The Mekong River Commission: Does It Work, and How Does the Mekong Basin's Geography Influence Its Effectiveness?

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Studie

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Abstract

This article assesses the effectiveness of the Mekong River Commission, its impact on the policies of its members, Thailand, Lao PDR, Cambodia and Viet Nam, and their engagement with the Commission. It also seeks to account for China's influence on their cooperation, as China, the strongest upstream riparian state, is not a member of this cooperation scheme for the Mekong River basin. This is achieved using a model for explaining regime effectiveness which rests on the two main variables of problem malignancy and problem-solving capacity. Furthermore, the level of engagement of the riparians is accounted for by mainly two geographical variables: position on the river (upstream/downstream), and size of fraction of territory within the basin. (Manuscript received February 10, 2007; accepted for publication July 4, 2007)

Keywords: Mekong River Commission, regime effectiveness, Thailand, Lao PDR, Cambodia, Viet Nam, PR China

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Studie

Die Mekong River Commission: Funktioniert sie und wie beeinflusst die Geografie des Mekong-Beckens ihre Effektivität?

Ellen Bruzelius Backer

Abstract

Der vorliegende Beitrag untersucht die Effektivität der Mekong River Commission (MRC), ihre Auswirkung auf die Politik der Mitgliedsstaaten Thailand, Laos, Kambodscha und Vietnam sowie das Engagement dieser Länder in der Kommission. Darüber hinaus wird der Einfluss des mächtigen Anrainerstaates Chinas, das zwar kein Mitglied ist, jedoch Beobachterstatus hat, analysiert. Um die Effektivität der MRC zu messen, wird ein Modell aus der Regimetheorie herangezogen, das auf den Variablen Malignität und Problemlösungskapazität basiert. Das Hauptargument der Studie lautet, dass das Engagement der Anrainerstaaten in der Mekong River Commission primär durch zwei geografische Bestimmungsfaktoren erklärt werden kann: erstens durch die Lage der Länder (stromaufwärts, stromabwärts), zweitens durch den Umfang ihres Territoriums im Mekong-Becken.

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Keywords: Mekong River Commission, Regimeeffektivität, Thailand, Laos, Kambodscha, Vietnam, VR China

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1 Introduction

The Mekong River Commission, which addresses issues relating to the Mekong River, has a particular membership profile where the four downstream countries, Thailand, Lao PDR, Cambodia and Vietnam, are members, whilst the two extreme upstream, China and Burma, are not, but rather hold observer status with the Commission. The Mekong River has been largely untouched until now, however, the basin and the riparians have reached a turning point where projects with significant environmental, social and economic impact are being planned and implemented on both the tributaries and the mainstream of the river. The Mekong River Commission, which attained its present foundation in 1995, is intended to be concerned with sustainable development and resource handling of the Mekong River and could potentially address the entire river basin's ecosystem, including tributaries and wetlands. Nonetheless, it has so far not been successful to the extent its donors perhaps had hoped for. This article will attempt to assess the achievements and evaluate the effectiveness of the Mekong River Commission as a regime, guided by the theoretical model outlined by Underdal (2002). Subsequently, the article will introduce geographical factors as an explanatory variable, and explain the effectives – or lack thereof – in light of this perspective.

The Mekong River Commission has two main characteristics: firstly, it has a geographical scope, and is defined by the ecosystem of a river basin rather than a specific topic or problem issue. Secondly, the members of the Commission are all either developing countries or newly industrialised countries. Most regimes that have been assessed so far have had at least one industrialised state as member, and on this point, the analysis of the Mekong River Commission distinguishes itself from previous analyses of regimes' effectiveness. These characteristics have implications for how theory may be applied and understood, and how effects of the Commission may be recognised. The experiences from this exercise are drawn upon in the final section of the article, which attempts to assess how geographical factors, particularly the upstream/downstream position and fraction of each member's total territory within the regime's ecosystem boundaries, affect each member's efforts within the regime. The idea is that in a regime or cooperation defined by geographical rather than topical boundaries, the geography of the regime and its members will have important consequences for the cooperation and how effective it is. This, of course, relates to the concept of geopolitics,

which has been defined as "the influence, or the study of influence, of spatial aspects on the political nature, history, institutions, etc. of states or nations, and especially on their political and economic relations with other states" (Clark [1985] 2003:171). In the sense that this article will attempt to explain whether and how geographical qualities of the river basin have an impact on the politics of cooperation, it will address geopolitical factors. However, to distinguish clearly between the purely spatial aspects and the political aspects, the article will use 'geography' as terminology to identify these spatial aspects.

The article starts off by briefly revisiting relevant theoretical contributions for understanding regime effectiveness, hereunder Underdal's (2002) model, before it outlines the main characteristics of Mekong River, its riparians and the Mekong River regime, and assesses its achievements. The following section discusses how the special characteristics of a geographically defined regime affect the potential for an effective regime, before a few concluding remarks are made.

2 Regime Effectiveness

Regimes have been defined by Krasner ([1983] 1986:2) as "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations", a definition which has become widely accepted and used. It is questionable whether the Mekong River Commission fulfils the criteria to be labelled a regime. The present basin cooperation is based on the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (further on the "1995 Agreement"), signed by the four members in 1995, which spells out areas of cooperation, institutional framework and general proceedings. One could regard this Agreement as a set of explicit principles, norms, rules, and decision-making procedures which validates labelling the Mekong River Commission as a regime. Nonetheless, the lack of details in the 1995 Agreement, for example regarding the definition of "tributary" to the main river, and its slow and limited implementation, regarding for example the establishment of "procedures" as described in section 3.2, are sufficiently significant to justify the discussion of whether the Mekong River Commission constitutes a regime or not. This, however, will not be assessed here, the point is that applying the tools for analysing regime effectiveness allows a fruitful review of the Mekong case. Therefore, the cooperation taking place under the 1995 Agreement will be referred to as a regime, though this is not intended to imply that the debate of the applicability of Krasner's definition has

been concluded.

This article will not elaborate on the theoretical discussion of how to recognise and measure the effectiveness of a regime (for a discussion of this, see for instance Underdal 2002, Kütting 2000 or Wettestad 2006 for a summary), but focus on the prerequisites for its success or failure. The effectiveness of a regime can, according to Underdal (2002:3), be explained by two main variables: the character of the problem the regime addresses or seeks to address, and the problem-solving capacity of the institutional tools applied and the actors that approach this problem. The character of the problem may be benign or malign to a greater or lesser extent in two ways: intellectually, implying the extent to which intellectual capacity and energy is needed to provide an accurate description and analysis to suggest appropriate solutions, and politically, as "a function of the configuration of actor interests and preferences that it generates" (Underdal 2002:15). Knowledge deficits about the problem makes it harder to achieve affective governance (Young 1994:18), as does a high number of riparian states with undefined rights to certain quantities and quality of the water (Bernauer 1997:161, 172). The second main variable, the problem-solving capacity, contains three main elements: the institutional setting of the regime, the distribution of power among the actors involved, and the skill and energy that are put into the efforts to address the problem (Underdal 2002:23). A beneficial contractual environment, such as the institutional setting, is important for states to "make and keep agreements that incorporate jointly enacted rules, without debilitation fear of free-riding or cheating by others" (Keohane, Haas, Levy 1993:19). Wettestad (2006:308-310) has listed five central obstacles related to the institutional structure that affect the effectiveness of a regime, of which differences in capabilities amongst the actors and varying perception of the seriousness of the problem stand out as particularly relevant for the Mekong case. Underdal (2002:29) furthermore suggests that "the existence of a *unipolar* distribution of power tends to enhance the decision-making capacity of the system". This is one of the peculiarities of the Mekong River regime: China, the riparian which is the obvious candidate as the region's unipolar power, is not a member of the regime. How does this affect the cooperation? These aspects will be addressed below.

3 The Mekong River Basin and the Mekong River Regime

The Mekong River is one of the world's mighty rivers. On its 4,200 km long

journey from the origin in the Tibetan Plateau, it passes through the Southwest corner of China, Lao PDR, Burma, Thailand, Cambodia and Viet Nam, before it emanates into the South China Sea. Approximately 70 million people live in the basin, belonging to more than 100 ethnic groups (Cogels 2005). A cold climate with snow which may store precipitate is only found in the Himalayan plateau (Browder and Ortolano 2000:501), and the monsoon season and tropical climate cause the river to have a particular pulse where the wet season from May to November may account for 85-90% of the total flow of the river (Dore 2003:423). Human life, flora and fauna within the river basin have adapted to this particular rhythm through centuries. The flow pulse causes the river to force water back up the Tonle Sap River at the Mekong/Tonle Sap river junction by Phnom Penh in Cambodia each year during the wet season, which in turns leads the Tonle Sap Lake to expand to from a surface area of approximately 2,000 km^2 to approximately 10,000 km^2 or more (Browder 1998:36). During the dry season, the lake empties back into the Mekong River mainstream. The river basin's resources are vital for its population, as about 85% "make their living directly from the natural resources base" of the basin (Jacobs 2002:356). The only major development projects on the mainstream of the river are found in China, where several hydropower dams are currently under construction or have been completed. Thailand, Lao PDR and Viet Nam have built hydropower stations on tributaries to the Mekong.

The cooperation on the development and management of the Mekong River and the resources of the basin dates back to 1957, when the Committee for Coordination of Investigations of the Lower Mekong Basin, known as the Mekong Committee, was initiated with Thailand, Cambodia, Laos and what was then known as South Vietnam as its founding members. The current cooperation is based on the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the 1995 Agreement), signed in 1995 by Thailand, Lao PDR, Cambodia and Viet Nam. China and Burma hold observer status and attend an annual dialogue meeting, but are not signatories to the treaty. The signatories aim to "cooperate on the basis of sovereign equality and territorial integrity in the utilization and protection of the water resources of the Mekong River Basin" (Agreement 1995:Article 4), but the regime has "no mandate to act on its own in any fashion that has not been approved by the member countries" (Osborne 2004:9). The Commission has a secretariat, the Mekong River Commission Secretariat, located in Vientiane, which hosts the majority

of the sector programmes of the regime, such as the Environment Programme and the Agriculture, Irrigation and Forestry Programme. The sector programmes feed into a Basin Development Plan which is meant to guide development of the lower river basin (Mekong River Commission 2005).

Hitherto, the water quality has not been a major problem, rather, the main negotiating issue has been the quantity of the water in the river, noting that the water quality may be an effect of the water quantity: low water levels do for example increase salinity. This reflects two aspects of the river basin: firstly, the huge differences in the river's flow levels in the wet and dry seasons, and secondly, that there is little industrial development in the river basin that affect the water quality. The controversies and issues of tension between the riparians has been withdrawal of water from the basin through inter- or intra-basin transfer schemes, and withholding of the water in large dams constructed for hydropower or irrigation purposes. These issues are particularly crucial during the dry season, when low water levels are a major concern for the riparians, particularly those furthest downstream.

The Mekong River Commission (MRC) is currently using a fairly limited definition of "tributary" to the Mekong mainstream, which implies that the MRC has made itself irrelevant to much of the development work that is planned for the Mekong's tributaries, and financed through channels such as the ADB or Chinese private sector (interview 4.2; see chapter 6). The narrow definition also gives the member countries incentives to develop tributaries as they are excluded from the Agreement of 1995, and no notification of other MRC members is required (interview 3.3, interview 4.2). It has been suggested that this definition, separating tributaries and the mainstream, is made for the sake of convenience to accommodate these kinds of policies (Lebel et al. 2005). The MRC cooperation is focusing on water-sharing, not on sharing of benefit, although this has been proposed by the donors (interview 4.4) and by Thailand (interview 4.1).

It has been suggested that many state actors of the riparian members states prefer the MRC to be a rather toothless organisation that identifies development projects and attracts external funds, whilst the control of the development remains with the states themselves (Dore 2003:425). The 1995 Agreement has been described as weak, allowing the members to interpret it as they please (interview 4.4) or simply sideline it (Lebel et al. 2005). The region is marked by "genuine, recent, bad blood" (interview 4.2), and the MRC has focused on gathering data and building capacity because these areas are less sensitive

(interview 3.2), aiming to build trust between the member states. Some also claim that the regime relies on a unique "Mekong Spirit" that has been created after decades of cooperation (interview 3.3, Öjendal 2000:113) and on a special wish to cooperate (interview 4.5). The new CEO has tried to shift the profile of the organisation to an increased focus on investment facilitation, a move which has showed to be somewhat controversial and has been perceived or described negatively by several (interview 3.4, interview 3.5, interview 4.1, interview 4.4, interview 4.5).

The Mekong River Commission is, nonetheless, not the only body applying a regional perspective on the Mekong River Basin. Amongst others is the Asian Development Bank (ADB) which initiated a program called the Greater Mekong Subregion Program (GMS), comprising Cambodia, the People's Republic of China, Lao People's Democratic Republic, Myanmar, Thailand, and Viet Nam, in 1992. The program has, according to the ADB, "contributed to the development of infrastructure to enable the development and sharing of the resource base, and promote the freer flow of goods and people in the subregion" (http://www.adb.org/GMS/). The main focus of the program has been infrastructure through support for a number of so-called 'economic corridors' and encouragement of easier movement of goods and people within the region. However, in the past years the program has increasingly included other policy fields, a notable example of this being its Core Environment Program, endorsed at the GMS summit in 2005 (http://www.adb.org/Projects/core-environment-program/default.asp). The scope of the GMS thus partially overlaps with that of the MRC. The Greater Mekong Subregion Program is attractive to the riparian states because of the availability of funding, loans, grants and co-financing from the ADB. Some of the participants might also be attracted to the program by the lack of an overarching organisational structure.

The Mekong River Commission and the ADB cooperate on certain issues. The ADB is a donor to the MRC and is granted observer status to the Commission, which allows the bank to participate in formal meetings held by the MRC. The ADB also supports the MRC Flood Management and Mitigation Program, based in Cambodia, and there is an ongoing process to make the coexistence and cooperation between the GMS Program and Mekong River Commission smooth and fruitful. The "International Conference on the Mekong River Commission" in Hanoi 23-24 April 2007 issued a statement in which, amongst other things, the participants: basin representatives, donors, NGOs and international organi-

sations, claimed that they "would like to see the MRC more actively involved in GMS programmes in the Mekong Basin within its mandate" (http://www.mrcmekong.org/MRC_news/press07/joint-statement-on-MRC.htm). There is no doubt, however, that the side-by-side existence of the GMS Program and the more organisation-like MRC has at times been difficult both for the riparians and the involved external actors.

3.1 The Basin States' Attitude towards Basin Cooperation

The member states have different aspirations for the regime. Thailand, of which approximately a third, 36%, lies within the Mekong River Basin (Dore 2003:423), prefers a loosely defined framework for cooperation. She has been accused of unnecessarily delaying the establishment of flow regime regulations, using the need for extensive public hearings as excuse. Browder (2000:257), speaking of the negotiations prior to the 1995 Agreement, noted that Thailand, "as the regional economic power and relative upstream state [. . .] [is] probably not as motivated to formulate water utilization rules as the other MRC states". Also Osborne (2004:8) has suggested that Thailand is concerned that regulations could restrict her freedom of action, particularly related to future water diversion projects. As Thailand is a fairly advanced country with an established legal system and bureaucracy, and a developed economy, she does not need the development resources that the MRC can provide (interview 4.4). Thailand also has a more pronounced position on issues like EIA regulations, is less interested in adapting current procedures to those suggested by the MRC (interview 3.1, interview 4.4), and doesn't need the capacity of the organisation as much as some of the other members (interview 3.2). Differences like these will, according to Wettestad (2006:308-310) as mentioned previously, influence the effectiveness of the cooperation regime. The strength of the Thai economy also gives her a confidence that, together with her position as the upstream country within the cooperation, makes her more reluctant to give into demands from the other members (interview 3.1). She is sceptical of some of the MRC policy recommendations (interview 3.2), and finds the demands from the downstream riparians to be too strict (interview 4.1). She considers some of them to be too concerned with their general downstream position, refusing to recognise their own position as upstream to one or two other countries (interview 4.1). Thailand seems for example not to be keen on a detailed flow management scheme as wanted by the downstream riparians (interview 3.4), partially because she claims

that this has no purpose without Chinese participation (interview 4.1). Thailand and China have a joint interest in a lenient water flow regime (interview 4.1), and Thailand would rather see the MRC as a facilitator than as a body imposing regulations upon its members, possibly for sovereignty reasons (interview 4.1). Because the majority of Thai parts of the Mekong basin are found within the somewhat peripheral and underdeveloped north-eastern Isan region, the Mekong Cooperation receives less attention from the government in Bangkok (interview 3.2, interview 4.4, interview 4.5).

Lao PDR, which has 97% of her territory within the Mekong River Basin (Dore 2003:423) has an abundance of unexploited water resources in the Mekong River tributaries that drain her territory. This gives her a central position in the future use of the water in the Mekong River basin (Cheong 1998:222-223), but also makes her attach significance to the Mekong River regime. There are, nonetheless, indications that the Laotian government prefers to have the liberty to develop the Mekong tributaries according to its own preferences without having to adhere to regime recommendations. The limited human and bureaucratic resources, which are amongst the lowest in the region, hold back Laotian efforts within the regime. Some interviewees suggested that certain MRC policy recommendations, perhaps especially those regarding public participation, are unacceptable to the Laotian government. They do not want to adopt these policies (interview 3.2), as public participation in their eyes requires more time and resources without providing any benefits (interview 3.5). The Laotian government may agree to the rhetoric of MRC policies, but is less interested in taking any concrete action in some sectors. For instance, they refuse to conduct studies on the effects of logging on the water flow (interview 3.5). However, given her historical lack of regulation and limited capacity, she is fairly accommodating to MRC policy recommendations because they save her from doing the job herself (interview 3.1). She also benefits from skills within the MRC regarding policy implementation (interview 3.2), and is interested in the funding, data and competence available through the MRC (interview 3.1, interview 3.2, Browder 2000:243). It has also been suggested that Laos does not want as strict a water flow regime as the countries further downstream would like (interview 3.4).

Cambodia is emerging from decades of civil war and conflict, and although a democracy on the paper, she is still plagued by political violence and lack of respect for human rights (Amnesty International 2006; Utrikesdepartementet 2002:2). A total of 86% of her territory is found within the Mekong River basin

(Dore 2003:423), and the Cambodian people depend on the resources, particularly fish, the wetlands have to offer (Öjendal 2000:138; Badenoch 2002:3). The Cambodian fisheries are likely to be severely affected in unpredictable ways by upstream altering of the natural flow regime of the Mekong River (Hirsch 2006:189). Cambodia successfully insisted that the natural annual reversal of the Tonle Sap river during the wet season should be guaranteed by the 1995 Agreement (Agreement 1995:Article 6 B), and also achieved acceptance for locating the Regional Flood Management and Mitigation Centre in Phnom Penh. However, the Cambodian government's limited resources and capacity hinder thorough engagement with the regime. For Cambodia, the direction of the development of the Mekong River basin is perceived to have a more direct and serious impact on the well-being of the country than what is likely for certain others of the regime members, which might make Cambodia more eager to see a strict regime than other members. This differing perception of the seriousness of the issue might affect the effectiveness of the regime (Wettestad 2006:308-310). However, incidents in the past such as the Yali incident[1] have made Cambodia disappointed with what the MRC can achieve for her (interview 3.2). This has increased after the new CEO in the MRC took office (interview 3.4). There are also some indications that the government in Phnom Penh is more preoccupied with issues such as casinos on the Thai border and logging than with the management of water resources (interview 3.5), and that it has not been concerned with securing Cambodia's natural assets (Osborne 2004:43, 44; De Lopez 2002).

Approximately 20% of Viet Namese territory lies within the Mekong River basin (Dore 2003:423), where the delta in the south is the largest and arguably the most important area. The delta is inhabited by 17 million people (Browder 2000:241) and produces 90% of the rice and 53% of the shrimp and fish export from Viet Nam (Quang 2002:263). The area accounts for 27% of Viet Nam's total GDP (Minh [2001]:1), and is vital for Viet Nam. The delta is plagued by salt water intrusion during the dry season which inhibits agricultural production (Jacobs 2002:356), and affects approximately 16,000 km^2 out of a total of 39,000 km^2 (Makim 2002:29). The significance of the delta for Viet Nams

[1] The "Yali incident" happened in 2000 when Viet Nam, without prior notice to Cambodia, opened the gates at the Yali Falls Dam in Viet Nam, 70 km upstream from the Cambodian border. This led to an unexpected flood in Cambodia which killed several people and caused material damage (Öjendal, Mathur, Sithirith 2002:18-19).

well-being makes her eager to see a strict flow regime for the Mekong River and attach importance to the Mekong River regime, however, her position as upstream on certain transboundary tributaries, such as the Yali River, and her human capacity and economic strength, which is relatively large compared to other states in the region, also implies that she is not as concerned about the regime as the smaller riparians might be (Browder 2000:243). Viet Nam provides technical assistance to the MRC (interview 3.2). This difference may, as noted above, affect the effectiveness of the Mekong River regime, although the combined vulnerability and importance of the delta suggests that Viet Nam is interested in a predictable flow regime for the Mekong River. It has also been claimed that Vietnam has an arrogant attitude towards difficult issues within the MRC and particularly towards Cambodian interests (interview 3.4, interview 3.5, interview 4.6, interview 4.7). The Vietnamese government is by some perceived as nationalistic and unwilling to share information (interview 3.4). If these perceptions are correct, this attitude towards the river basin cooperation and its principles will influence the effectiveness of the Mekong River regime.

As for the most significant non-member riparian, China, the unquestionable giant of East and Southeast Asia, the Mekong River basin constitutes only 3% of China's total territory (Öjendal 2000:15). The area of the basin within China is narrowly shaped with steep valleys and gorges (McCormack 2001:17) and well suited for hydropower development (Osborne 2004:1). The Chinese stretches of the river has a potential of 25,000 MW (megawatt), for comparison, the Three Gorges Dam will have an installed capacity of 18,200 MW (Magee 2006:29). Currently there are confirmed plans for eight dams, with a proposal of another six (Makim 2002:37). Two dams, Manwan and Dachaoshan, have been completed, and one, Xiaowan, is under construction (Dore and Yu 2004:19). According to McCormack (2001:15), the dams will have an installed capacity of 15,000 MW, approximately 80% of the Three Gorges Dam. China and the Mekong River Commission agreed on terms for technical cooperation on sharing water level information during the wet season in 2002, an agreement which has been operating since 2004. The MRC has equipped two hydrological stations in Yunnan and established a Data Centre in Kunming (Mekong River Commission 2004:104), and the cooperation is working to a satisfying degree despite a few stumbling blocks. China has argued that harnessing the Mekong River upstream on Chinese territory, mainly through hydropower development, will prove to have beneficial impacts downstream (Lebel et al. 2005; Osborne 2004:15) or

no environmental impacts (De Lopez 2002:362). The MRC has little, if any influence on Chinese policies (interview 1.3, interview 2.1, interview 2.3).

One interviewee claimed that the Chinese understand the concerns raised by the downstream riparians, expressed in international forums and at the technical level, but refuse to take this into account at the national decision-making level (interview 4.1). The interviewee suggested that "China knows how to play the game" to obtain what she wants (interview 4.1). Nonetheless, China is motivated to be an observer at the MRC because she wants to be on good terms with her neighbours (interview 1.3, interview 3.1, interview 3.6). At the annual dialogue meeting between China, Burma and the MRC, the MRC normally provides for the two Burmese representatives and two representatives from China. Nonetheless, China usually comes with a delegation of seven to ten persons. This indicates an interest in the MRC and intentions of being a good neighbour (interview 3.1). The Chinese government has been increasingly concerned with having a good relationship to her neighbours over the last few years, particularly since the change of leadership in 2003 (interview 2.1, interview 3.1, interview 3.6). However, China may also use her position as an observer to assess the strength of the cooperation in the lower Mekong Basin (interview 3.5).

There are several reasons why China is not a member of the Mekong River Commission. Firstly, China has many international rivers, 15 mainstreams, and more than 40 if tributaries are included (He and Kung 1998:301). To China, the Mekong is not a unique case, and she is therefore reluctant to give concessions to the downstream Mekong riparians because she fears that this will make other downstream countries in other rivers make similar demands (interview 1.3, interview 2.3). Secondly, China prefers broader agreements and cooperation to what was portrayed as the rather narrow agenda of the MRC (interview 1.2, interview 1.3). China finds the Agreement of 1995 too strict (interview 1.3, interview 4.4). This suggestion is supported by the fact that China has joined the ADB's cooperation programme for the Mekong region, the GMS. Thirdly, if China was to join the MRC, she would have to accept the agreement as it is (Agreement 1995:Article 39). This is unacceptable to China because it does not pay enough attention to the circumstances and environment of the upper parts of the Mekong (interview 2.1), and does not recognise the services that the upstream provides to the downstream areas (interview 1.3). Fourthly, it has been suggested that some of the donor agencies and some of the MRC member countries do not want China to participate in the MRC (interview 2.1). Thus,

China is perhaps not seriously considered as a potential member. Fifthly and lastly, the Mekong River is located far away in what from a Beijing perspective is a remote corner of China. This makes it harder for Mekong questions to reach the top of the agenda of the central policy makers (interview 1.1, interview 2.3).

The sixth and final Mekong River riparian, Burma, has only 4% of her total territory within the Mekong River Basin, which contributes only 2% of the total flow to the river (Dore 2003:423). Burma has been active only to a limited extent in all forms of regional cooperation, but Burmese representatives do attend the annual dialogue meetings with the Mekong River Commission. However, Burma plays only a small role in the governance of the Mekong River basin.

This brief outline has shown how different the riparian states are, and how the importance of the river to each state varies. China, which is the extreme upstream, is also the most powerful in terms of both financial and human resources. Burma has so far been negligible in Mekong politics, whilst the four members of the Mekong River Commission have different needs and priorities for the use of the river's resources. This is partly a result of their different levels of economic development and bureaucratic consolidation. Thailand is possibly the most advanced of the four, in terms of both economic and human resources, whilst Viet Nam also has important human and bureaucratic resources. Both wish to secure leverage for their own use of the Mekong River's resources, Thailand through lax water regulation procedures, and Viet Nam through safeguarding the beneficial conditions for the Mekong River delta. Cambodia and Lao are both poor, developing countries whose populations are to a large extent dependent on access to and use of natural resources for household purposes.

3.2 An Assessment of the Mekong River Regime

The Mekong River Commission can not be claimed to have a decisive impact on the members' management of the basin's natural resources. The member states are claimed to prioritise national interest above trans-basin cooperation.[2] Although there are clear indications that the regime has matured since its inception in 1957, it has not evolved into a regulatory organisation for the river basin, and can not be considered very effective if regarded as a regime. The 1995 Agreement is not reflected in the Commission's members' respective water laws, and the

[2] See Hirsch and Jensen (2006), chapter 4, for a discussion of the understanding of 'national interest' in the Mekong region.

regime has largely been driven by donor funding and non-riparian leadership in the secretariat (Hirsch and Jensen 2006:34-42, 81). Nonetheless, the Mekong River Commission Secretariat has, through its donor-funded programs, gathered substantial amounts of information and technical knowledge on the basin and its resources (Backer 2006:66; Hirsch 2006:193). It has, however, so far not been willing "to apply this knowledge more proactively to decision-making on appropriate river basin management" (Hirsch and Jensen 2006:92), and the development of a flow regime based on agreed regulations has been painstakingly slow and difficult.

Four out of five intended procedures have been approved by the Mekong River Commissions decision-making body – the Council (Mekong River Commission 2001, 2003, 2003, 2005, 2006) – although some of them have a serious lack of detail. The Procedures for Notification, Prior Consultation and Agreement postpone the decision on the length of the wet and dry seasons for later through stating that the "MRC JC [Joint Council] will decide on the actual dates of the start and the end of the wet and dry seasons", as well as leaving a precise definition of tributary to the Mekong River mainstream for later (Mekong River Commission 2003:section 1). This indicates that the member states lack the will to commit to a strict regime with specified procedures to establish a flow regime, curbing the accomplishments of the cooperation. The proposal for the Second Basin Development Plan (BDP2) in 2005 sparked a debate on the appropriate role for the commission between the member states, the secretariat's leadership and the donor group. The controversy originates in the donor group's reaction to the Mekong River Commission's new profile of investment facilitation for projects as described in the Second Basin Development Plan. The donors perceive this role to lie outside of its mandate as a river basin organisation (Hirsch and Jensen 2006:93), but the final direction of the organisation is yet to be settled.

4 How Does the Geography of a Regime Affect Its Effectiveness?

This article suggests that the effectiveness of regimes and international bodies for cooperation with a geographical area as its target is influenced by the membership of the regime, that is, who are actually members of the regime, and by the geographic position of the members within the regime's range (its ecosystem boundaries). This section will address these two aspects in light of the assessment and experience of the Mekong River Commission.

4.1 Inclusiveness in Membership

Inclusiveness, implying the participation of all significant states, has been suggested as one of the fundamental requirements for a regime (Kütting 2000:35; Underdal 1980:35). It is nonetheless important to notice that Krasner's definition of regimes as such does not require this inclusiveness, rather, it is the effectiveness of a regime that necessitates the inclusion of all significant states. A regime that does not include or constructively cooperate with all stakeholder states will have a limited scope for policies and action compared to a regime in which all stakeholder states are engaged members or partners. This becomes particularly important when the regime deals with an ecosystem such as a river basin. In a case where states with territory within the river basin's ecosystem boundaries chose not to be, or are not invited as, members of the regime, the regime will not have legitimacy to approach and manage the entire ecosystem. This point is valid independently of how strict, well-defined and inclusive the regime's regulations are. Non-membership of stakeholder states within the ecosystem boundaries of the regime is likely to lead to a less effective regime regarded from an ecosystem perspective, all other things equal.

The Mekong River regime clearly illustrates this. As particularly China but also Burma are not members, the Mekong River Commission is prevented from letting its programs address the entire basin. The Commission cannot access data at its own discretion from the areas outside its range, and its principles for cooperation are not necessarily adhered to by Burma and China in their management of the river basin areas in their territory. Speaking of China, Hirsch claims that her non-membership "keeps open a unilateral stance on river basin development" (Hirsch 2006:193). Should Chinese dams upstream alter the natural flow pattern of the river, the downstream regime members will have to adjust their behaviour to the new flow situation with few opportunities to influence the Chinese management of these dams through the present Mekong River Commission regime. The MRC can not expect that requests for information on the operation of the dams affecting the water level in the river will be met. As long as the Mekong River regime is unable to approach these issues because China, and to a limited extent Burma, are not members of the regime, the effectiveness of the regime will be limited. However, and significantly, a regime as such is not prevented from existing by this incomplete membership.

4.2 Geographical Position

There are two aspects of a state's geographical location that influence its relation to the regime: upstream or downstream position along the river, and fraction of the states' territory within the ecosystem boundaries of the regime. Underdal (2002:19) claims that the upstream/downstream relationship is a good example of negatively correlated interests that characterise an asymmetrical problem where the interests or values of the parties involved in the regime are incompatible or negatively correlated. This is a part of the political aspect of the problem malignity mentioned above, and reflects a situation where one state's use of the water and related resources will, partially or fully, prevent another state from using the water on its territory according to its own preferences. In most cases, the actions of an upstream state will pose limitations further downstream, but the opposite is also possible (Bernauer 1997:162). There are cases where actions upstream have positive side effects downstream, for instance will upstream dams enable improved flood control downstream. It is not unreasonable to expect that in most cases the downstream states will wish to increase the predictability of the behaviour of the upstream states through a regime or agreement in order to prevent harm and secure their own possibilities for use of the water and related resources. Nonetheless, upstream states might consider these regulations a threat to their sovereignty. This situation complicates cooperation for joint management of the river and its resources.

Each member's fraction of territory within the regime's ecosystem boundaries may influence the individual regime members' commitment to the regime. A regime member with a large fraction of its territory within the regime's range may be more committed to the regime as long as it perceives the regime to be in its interests than a member with only a small fraction of its total area within the ecosystem boundaries of the regime. All other things equal, states of which the regime addresses only a small part of its territory are expected to be less willing to allocate resources to the regime than members where the regime's range covers extensive parts of its territory. This implies that the member's dedication to the regime will vary with the size of their fraction of territory within the regime's range and to which the regime's policies are applicable. Similarly will the effectiveness of a regime be limited if member states with large areas within the regime boundaries do not support the regime.

Together, the upstream/downstream location and fraction of territory within regime range may be illustrated as follows:

Table 1 *Fraction of territory within regime range*

	Fraction of territory within regime range		
Position along river		Low	High
	Upstream	Riparians expected to be the least committed to the regime	Ambiguous relationship to the regime
	Downstream	Ambiguous relationship to the regime	Riparians expected to be the most committed to the regime

Source: Author's own compilation.

The countries located in the lower right square are expected to be the most committed to the regime, whilst those in the upper left are expected to be the least interested in cooperation within the regime for a joint approach to the management of the river at stake. States located within the two other squares will be in a middle position, and probably have a somewhat ambiguous commitment to the regime.

Applied to the Mekong River Basin, the riparian states fit into the table as follows (non-members in brackets):

Table 2 *Riparian states*

	Fraction of territory within regime range		
Position along river		Low	High
	Upstream	Thailand* (China, Burma)	Lao PDR
	Downstream	Viet Nam	Cambodia

*Note: * Thailand is considered to have a small fraction of territory within the Mekong River basin compared to Lao PDR and Cambodia.*
Source: Author's own compilation.

Firstly, both non-member states belong to the upper left square. They are not committed to the regime as they are not members, but have, nonetheless, show some interest in the regime through their status as observers and the annual

dialogue meetings. Their relation to the regime may be partially explained by their position as extreme upstreamers and with only a limited fraction of their territory within the basin. Secondly, Thailand, also located in the upper left corner, is a member of the Mekong River regime and thus more committed to basin cooperation. Notably, Thailand is situated downstream of both China and Burma, and might therefore also be considered a mid-stream state. Within the regime, Thailand has been accused of 'dragging her feet' and prolonging the establishment of flow regime regulations. This is likely to be an effect of her position as the furthest upstream state within the regime, as strict regulations will provide more benefits to the states further downstream than to Thailand. Thailand's relation to the regime is a result of her location as a midstream country overall, but upstream within the regime.

Thirdly, Cambodia is the only basin state with both a large fraction of territory within the regime's range and a downstream position. Given her geographical position, one would expect Cambodia to be the most committed member of the regime. Her engagement in the regime does, however, only to a limited extent reflect this, despite her success in securing the natural reversal of the Tonle Sap River in the 1995 Agreement and locating the Flood Management and Mitigation Programme in Phnom Penh. This is arguably due to the special political and historical situation in Cambodia and the priorities of the present government. Both Lao PDR and Viet Nam are in a middle position towards the regime, and has behaved accordingly. They are engaged in the regime but have been reluctant to accept all recommendations, as was explained above. It seems as if these two geographical dimensions may explain some of the regime members' commitment to the regime.

5 Concluding Remarks

This article has provided an overview of the achievements and the effectiveness of the Mekong River Commission, and highlighted how the geographical characteristics of environmental regimes may influence their effectiveness. Such geographical factors complement the existing explanatory framework for regime effectiveness. It has been argued that although the Mekong River Commission has collected an impressive amount of data on the Mekong River basin, the regime or cooperation scheme has not been very effective at influencing the policies of its member states. However, the low level of effectiveness is also due to the membership of the Mekong River Commission, where the two upstream

countries, most significantly China, are not members. This conclusion emphasises the need for all relevant states to be included in a regime or cooperation scheme for it to be as effective as possible. Furthermore, geographical position, such as upstream/downstream and fraction of territory within the regime's range, of the members and potential members appears to influence the respective members' dedication to the regime. This will in turn influence its effectiveness, where upstream states and states with only a small fraction of their territory within the regime's boundaries will be less eager to cooperate than downstream states or states with a major fraction of their territory located within the regime's boundaries. One must, however, also bear in mind that domestic political situation influences the contributions towards cooperation made by each member too.

Where does this leave further research on river basin regimes and environmental regimes in general? Firstly, additional studies on the regimes of other international river basins, preferably in developing countries, are needed. There are several rivers in Southeast Asia, such as the Hong/Red River and Nu/Salween River, which would make interesting cases. Analysing the policies related to these rivers will be valuable to test the robustness of the suggestions made in this article, and provide important lessons for further insight on river basin cooperation. Secondly, the importance of including all relevant stakeholders in a cooperation scheme has been highlighted. How may this be achieved? What may induce powerful upstream states to cooperate with downstream neighbours? How does lack of commitment from upstream states affect the cooperation taking place within the regimes? And, importantly, how may the regimes be as effective as possible even without the participation of all relevant stakeholders? These are important questions for environmental regimes in general and for cooperation on rivers and river basins in particular. As Southeast Asia is the home of several international rivers, these questions are of significance for how the countries in the region will manage, and manage to cooperate about, their natural resources in the years to come. The importance of international cooperation to ensure sound management of common resources will probably only increase, but only those who go with the flow of the rivers will know their course and their destination in the future.

6 List of Interviewees – Institutions

Due to the sensitivity of the politics of the Mekong region, all interviewees were promised anonymity. The list below indicates which institutions were visited

during the research phase of this article. All interviews were conducted during January and February 2006 in China, Lao PDR and Thailand. The numbers in the text do not in any way correspond to the list below.

6.1 NGOs and Academic Institutions

Asian International Rivers Centre, Yunnan University, China
Centre for Mountain Ecosystem Studies, ICRAF – Kunming Institute of Botany CAS, China
Department of Water Resource, Faculty of Engineering, Chulalongkorn University, Thailand
Independent Researcher, Lao PDR
IUCN – The World Conservation Union, Asia Regional Office
IUCN – The World Conservation Union, Lao PDR Country Office
Management and Executive Recruitment Consultants Ltd, Thailand
Stockholm Environment Institute – Asia
Yunnan EcoNetwork, China

6.2 MRC Related Bodies and Governmental Bodies

Agriculture, Irrigation and Forestry Programme, Mekong River Commission
Center for Environmental Education & Communications of State Environmental Protection Administration of China
College of Humanities and Development, Department of Development Studies China Agricultural University
Lao National Mekong Committee
Programme Coordination Section, Mekong River Commission
Regional Environment Cooperation Division, International Cooperation Department, State Environmental Protection Administration, P.R. China
Thailand National Mekong Committee
Thailand National Mekong Committee Secretariat
Water Utilisation Programme, Mekong River Commission

6.3 International Bodies/Organisations

International Section, Norwegian Water Resources and Energy Directorate
Swedish Environmental Secretariat for Asia, SIDA, Embassy of Sweden, Thailand
Thailand Resident Mission, Asian Development Bank

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