries. Consequently, the MRC can only bring member countries together in negotiations, facilitate projects, carry out studies, and attract funding from donors. The MRC therefore has no direct influence on the water disputes of its members. It also cannot decide on such things as the opening of sluices, since these decisions fall into the territorial rights of member countries. A bilateral panel supposed to negotiate in the conflict between Cambodia and Vietnam over the Sesan dams has produced no results.

The absence of China from the MRC as the source country of the Mekong is a difficulty. China is pursuing large-scale plans to dam its part of the Mekong, called the Lancang, in its riparian province of Yunnan as well as the transboundary Nu river (known as Salween downstream). China's dams therefore influence the flow of the Mekong in downstream countries. This is a concern, but donors try to calm down concerns saying that only 16 percent of the overall Mekong flow comes from China, and that impacts are felt in Vientiane, but not in Cambodia or Vietnam. Furthermore, it is predicted that the Chinese reservoirs will help with dry season flow and lower wet season floods. Yet, as Osborne emphasises, Cambodian officials express their concern about the Chinese dams, however only in private meetings, and Cambodia's Prime Minister Hun Sen has resolved not to mention these concerns to China (Osborne, 2006: 31; Hirsch and Jensen, 2006: 156), which is attributable to the rising Chinese aid to Cambodia. In a private conversation at an international workshop on Mekong cooperation in Hanoi, a senior Vietnamese researcher expressed his exasperation at Chinese refusal to cooperate on dam building. Asked by the author, if the dam issue is at all discussed between China and Vietnam, he tilted his head toward his Chinese colleague at the other side of the room and said 'yes, but the answer is always diplomatic.'

## **GMS**

However, China with its provinces of Yunnan and Guangxi is a member of the GMS. The GMS was founded on initiative of the Asian Development Bank in 1992. The GMS was established devoted to what was closest to the heart of riparian Mekong countries: fast economic development amidst political rapprochement. The work programme involves nine sectors of cooperation: transportation infrastructure, telecommunications, energy development, environmental management, human resources development, trade facilitation, investment, tourism, and agriculture. During the tenure of MRC CEO Joern Kristensen, the MRC was at times the main regional contender to the GMS, though only from the point of view of the CEO, not from the positions of member countries. Joern Kristensen regarded MRC and GMS as bodies with different goals, which he expressed in the following statement:

With many new developments in the Greater Mekong Sub-region on the drawing table, in the pipeline or already under way, and with a Mekong region knit closer by its growing economic links with China, the time is ripe for all parties involved – the Asian Development Bank, United Nations Economic and Social Commission for Asia and the Pacific, Mekong River Commission, World Bank, United Nations Development Programme, a large group of bilateral donor agencies and civil society groups – to sit down with the six countries sharing the river, in recognition of existing conventions and agreements, and discuss due process for Mekong-related natural resource planning. The challenge, as always,

is to find ways to manage the development so that the benefits are shared equally and harm to the environment is minimized. The Association of Southeast Asian Nations could lend its weight to support such a process (Kristensen, 2001b).

With the MRC chairmanship of Oliver Cogels, the goal of environmentally sound development was watered down to be refocused on economic development. Perhaps the most crucial aspect of this is a renewed commitment of the MRC to hydroelectric dams. In December 2004, four months after Cogels assumption of office, the Water Resources Management Programme (WRMP) was renamed Hydropower Programme (<http://www.mrcmekong.org/programmes/hydropower.htm>), thus reflecting the commitment to expand dam building in the lower Mekong basin.

Since then, the MRC has come closer to the GMS in its goals. While this makes it difficult to distinguish MRC and GMS, an advisor in the World Bank argued that the MRC is the only body to deal with water management. The GMS does not deal with water management because China does not want to have water management on the GMS agenda. The GMS is therefore 'effectively dominated by China', which has used the two summits in 2002 and 2005 'to offer financial aid to downstream countries. In doing so, China has managed to diminish the role of Japan, despite the fact that the latter is by far the largest donor to the CLMV countries [Cambodia, Laos, Myanmar, Vietnam]' (Osborne, 2006: 22-23).

## QEC

Informal beginnings of the QEC can be traced back to the year 1993. That year, Thailand, Laos, China, and Myanmar started cooperation on improving navigation on the Mekong. From 27 February to 10 May 1993, the four countries jointly surveyed the Mekong river starting from Simao the province of Yunnan in order to collect data for developing the river into a shipping route (*Foreign Broadcast Information Service*, 18 May 1993a: 15). The Quadripartite Economic Cooperation was then founded in 1996 with the *Quadripartite Economic Cooperation Plan*. This was formalised in 2001 by the *Agreement on Commercial Navigation on the Mekong*. The purpose of the 2001 agreement was to open a major shipping route from Simao via Luang Prabang in Laos and into the Northeast of Thailand (Do Van Bach, 2000: 151-152). The QEC was heralded as a major stepping stone to a better economic cooperation between the four countries. It included the blasting of rapids and sandbanks to allow ships with more tonnage to pass through the Mekong within the boundaries of the four countries between Simao and Luang Prabang. China's major interest in this was to ship load of heavier tonnage up and down the Mekong: up for oil, down for the export of products of its landlocked southwestern provinces of Yunnan and Sichuan.

## Patterns of cooperation

### MRC and GMS

The MRC's shift in agenda from the economic profile of the old Mekong Committee to the IWRM in 1995, clearly reflected the concerns of the MRC's donor countries, which had entered a phase of reorientation after the Brundtland report and the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro from 3 to 14 June 1992, informally called the Earth Summit.<sup>1</sup>

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<sup>1</sup> For information on the summit see <http://www.un.org/geninfo/bp/enviro.html>.

The MRC therefore represented the concerns of the international donor community, which imposed its view of economic development on the countries involved and as a consequence failed to achieve acceptance and ownership of the MRC by the governments of member countries. Van Steenberghe argues that the strategies developed by the MRC 'were communicated to but not rooted in the policies of the riparian countries' and as a consequence provided 'the regional public good [...] irrespective of national public goods' (van Steenberghe, 2001: 3). Yet, this describes the symptom but not the cause of the problem: the donor-guided work programme of the MRC was imposed on a region concerned with the creation of economic development and a post-Cold War *modus vivendi*.

It is interesting to contrast the following statements: Bruce Babbitt, Secretary of the Interior under the Clinton administration, summarised the new thinking in industrialised countries:

Occasionally, [...] rivers overflow their banks and abandon old channels to create a new course, a process known to hydrologists as avulsion. Our national water resource policy is now undergoing an avulsive change, breaking from the past and heading into new channels. Traditional national water policy was characterized by large water diversion projects, typically with a massive dam as the centerpiece. [...] We are now finding new and better ways to meet water needs without destroying fish runs, flooding prime agricultural lands, displacing local communities and drying up and polluting downstream wetlands. Our new water policy takes account of these ecological costs and seeks to wean policymakers from an addiction to dam building (McCormack, 2001: 5-6 cited Babbitt, 2000: 10-11).

It is interesting to contrast this statement with this one by Chinese experts He Daming and Kung Hsiang-te:

Today, some developed countries such as the United States, are stepping out of [the] 'Dam Building Age' [...]. But lots of developing countries in the world have to build dams to satisfy the requirements of the rapid socio-economic development as well as the increased population, even though they lack experience in planning, construction and management of dams, and are poor in technology and experience in handling environmental and ecological problems (He and Kung, 1997: 12).

And third, to let an independent expert speak:

The water policy discourse in the North and the South are different. Those 'outsiders' from the North who insist on preaching the environmental and economic values of water have little impact on the 'insider' Southern water management discourses (Allen, 2003: 15).

Developing countries are hence in a phase of 'hydraulic mission' in which the control of water resources is seen as instrumental for economic development, and which has dominated the development paradigm of the now developed countries for roughly a century between the late 1800s to the 1980s (Allen, 2003: 6-11).

To strike a balance and revive the MRC, donors support the plans for dams in locations less harmful to the environment. This, for instance, is the case in Laos, which sees hydropower as by far the most important part of its income by selling it to Thailand and China. This seems the

more logical, since China will continue to build upstream dams unless it faces grave environmental concerns, which prevent a further build up: ‘for this reason [...] the focus of MRC attention logically must shift from negotiation over dam building by China, which is where the attention was in 1995, to management of the dams now built, regardless of whether these dams are unwelcome to the countries downstream of China’ (Hirsch and Jensen, 2006: 64).

Apart from the MRC’s agenda, the institutional set up constitutes another problem. The MRC is based on an international treaty with legally binding provisions. This set up is essentially unknown to Southeast Asia, where consultative cooperation structures dominate which generate non-binding policy propositions. These structures have found their name in the so-called ‘ASEAN way’, which is the underlying principle of cooperation and conflict resolution in the Association of Southeast Asian Nations (ASEAN). The principles are laid out in ASEAN’s founding document, the Treaty of Amity and Cooperation (TAC) of 1976 and the amending protocol of 1987. The three decisive points of the treaty are the principles of (1) non-interference, (2) peaceful settlement of disputes through ‘friendly negotiations’ and in the case of failure through ‘good offices, mediation, inquiry or conciliation’ of the high council if the parties involved ‘agree to their application’, and (3) the refrainment of the threat or use of force (ASEAN, 1976: articles 2, 13-16; ASEAN, 1987).

The MRC, however, as well as its predecessor, the Mekong Committee, reflect European concepts of cooperation of legally binding provisions and ever deeper integration, concepts of cooperation unknown to the region (Liu and Régnier, 2003: xiii). The facilitating role of the UNDP in establishing the MRC and the pressure by donors that was exerted on riparian countries during the negotiations in the mid-1990s clearly showed that donors saw themselves as both facilitators and stakeholders of the new MRC (van Steenberg, 2001: 5).

By then, however, a new post-Cold War concept of regionalism had emerged, the so-called new regionalism, which does not see integration as ultimate goal of cooperation. This relaxed notion of regionalism, as opposed to the 1950s ideal of regionalism as it is embodied in the experiences and practices of the European Union, finds enthusiastic followers in mainland Southeast Asia among all riparian states. It has found its manifestation in the Greater Mekong Subregion in the ‘two plus’ principle, which mirrors the ASEAN way in Mekong cooperation in that it allows member states to pursue or participate in initiatives without the consent or participation of all of the six GMS members (ADB, 2002a: 3). It can thus be argued that the GMS created an agenda and an institutional set up, which reflected development concerns and governance experience of member states.

Given the difficult historical development mainland Southeast Asia after the Second World War, the GMS programme is a surprisingly pragmatic approach to multilateral cooperation, in which the nine working sectors of the GMS programme represent the common denominator of member countries for multilateral cooperation through a gradual process of informal confidence-building. Accordingly, the start of difficult: on the occasion of the second GMS Summit in Kunming on 4-5 July 2005, Jean Pierre Verbiest, director of the Thailand mission of the ADB, said that at the first meeting of GMS officials in 1992, “even at coffee breaks it was difficult to get the officials to talk to each other” (Son, 2005).

There are two reasons for the relative success of the GMS when compared to slow or entirely sleeping regional and subregional organisations such as the MRC or APEC, or the failed SEATO:

First, the GMS is restricted in membership given the geographical definition of the subregion (the Mekong River). It is therefore easier to negotiate diverging views of the six member states than those of a considerably larger group.

Second, the GMS is grounded in the political culture of the region as it has transferred the soft regionalism of ASEAN to the Mekong Basin. Therefore, it is owned by central governments: they are represented in the GMS committees on the ministerial level through the ministerial conferences and, through summits, on the level of heads of state. They therefore lead the process and determine its content as opposed to the MRC. The initiative to establish the GMS also came from the region, namely from the ADB, which consulted extensively with national governments prior to the establishment of the GMS. Therefore, the GMS represents original regional concerns, which emerged from the governance experience of member states. Consequently, the GMS shows that the idea of a soft regionalism without hard and fast rules can be a dynamic process, which has brought Southeast Asian states closer together to the point where they have created in a slow evolutionary process stable mechanisms of regional governance (for details see Hensengerth, 2008).

For the MRC, the task ahead is therefore to ensure ownership of the MRC by riparian governments. As van Steenberg noted, international funding should increasingly be replaced with regional money (van Steenberg, 2001: 6-7). Since Steenberg made the argument in 2001, nothing has changed. Furthermore, the status of the NMCs is different in the MRC member governments. While in Thailand, the NMC has a low status, the Lao and Vietnamese NMCs are of higher status. The low status of the Thai NMC can be attributed to the relative upstream position of Thailand and the Thai interest in the water from the Chinese reservoirs.

### **QEC**

As for the QEC, the institution ran into trouble and was eventually disbanded, despite the commonalities in interests between the four upstream countries: Thailand announced in April 2003, that it would withdraw after the Thai military had warned that a faster flowing Mekong might alter the border between Laos and Thailand (Wain, 26 August 2004a; Goh, 2006: 235). In 2004, China declared to discontinue plans of clearing the Mekong between Chiang Saen and Luang Prabang due to heavy criticism and increasing hostilities of Thai villagers and increasing concerns voiced diplomatically in Cambodia and Vietnam about the impacts of changes to the Mekong (Wain, 26 August 2004a; Buntaine, 2007: 23). Yet, China has been pursuing informal consultations on Mekong navigation with the aim to ship crude oil up the Mekong (Buntaine, 2007: 23). Indeed, as Backer mentioned, China does 'forum shopping', that is, pick and choose forums or create new ones that are conducive to its interests.

Yet, the Thai withdrawal was the first time that China was squeezed into a position, which forced a reversal of its cross-border economic policy. Further, increasing environmental concerns in China lead to the re-examination of dams. Hirsch and Jensen report that of the eight dams, which were originally planned for the Lancang, '4 have been completed, 1 was shelved, and the remaining 3 are under construction' (Hirsch and Jensen, 2006: 64 note 5). Meanwhile, China has scaled back the number of dams planned on the Nu river from thirteen to four following large-scale protests by Chinese environmentalists and from Thailand (in 2006, Hu Jintao approved a plan to scale back the number of dams at the Nu from thirteen to four: Stanway, 2005 and 2007; Osborne, 2006: 58-59; Hirsch and Jensen, 2006: 60). Osborne sees the Chinese intervention to halt and scale back Nu dams as a potential signal that Beijing starts to consider the concerns of downstream countries (Osborne, 2006: 59).

Why is this and how did it come about? Does it mean a general turn to a foreign policy, which takes into account the sensitivities and worries of neighbours? Or is it increasing domestic pressure on the central government to devise environmentally sound economic policies for a better consideration of human, environmental and food security?

We can observe that a number of partisan interests fuelled suspicion against the QEC plans: 1) the Thai central government through military concerns about national security; 2) Cambodian concerns in relation to the Tonle Sap, which is an important source of food. Changing water inflows due to works on the upper reaches of the Mekong between China and Laos might therefore disrupt fish breeding cycles and lead to threatened food supply and loss of income for local farmers; 3) Vietnamese concerns about the ecology of the Mekong Delta. Vietnam is the last in the line of Mekong countries. It therefore feel particularly vulnerable towards constructing work on the Mekong in upstream countries, especially in relation to the ecology of its Mekong Delta; and 4) grass root interests in Thailand against economic exploitation of the Mekong against the interests of fishing communities, who depend on the river's ecology for a living.

It seems that what was pursued in the QEC was an all-or-nothing approach, which led the project to break down as the different levels of actors were not connected in a dialogue mechanism to ensure the negotiation of a consensus. Moreover, and perhaps more importantly, the emergence of serious security implications of multilateral cooperation on the side of Thailand seems to have prevented Bangkok as important financial source for the implementation of QEC programmes to engage in further collaboration.

Therefore, what happened was a clash of the partisan interests of several actors, or a clash of the security interests of actors on multiple levels: the fishing communities, who felt their livelihoods threatened (food security); the Thai government, that felt its national security threatened; and the pushing by China's central government and the local government of Yunnan in Kunming, both of which wanted to secure energy resources for economic growth and the generation of work places for the Chinese population in order ease poverty and decrease rising social tensions in China (energy security, economic security).

## **Participatory governance?**

The breakdown of the QEC shows that Integrated Water Resources Management, or in Tony Allen's version, Integrated Water Resources and Allocation Management, is 'an intensely political process because water users have interests and they do not want them to be diminished by interventions which contradict their immediate security' (Allen, 2003: 11). So if we regard water management as a sanctioned discourse as a result of a process of hegemonic convergence in which '[u]nwelcoming information is relegated to appendices or ignored', then an inclusive concept such as IWRM needs mechanisms of mediation in order to negotiate the security concerns between actors on the local, national and transnational levels and their wide-ranging traditional and non-traditional security concerns ranging from food security, environmental security, energy security, and economic security to national security. This process eventually turns environmental problems from a 'separate focus of policy' into one that is 'integral to society's and the economy's use of water in the political economy as a whole' (Allen, 2003: 21, 12, 1-2).

This brings the ownership problem into focus. Part of the ownership issue is the involvement of civil society. The MRC's National Mekong Committees should ideally involve several levels of government in each country from the central level down to the grass roots level; but



the NMC's influence on central government decisions is not large. Conversely, GMS and QEC are (or were in the case of the QEC) both state-guided endeavours in which the involvement of subnational units and non-state actors is not automatically part of the system in order to make it effective. Another issue is that the NMCs do not seem to be a priority for national governments. They are generally underfinanced and understaffed, and water-governance expertise is often missing (Hirsch and Jensen, 2006: 33-42). This is to say that within the national administrations, the National Mekong Committees are comparatively weak. In addition, they are not linked to local governments (van Steenberg, 2001: 10). Although Cambodia and Thailand have a well-developed NGO scene (with funding usually from Europe, Japan, North America and Australia), involvement in official processes is often lacking. This is in spite of the fact that the MRC and National Mekong Committees have embraced the idea of greater involvement, but the difficulty is how to operationalise it (van Steenberg, 2001: 10 and note 3).

Conversely, again, the GMS sees the involvement of local governments in GMS processes (Yunnan, Guangxi) as well as the involvement of non-state actors in government-sanctioned areas of GMS cooperation such as human resources development, health programmes, or education. Importantly, however, water resources are considered part of national development plans. Therefore, central governments are anxious to keep the development of water resources under governmental control. This hinders the involvement of environmental NGOs and representatives of affected river-side communities. By owning the cooperation processes and determining their content, central governments decide on the degree to which subnational units and non-state actors may become involved in the official cooperation structure. Thus it happens that the second GMS Summit in July 2005 in Kunming, China, did not see the involvement of environmental NGOs, which have been raising increasingly loud concerns together with riverside communities about dam-building activities, resettlements of local communities and declining fish catch. These issues were not discussed in the summit meetings. Instead, two meetings were held simultaneously to the summit by NGOs and local communities in Thailand in Chiang Rai and Ubon Ratchathani (Son, 2005), hence outside the GMS framework and in far distance from the summit.

Ironically, the Kunming summit endorsed a so-called Core Environment Program (CEP) for the GMS (ADB, 2005: 5), which is to be implemented in three phases: 2006–2008, 2009–2011, and 2012–2015 (<http://www.adb.org/Projects/core-environment-program/default.asp>). Although dominated by governmental agencies, the CEP sees the official involvement of several environmental NGOs in a government-devised top-down approach. The MRC is present, too. An Environment Operations Center is to handle day-to-day operations for the CEP and serves as secretariat to the Working Group on Environment. The body is small, however, and not well staffed. Its impact so far is questionable.

The second large environmental initiative in the GMS is the Biodiversity Conservation Corridors Initiative, started in February 2005 (<http://www.adb.org/Projects/GMS-biodiversity/default.asp>). This, too, sees the involvement of NGOs and the MRC, and is to be implemented in three phases: 2005-2008, 2009-2011, and 2012-2014. Generally, this might give hope to an increased profile of environmental problems on the GMS agenda. The years to be covered by the GMS initiatives will show how the environmental programmes will be implemented and how strong the weight of participating NGOs really is. Mostly it seems that environmental protection programmes are part of the national interest and as consequence part of state-guided cooperation projects such as the GMS. Governments have recognised the link between environmental degradation and social stability through scenes such as environmental

refugees or an increasingly angry population protesting against issues such as dam-related resettlements and insufficient allowance packages.

## **The national interest and the regional public good**

According to Landovsky, the establishment of the QEC was a ‘wasted opportunity for the MRC to attract China’ (Landovsky, 2006: 18):

Navigation could have been a part of larger ‘basket of benefits’, that would have brought China into a basin wide cooperative framework. Yunnan province of PR China does not benefit from foreign investments like coastal provinces, but if Yunnan goods could reach Thai ports, it would be a large boost for Yunnan’s economy (Landovsky, 2006: 18).

Two comments can be made about this statement: first, behind this statement lies the belief that without China, the MRC will never be able to advance effective management of the water resources of the Mekong basin. Second, from China’s position, QEC and GMS are to provide Yunnanese products access to Thai ports by making the Mekong river more navigable. The role of the MRC in this goal remains unclear. At best, both governments, Beijing and Kunming, see the Mekong River Commission as hindrance in the designs of better navigability of the Mekong, or one that can be bypassed through the above-mentioned ‘forum shopping.’

Of international consequence were the monitoring mechanisms between Russia and China for the transboundary rivers. Of indirect consequence was the downsizing of the numbers of dams on the Chinese stretches of the Nu (Salween) and Mekong Rivers: while these were national decisions, they do impact on the flows in downstream countries. Dams on the Salween are currently planned in Myanmar and Thailand.<sup>2</sup> In addition to the cooperation dialogue with the MRC, China also cooperates with Vietnam on the Red River: since the premiership of Wen Jiabao, Vietnam does not have to pay anymore for the provision of meteorological data by China.

Landovsky has a point when he explains that without China’s full participation in the MRC, the commission is

vulnerable to biophysical and socioeconomic stress as it cannot estimate the amount and quality of water in the Mekong due to the development of Chinese hydroelectric and water infrastructure projects in Yunnan. [...] Consultation with downstream riparian nations can improve the systems resilience against biophysical and socioeconomic stress and keep the Mekong development sustainable. It is absolutely vital to bring China into the broader institutional framework (Landovsky, 2006: 18).

This, however, does not explain the failure of the QEC, which makes the GMS the only viable example of multilateral river-based cooperation in the Mekong region, which is based on an international river. It seems that the loose structure of the QEC, which did not know a secretariat or other impartial body to negotiate a consensus, was vulnerable to partisan interest. In addition, the virtual absence of a network of confidence building platforms in which defined actors follow procedural decision-making guidelines gave non-state actors a

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<sup>2</sup> For updated material on the plans to dam the Salween see Salween Watch on [www.salweenwatch.org](http://www.salweenwatch.org)

chance to voice their concerns sharply and openly. In contrast, in the GMS structure, a fixed set of state, substate and non-state actors including international state and non-state observers participate in the state-guided GMS processes. This creates a greater consensus on which policies can be carried out. The comparatively wide participation of substate and non-state actors in the official GMS committees as substructure to the meeting of ministers and heads of state also enables GMS members to isolate actors which they view as spoilers to their goals.

There is agreement in the donor community that the involvement of an active civil society would help effective transboundary water management by wresting the definition of water management away from central government policies of a narrow national interest towards the inclusion of non-state stakeholders: 'To be effective, transboundary water management has to include the balancing of priorities between user groups, essential to which is more effective partnering of government and private sector with civil society' (Swedish Ministry for Foreign Affairs, 2001: xii). Yet, the GMS does not deal with transboundary water management and thus can ignore inclusion of non-state stakeholders in the cooperation processes. GMS member governments therefore select which directly affected user groups to include in the cooperation structure.

Capacity-building to facilitate the entry of NGOs to water management on the regional and local level could be aided by relevant organisations such as the World Water Council or the Global Water Partnership (Swedish Ministry for Foreign Affairs, 2001: xii) to use their skills (including second track diplomacy) for the provision of the public good in transboundary water management by including the concerns and needs of civil society into the political discourse (p. xi).

There is thus agreement between member states on the GMS agenda as well as ownership by central governments of the GMS process. Importantly, the 'two plus' policy (ADB, 2002: 3) ensures that member states can opt out of projects or join them later, depending, for instance, on their domestic capacities to apply the provisions of the project to their national policies: having emerged from the devastations of the Cold War, the structural design that was developed for the GMS followed ASEAN patterns of a 'soft regionalism' without legally binding rules, monitoring mechanisms and punishment provisions. Since the post-Cold War new regionalism did not anymore automatically put integration in a supra-national state on the agenda of states, cooperation in the GMS started in a rather relaxed atmosphere with no clear deadlines and no legally binding rules, thus making cooperation easier than under the 1950s type of regionalism which followed the experiences of the European Union. This way cooperation also gave birth to the 'two plus' principle of the GMS, under which two members can pursue activities within the GMS framework, which do not need the participation or consent of all of the six GMS members. Regularised meetings of an array of specialised and general meetings established trust between former adversaries and led to stable patterns of cooperation in a system of committee governance, which is based on general principles, norms and procedural guidelines. More transparency followed in the wake through extensive information exchanges in the working groups and ministerial meetings. The 'two plus' principle mirrors a practice-oriented way of soft regionalism

The manifestations of the provisions of the concept of the new regionalism can be well observed in the GMS. As a general rule, apart from Europe, regional integration is largely limited to the economic sphere, while political integration is virtually absent (Gruppe von Lissabon, 1997: 160-161). Dosch (2003), by reviewing the regionalism debate, explains that today Europe's integration experience is regarded as 'unique and does not present a global model of integration' (p. 31). Instead, attention has shifted to other regions and their

integration experiences, and accordingly the research agenda has turned to problems such as interrelations between nation-building and integration or globalisation and regionalisation. Whereas the ‘old regionalism’ was associated with the European integration experience, the ‘new regionalism’ concept represents a turn to cooperation endeavours which differ from the European Union (pp. 31-32). Importantly, economic or political integration is no longer regarded as a necessary result of processes of regionalisation (p. 32, table 2.1). Instead, many groupings ‘consciously avoid the institutional and bureaucratic structures of traditional organizations and of the regionalist model represented by the EC [European Community]’ (Fawcett and Hurrell, 1995: 3).

This is to say that effective cooperation in the GMS can be reached easier than in the MRC with its transboundary water management mandate and the build-up of a dense institutional framework, which results in the establishment of a complex bureaucracy, which the GMS avoids:

In parallel with instituting processes for the development of transboundary institutions, there needs to be associated support to national institutions. In order to assure long-term ownership from riparian countries, one of the key process issues is promoting benefits of effective transboundary management within national states. This is in itself a political activity requiring sensitivity to the different upstream downstream perspectives of riparian countries, and their different perceptions of what constitutes a benefit – for instance the widely differing uses to which water may be put (Swedish Ministry for Foreign Affairs, 2001: iv).

Consequently, the MRC suffers from its history of being an institution that was established from outside the region and the agenda and structure of which reflects the interests and concerns of donors, but less so the interests and concerns of member countries.

## **Conclusion: a regional public good in the Mekong Basin? Options for participatory governance**

The development of effective institutions of management is identified in this study as the key regional public good to which donor financing should be targeted. An important part of this process is agreement on principles for participation (who should participate and at what level), for decision-making (how to make these processes transparent and who to include), and on the principles by which benefits (or water shares) should be apportioned. Hence, establishing the principles and norms involved is an essential step towards the provision of the regional public good. (Swedish Ministry of Foreign Affairs, 2000: xiii).

It seems therefore that what seems to be missing is not so much an independent secretariat that acts as honest broker, but rather a structure of confidence-building mechanisms, which involves NGOs and local governments in both a multi-level and top-down approach providing a platform of regularised meetings between national, subnational and non-state actors. The only governance mechanisms in the Mekong basin, which has to some extent produced this structure, is the GMS. The QEC was too much of an ad-hoc composition designed for a narrow purpose to have long-lasting character. The MRC suffers from widely unaccepted principles of cooperation in the founding agreement of 1995; this is especially apparent in the poor state of the NMCs regarding funding and experienced staff. Not very helpful for

identification of member states with the goals of the MRC is the staffing policy of the MRC, which puts a foreigner at the head of the MRC Secretariat, thus adding to member countries' lack of ownership of processes of MRC cooperation which to-date are donor-guided developments.

Curiously, the non-implementation of the Mekong River Commission's IWRM agenda due to the irrelevance assigned to it by member states seems to be the case why the Mekong River Commission has lived through the last 50 years. The MRC's predecessor, the Mekong Committee, was created in the context of two subsequent crisis situations, namely the independence wars against French colonialism and Eisenhower's domino theory of 1954. This is to say that the Mekong Committee served as a tool for the reorganisation of political regional and domestic stability. Constancy of the Mekong Committee was assured through non-riparian supervision: the US served as hegemon, and ECAFE as international organisation provided negotiation platforms. In the course of its existence, the Mekong Committee was used to develop non-communist countries to keep China at bay. To do so, the countries concerned received development aid in the context of a regional anti-communist development and reconstruction project. Therefore, the Mekong Committee produced considerable side gains for member states in the form of aid, or, looked at from the other side, the Committee was a by-product to settle a regional conflict and renegotiate balance of power networks during the Cold War. The Mekong Committee as well as the MRC hardly ever moved beyond the stage of planning but continued to work for governments in other respects: for instance, Thailand and Vietnam use the MRC for political rapprochement, while Cambodia and Laos benefit from the reception of aid in the MRC framework. The MRC thus continues to produce side-gains for its members with the result that central governments have an interest to keep the MRC working for them, but less so for a common regional good than for the national interest. The consequence is that partisan interest informs members' interests to engage in the MRC in the incessant search for a *modus vivendi* dependent on shifting global-local interactions and resulting power distributions and realignments of member countries' coalitions, including side gains countries can derive from these realignments.

All three projects were created by states' interests and with the exception of the QEC continue to serve the interests of central governments. The transboundary river is part of national development strategies, which all regard the transboundary river as an essentially national river. In this scope of interest, IWRM does not work unless it involves an active civil society to drag water management away from a purely governmental development paradigm.

The solution for effective water management lies in regional conflict regulation mechanisms grounded in the political culture and practices. This needs to be accompanied by a home-grown multi-level governance network to negotiate compromises between affected actors on the respective levels of operation.

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